
F/YR19/0736/VOC

Applicant: Mr R Grundy

**Agent : Mr Gareth Edwards
Swann Edwards Architecture Limited**

Land South East Of Mole End, Gull Road, Guyhirn, Cambridgeshire

Removal of Condition 7 and variation of Conditions 4, 6, 8, 10, 12 and 14 (condition listing approved plans) of Planning permission F/YR16/0194/F (Erection of 4 x 2-storey 4-bed dwellings and the formation of 2 new accesses)

Officer recommendation: Grant

Reason for Committee: Parish Council's comments are contrary to the Officer recommendation.

1 EXECUTIVE SUMMARY

- 1.0 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, specifically remove the requirement imposed on the original consent (Condition 7) to secure a 70m length of footway. In addition, in order for the development to be sold off and built out as individual plots, the wording of several other conditions are proposed to be amended (Conditions 4, 6, 8, 10, 12 and 14).
- 1.1 The main character of the eastern side of Gull Road is characterised by a few scattered dwellings and the caravan park further north. Therefore the site is considered to relate more to the open countryside.
- 1.2 More recent planning decisions made by Members, Officers and the Planning Inspectorate indicate that future residential development to the eastern side of Gull Road is unlikely to be acceptable. As such there will be little or no demand for, or any opportunity to secure further lengths of footway as suggested by the Highways Officer and Parish Council.
- 1.3 As a result, Officers consider that the proposed footpath would be isolated or "floating" as it would not connect to an existing footpath, and is unlikely to connect to a future footpath. Condition 7 is considered to fail 4 of the 6 tests outlined in paragraphs 55-56 of the NPPF relating to the imposition of conditions, and therefore should be removed.
- 1.4 There is also no objection to the proposed amended wording to Conditions 4, 6, 8, 10, 12 and 14 in order that the development can be sold off and built out as individual plots.
- 1.5 The recommendation is therefore to approve the application as described.

2 SITE DESCRIPTION

- 2.1 The site measures 0.17ha and consists of part of the side garden and paddock of Mole End, to the south east of the property adjacent to Gull Road. The site benefits from full planning permission for 4 x detached dwellings granted in 2018 (F/YR16/0194/F).

3 PROPOSAL

- 3.1 The submission seeks to remove Condition 7 and vary Conditions 4, 6, 8, 10, 12 and 14 (approved plans) of the extant permission.
- 3.2 Condition 7: requires the provision of a 1.8m wide footpath along a 70m length in front of the development site, and Mole End. The applicant considers that the footpath will never be linked as there is no other footpath on this side of the road for the majority of its length.
- 3.3 The variation of the other conditions is to allow each plot to be sold off and developed as individual plots. The proposed revised wording is as follows:

C4: Prior to the occupation of each dwelling the associated vehicular access where it crosses the public highway shall be laid out and constructed in accordance with detailed plans to be submitted to and approved in writing by the Local Planning Authority.

C6: Prior to the occupation of each dwelling the associated on-site parking /turning shall be laid out in accordance with the approved plan and thereafter retained for that specific use.

C8: Prior to the commencement of development of each dwelling full details of the associated hard and soft landscape works for that dwelling shall be submitted to and approved in writing by the Local Planning Authority. Subsequently, these works shall be carried out as approved. The landscaping details to be submitted shall include:

- a) proposed finished levels which should not exceed 2.30m AOD;
- b) hard surfacing materials; and
- c) new tree planting plans, including specifications of species and size.

C10: Prior to the commencement of the development of each plot trade descriptions of the external facing and roofing materials to be used in the construction of the dwelling hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved detail.

C12: Prior to the commencement of development of each plot details of:

- a range of bat boxes or bat tiles for incorporation into the new dwelling;
- a range of bird nest boxes be installed that cater for a number of different species such as House Sparrow, Starling & Swift. Details regarding numbers, designs and locations should be provided;
- construction trenches to be covered overnight or a means of escape provided for any hedgehogs (or other mammals or reptiles) that may have become trapped; and
- impenetrable barriers to be avoided, by allowing adequate gaps to be retained under any new fencing;

shall be submitted to and approved in writing by the local planning authority. Details regarding numbers, designs and locations should be included. The

development shall be built out including and in accordance with these approved details.

C14: refers to the revised approved plans including the revised layout omitting the footpath. (Rev H)

- 3.4 Full plans and associated documents for this application can be found at:
<https://www.fenland.gov.uk/publicaccess/applicationDetails.do?activeTab=documents&keyVal=PWN6GLHE03000>

4 SITE PLANNING HISTORY

Reference	Description	Decision	Date
F/YR16/0194/F	Erection of 4 x 2-storey 4-bed dwellings and the formation of 2 new accesses Land South East Of Mole End Gull Road Guyhirn Cambridges	Granted	24/05/2018
F/YR07/0285/O	Erection of 2 houses with garages Land South East Of Mole End Gull Road Guyhirn Wisbech Ca	Refused	05/02/2007
F/YR06/0552/O	Erection of 2 houses with garages Land South East Of Mole End Gull Road Guyhirn Wisbech Ca	Refused	27/06/2006

5 CONSULTATIONS

5.1 Wisbech St Mary Parish Council

Recommend approval of the varied conditions but Councillors did not agree with the removal of the requirement for the footpath. Their objective is to ensure that when this development and any adjacent plots are developed there should be a footpath/footway outside the properties (in the 40mph speed limit).

They consider that an unconnected footway in this location will not be 'floating'. It is a straightforward engineering design to ensure that the sections of footpath/footway provided outside each plot are constructed such that one length of footpath/footway is achieved. Otherwise, on completion of the developments there will be demands from the residents for a footpