
F/YR19/0799/VOC

Applicant: Mr & Mrs Fitt

**Agent : Mr Jamie Burton
Swann Edwards Architecture Limited**

Land South Of The Conifers 67, Fridaybridge Road, Elm,

Removal of condition 6 of planning permission F/YR15/0004/F (Erection of 3 x 2-storey 4-bed dwellings involving the formation of new accesses) relating to the provision of a footway

Officer recommendation: Grant

Reason for Committee: Parish Council comments contrary to officer recommendation.

1 EXECUTIVE SUMMARY

- 1.0 This submission seeks to remove condition 06 from the related planning permission which required the widening of the existing footway to the frontage of the three plots, originally granted full planning permission in 2015.
- 1.1 In revisiting this condition it is necessary to ascertain whether there is a highway safety benefit in retaining the condition as imposed and to consider whether the condition meets the tests outlined in the NPPF.
- 1.2 With regard to highway safety it is noted that there is no highway safety data which would indicate the footway widening is necessary, furthermore other similar schemes do not appear to have been the subject of similar requirements.
- 1.3 It is considered that the footway widening required by virtue of the original condition 06 would NOT meet the tests outlined in the NPPF for the reasons outlined above; accordingly a favourable recommendation to the proposal to remove the condition must be forthcoming.

2 SITE DESCRIPTION

- 2.1 The application site benefits from an extant planning permission for the erection of 3 dwellings. The central dwelling is built and occupied (No 85) and the southernmost plot whilst substantially complete is not occupied, the most northerly plot south of 67 is undeveloped.

3 PROPOSAL

- 3.1 This submission seeks to remove condition 06 from the related planning permission; this condition is as follows:

A 1.8m wide footway shall be provided along the frontage of the development site in accordance with the Dwg SE-270-04 Rev B. Details of the footway construction and any associated drainage to be to the specification of the County Council. Details to be approved and works completed prior to first occupation of the development.

Reason - In the interests of highway safety in accordance with Policies LP15 and LP16 of the Fenland Local Plan, 2014.

Full plans and associated documents for this application can be found at:

<https://www.fenland.gov.uk/publicaccess/simpleSearchResults.do?action=firstPage>

4 SITE PLANNING HISTORY

F/YR18/3114/COND	Details reserved by condition 2 relating to Plot 1 only [...] F/YR15/0004/F	Approved 12/10/2018
F/YR17/3063/COND	Details reserved by condition 2 relating [...] F/YR15/0004/F for Plot 2 only	Approved 12/07/2017
F/YR17/3002/COND	Details reserved by conditions 2 and 10 relating to Plot 2 only and condition 9 relating to all plots of planning permission F/YR15/0004/F	Approved 28/02/2017
F/YR15/0004/F	Erection of 3 x 2-storey 4-bed dwellings Involving the formation of new accesses	Granted 05/03/2015

5 CONSULTATIONS

5.1 Parish Council

The above application was considered by the Elm Parish Council at their meeting on 1 October 2019. Having carefully considered the application the Council OBJECT to the proposal to reduce the width of the footway as it will make it difficult for pedestrians to fully utilise the footpath particularly those with reduced mobility or those pushing pushchairs or prams.

The Parish Council fully support the views of the Highways Development Management Engineer for Cambridgeshire County Council in the need to maintain the provision contained in the FDC Local Plan (Policy LP15).

5.2 Cambridgeshire County Council Highways Authority

The current footway along the development frontage is only 1.2m wide. At this width, a pedestrian would be unable to pass a pushchair without having to walk in the carriageway.

Whilst subject to a 30mph speed limit, the straight carriageway alignment and semi-rural nature of Fridaybridge Road (along the site frontage) reduces driver awareness/reaction times and encourages high vehicle speeds. I base my high vehicle speed statement on observed vehicle speeds and local knowledge of the area.

The more development that is permitted along Fridaybridge Road, the greater the number of pedestrian trips along the footway in question. If efforts to widened this footway are not secured through Policy LP15 of FDC's adopted Local Plan, there is a greater likelihood of pedestrians walking in the carriageway and conflicting with vehicles.

As appropriate development comes forward along Fridaybridge Road improvements should be made to the footway in question in order to provide safer, more suitable and fit for purpose infrastructure, with the view of encouraging more sustainable trips to local services such as schools, doctors, shops etc.

The cumulative/incremental effect of further development will eventually result in a highway safety problem. It will then be incumbent upon the LHA to introduce improvements, of which may prove difficult to provide within the current highway reserve width.

If this application is approved, it will make it difficult to secure similar improvements along Fridaybridge Road and across the highway network.

With no accidents (at this time) to support a highway safety argument, this comes down to a policy decision for FDC.

5.3 Local Residents/Interested Parties

None

6 STATUTORY DUTY

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The Development Plan for the purposes of this application comprises the adopted Fenland Local Plan (2014).

7 POLICY FRAMEWORK

7.1 National Planning Policy Framework (NPPF)

Paragraph 2 - Applications must be determined in accordance with the development plan unless other material considerations indicate otherwise
Paragraph 10 - Presumption in favour of sustainable development
Paragraph 12 - Applications must be determined in accordance with the development plan unless other material considerations indicate otherwise
Paragraph 47 – All applications for development shall be determined in accordance with the development plan, unless material considerations indicate otherwise
Paragraphs 55-56 - Outline the tests to be applied with regard to conditions

7.2 National Planning Practice Guidance (NPPG)

7.3 Fenland Local Plan 2014

LP1 - Presumption in favour of sustainable development
LP15 - Facilitating the Creation of a More Sustainable Transport Network in Fenland
LP16 - Delivering and protecting high quality environments across the district

8 KEY ISSUES

- **Principle of Development**
- **Highway and pedestrian safety:**

9 BACKGROUND

9.1 It should be noted that there are a number of recent planning approvals which post-date the 2015 consent to which this submission relates:

- (a) **F/YR19/0408/F** - Erection of 4 x 2-storey dwellings comprising of 2 x 3-bed with garages and 2 x 2-bed Land South 49, Fridaybridge Road, Elm - **No requirement to increase footway width.**
- (b) **F/YR17/0707/F** - Erection of 1no 2-storey 4-bed dwelling with integrated garage and 1no 2-storey 4-bed dwelling at Land South Of 183 Main Road, Friday Bridge - **No requirement to increase footway width.**
- (c) **F/YR17/1009/F** - Erection of a 2-storey, 4-bed dwelling with integral double garage involving formation of a dropped kerb at Land South Of 111 Fridaybridge Road, Elm - **No requirement to increase footway width.**
- (d) **F/YR16/1027/F** - Erection of a 2-storey 2-bed dwelling and 1.2 metre high timber fence and gates and formation of a new vehicular access involving demolition of conservatory to existing dwelling Land South Of 49 Fridaybridge Road, Elm - **No requirement to increase footway width.**
- (e) **F/YR15/0706/F** - Erection of a 2-storey 2-bed dwelling with detached double garage - Land South Of 111 Fridaybridge Road, Elm - **No requirement to increase footway width.**
- (f) **F/YR15/0305/RM** - Erection of a 2-storey 4-bed dwelling with detached garage at South Of Gaywood, Fridaybridge Road, Elm - **No requirement to increase footway width identified on the related outline planning approval.**
- (g) **F/YR12/0312/F** - Erection of 4no x 2-storey 4-bed dwellings with detached garages at Land North Of Old Killeen 172 Fridaybridge Road, Elm

CCC requested a footway be provided along the site frontage, there being no footpath in this location. The application was recommended for refusal as the site was considered outside the settlement, to encroach on the open land between Elm and Fridaybridge and given the scale and design of the proposed properties.

*Planning Committee overturned this recommendation and the decision issued including a condition requiring the provision of a 1.5 metre footway which was shown on the related planning application drawing. Subsequent to this the applicant submitted an application to remove this condition and this was granted as the condition was found to fail the tests of Circular 11/95 (superseded by Paras 55-56 of the NPPF) as not being 'necessary'. Resulting in - **No requirement to provide a footpath.***

9.2 By way of justification for the application the supporting information contained within the submission notes that:

Given recent approvals in the area and the fact that the footpath remains a consistent width for its length from Elm to Fridaybridge with limited opportunity to widen the footpath (particularly given numerous developments have been recently completed without footpath widening) it is considered that this condition is unreasonable and does not meet the 6 tests of the National Planning Policy Framework and should therefore be removed from this Planning Approval.

- 9.2 Photographs are included within the submission documents and it is noted that the images serve to illustrate:

'Recent development has occurred within the immediate vicinity without the requirement to widen the footpath and as such, it is not considered that the widening of the footpath across the frontage of this site is required in the interests of Highways safety. In addition, the image highlights the fact that the footpath remains the same width for a great distance in either direction of the application site with minimal chance for widening to occur in other areas. As such it is considered that this condition is unreasonable and should be removed.'

10 ASSESSMENT

Principle of Development

- 10.1 The principle of the development has been established by virtue of the original grant of planning permission. This scheme seeks to amend the approved details with regard to the requirement imposed on the original consent to secure footway widening.
- 10.2 The application needs to be assessed against policies LP15 and LP16 noting that it is not necessary, or appropriate, to revisit issues of character, design, flood risk and servicing although such matters should be safeguarded on any future decision issued given that a 'VOC' application type is a stand-alone consent.

Highway and pedestrian safety:

- 10.3 When consulted regarding the scheme the LHA have provided detailed comments regarding the desirability of securing footway improvements in order to provide a safer more suitable and fit for purpose infrastructure, with the view of encouraging more sustainable trips to local services such as schools, doctors, shops etc. Going on to note that *'The cumulative/incremental effect of further development will eventually result in a highway safety problem. It will then be incumbent upon the LHA to introduce improvements, of which may prove difficult to provide within the current highway reserve width.'* By removing the condition it is considered that *'it will make it difficult to secure similar improvements along Fridaybridge Road and across the highway network'*.
- 10.4 This advice is however caveated by the statement that *'with no accidents (at this time) to support a highway safety argument, this comes down to a policy decision for FDC.'*
- 10.5 This is considered to be the crux of the matter in that whilst it may be 'desirable' to secure infrastructure improvements of this type this needs to be balanced against the 6 tests outlined in the NPPF relating to the imposition of conditions, i.e.

- (a) Necessary
- (b) Relevant to planning

- (c) Relevant to the development to be permitted
- (d) Enforceable
- (e) Precise
- (f) Reasonable in all other respects

- 10.6 There must be some sympathy with the applicants with regard to the 'reasonableness' test in that it is clear that there has been regrettably a lack of consistency regarding this requirement, not solely limited to the recent planning approval which prompted this submission. Furthermore given that there is no highway data to support the highway safety argument the 'necessity' test would again, it is considered, fail.
- 10.7 Whilst it may be 'desirable' to retain enhancements in respect of the footway width it is not considered 'reasonable' when applying the tests outlined under Paras 55-56 of the NPPF.
- 10.8 As the issue of a variation of condition is a new decision notice it is necessary to revisit the original condition as any consent issued is a stand-alone consent. In this regard the following is noted:

Condition 1 (start date) does not need to be re-imposed as 2 of the 3 plots have been developed and the start date therefore complied with; the permission in respect of Plot 3 remains extant in perpetuity.

Condition 2 (materials) discharged in respect of Plot 1 & 2 requires re-imposition on DN in respect of Plot 3

Condition 3 (vehicle accesses) It is noted that this required the vehicle accesses to be laid out and constructed in accordance with a detailed engineering scheme to be submitted to and approved in writing by the LPA, to include levels, forms of construction and drainage. It is noted that Plot 2 is in breach of this condition as it is occupied and Plot 1 details have not been submitted although as the dwelling is not occupied the scheme is not yet in breach - Re-impose this condition

Condition 4 (height of front boundary) - Re-impose this condition

Condition 5 (no gates) - Re-impose this condition

Condition 6 (footway widening) - Remove this condition as per this submission

Condition 7 (parking and turning provision) - Re-impose this condition

Condition 8 (provision of visibility splays) - Re-impose this condition

Condition 9 (ground levels) - Discharged in respect of all plots, implementation should be in accordance with agreed details (shown on Drawing No SE-712-01C) amend condition accordingly

Condition 10 (Construction management plan) - Details discharged in respect of Plot 2, however no details submitted in respect of Plot 1. As Plot 1 is substantially complete, yet not occupied, the dwelling is technically in breach of this condition, nevertheless it would not be expedient to take any action in this regard.

Furthermore given that the development now comprises the construction of a single dwelling the CMP is no longer considered necessary and accordingly the condition will not be re-imposed.

Condition 11 (approved plans) - Re-impose this condition

11 CONCLUSIONS

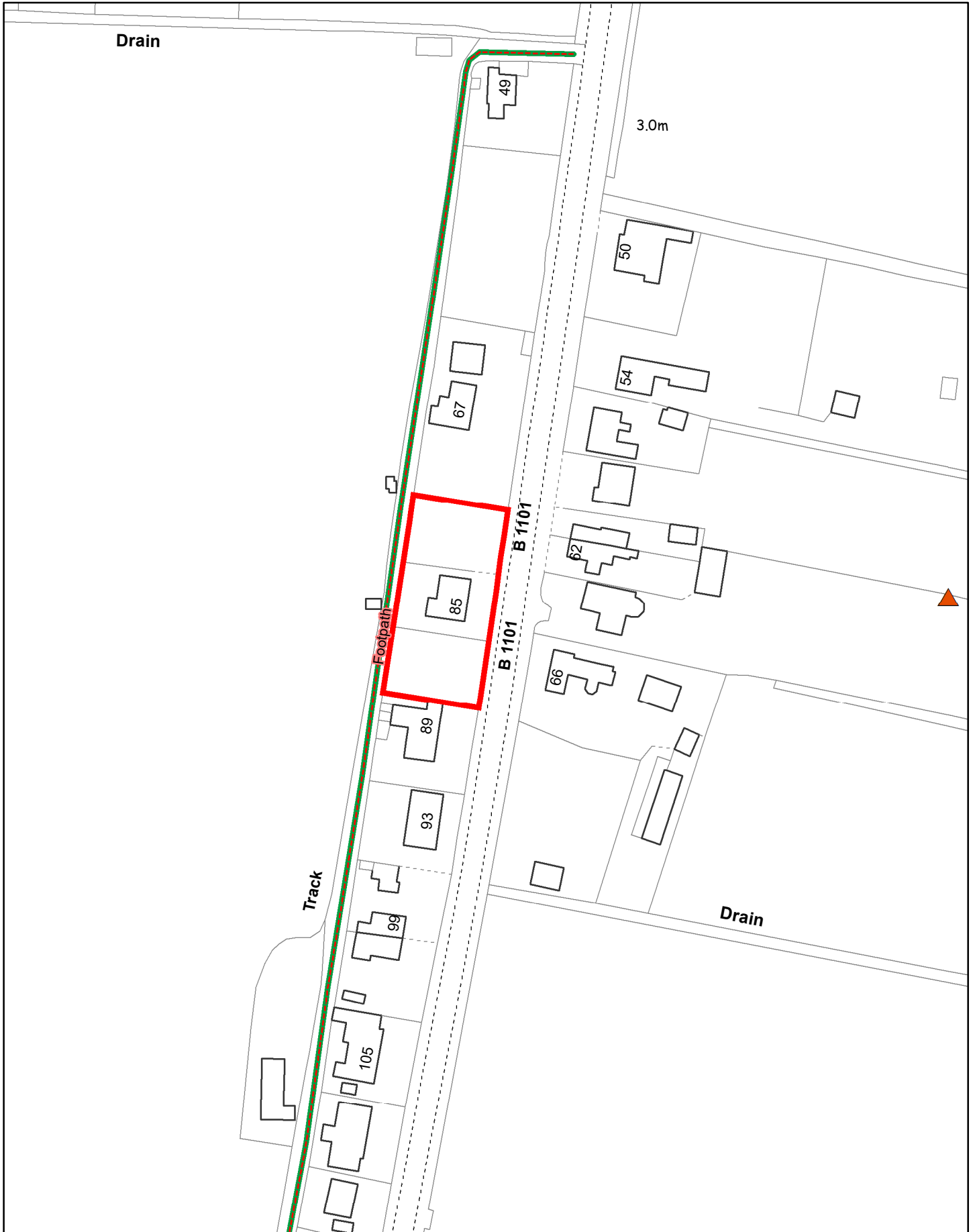
- 11.1 It is considered that the footway widening required by virtue of the original condition 06 would NOT meet the tests outlined in the NPPF for the reasons outlined above; accordingly a favourable recommendation to the proposal to remove the condition must be forthcoming.

12 RECOMMENDATION: Grant

Conditions

01	<p>Prior to any development above the slab level of Plot 3 hereby approved full details of the materials to be used for the external walls and roof shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved particulars and retained in perpetuity thereafter.</p> <p>Reason - To safeguard the visual amenities of the area in accordance with Policy LP16 of the Fenland Local Plan, 2014.</p>
02	<p>Before the dwelling on Plot 3 is occupied, its vehicular accesses where it crosses the public highway shall be laid out and constructed in accordance with a detailed engineering scheme to be submitted to and approved in writing by the LPA, and such a scheme shall include, levels, forms of construction and surface water drainage.</p> <p>Reason: In the interests of highway safety and to ensure satisfactory access into the site in accordance with Policies LP15 and LP16 of the Fenland Local Plan, 2014.</p>
03	<p>Within 6 months of the date of this decision the vehicular accesses relating to Plot 1 & Plot 2 where they cross the public highway shall be laid out and constructed in accordance with a detailed engineering scheme to be submitted to and approved in writing by the LPA, and such a scheme shall include, levels, forms of construction and surface water drainage.</p> <p>Reason: In the interests of highway safety and to ensure satisfactory access into the site in accordance with Policies LP15 and LP16 of the Fenland Local Plan, 2014.</p>
04	<p>The frontage boundary will be maintained to a height that doesn't exceed 0.6m above the level of the highway carriageway for a setback distance of 2.4m from the adjacent carriageway.</p> <p>Reason: In the interests of highway safety in accordance with Policies LP15 and LP16 of the Fenland Local Plan, 2014.</p>
05	<p>Notwithstanding the provision of Class A of Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) Order 1995, (or any order revoking, amending or re-enacting that order) no gates shall be erected across the approved access unless details have first been submitted to and approved in writing by the Local Planning Authority.</p> <p>Reason: In the interests of highway safety in accordance with Policies LP15 and LP16 of the Fenland Local Plan, 2014.</p>
06	<p>Prior to the first occupation of the development the proposed on-site parking/turning shall be laid out in accordance with the approved plan and thereafter shall be retained in perpetuity for these purposes.</p> <p>Reason - To ensure the permanent availability of the parking / manoeuvring area in accordance with Policies LP15 and LP16 of the Fenland Local Plan, 2014.</p>
07	<p>Prior to the first occupation of the development visibility splays of 2.0m</p>

	<p>x 2.0m shall be provided each side of the vehicular access measured from and along the back of the footway. Such splays shall be thereafter maintained free from obstruction exceeding 0.6m above the level of the footway.</p> <p>Reason - In the interests of highway safety in accordance with Policies LP15 and LP16 of the Fenland Local Plan, 2014.</p>
08	<p>Development shall be carried out strictly in accordance with the levels details submitted to and approved in writing by the LPA under conditions discharge application reference F/YR17/3002/COND.</p> <p>Reason - In the interests of visual amenity in accordance with Policies LP12 and LP16 of the Fenland Local Plan, 2014.</p>
09	Approved plans



Created on: 19/09/2019

© Crown Copyright and database rights 2019 Ordnance Survey 10023778

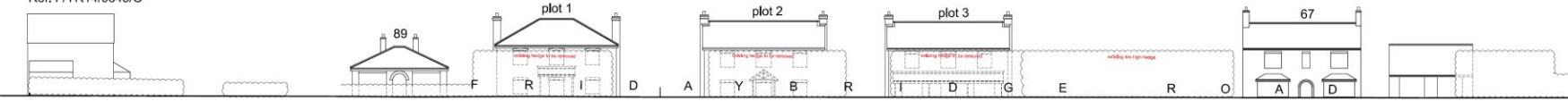
F/YR19/0799/VOC

Scale = 1:1,250



ORIGINAL APPROVAL – F/YR15/0004/F

recently approved dwelling
Ref: F/YR14/0345/O



Street Scene

Scale: 1:200



General Notes
1. This drawing shall not be scaled, figured dimensions only to be used.
2. All dimensions are given in mm unless otherwise stated.
3. The contractor, sub-contractors and suppliers must verify all dimensions on site prior to the commencement of any work.
4. This drawing is to be read in conjunction with all relevant engineers and specialist sub-contractor drawings and specifications.
5. Any discrepancies are to be brought to the designers attention.

AREA SCHEDULE

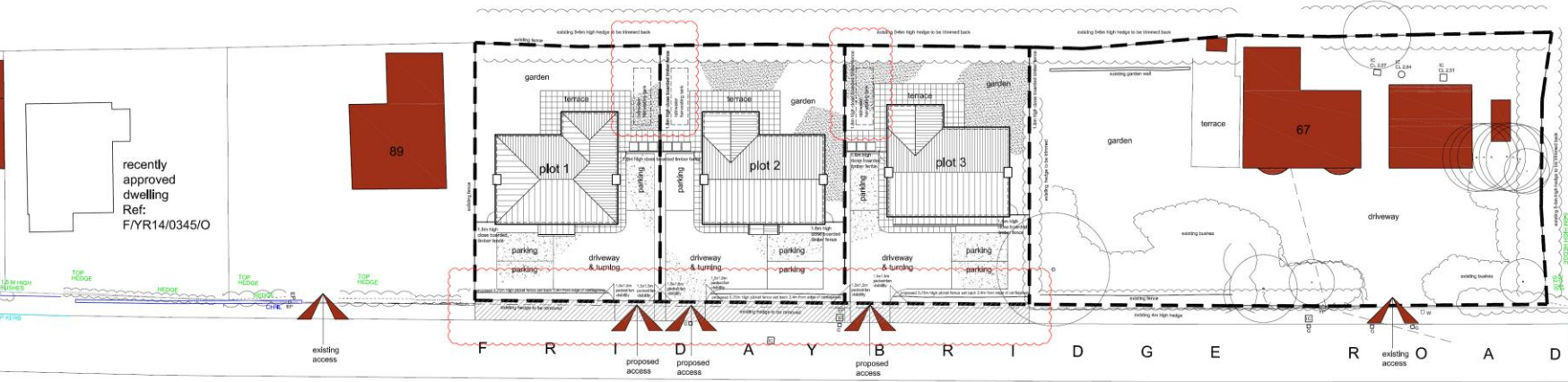
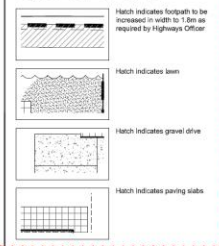
PROPOSED APPLICATION SITE AREA – 2087 7sqm (0.56 Acres)

PLOT 1	
Ground Floor	= 76.56sqm
First Floor	= 76.56sqm
Total	= 153.12sqm
Site Area	= 372.7sqm (0.09 Acres)
Garden Area	= 141.36sqm 38% of total site area

PLOT 2	
Ground Floor	= 76.56sqm
First Floor	= 76.56sqm
Total	= 153.12sqm
Site Area	= 372.7sqm (0.09 Acres)
Garden Area	= 141.36sqm 38% of total site area

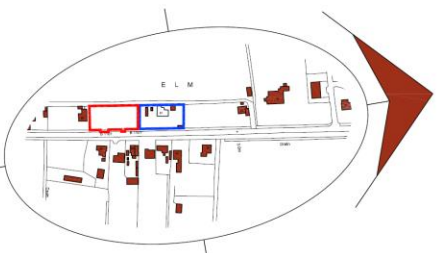
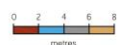
PLOT 3	
Ground Floor	= 76.56sqm
First Floor	= 76.56sqm
Total	= 153.12sqm
Site Area	= 372.7sqm (0.09 Acres)
Garden Area	= 141.36sqm 38% of total site area

SITE PLAN KEY



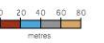
Site Plan

Scale: 1:200



Location Plan

Scale: 1:2500



Revisions

A	Jan 2015	Planners comments
B	Feb 2015	Updated following Highways comments

Status
FOR APPROVAL



Swann Edwards Architecture Limited, Evesden House, Gail Road, Guyhirn, Walsby, Carlton, PE13 4EE
1 01945 456884 • info@swannedwards.co.uk • www.swannedwards.co.uk

Proposed Residential Development	Job Title	Date	Scale
Land Adjacent 67 Fridaybridge Road, Elm, Walsby Mrs Rickett	November 2014	Various	Sheet Size A1
Planning Drawings	Job No. SE-270	Drawn by JB	Revision B
Site Plan & Location Plan	Draw No. 04	Revision B	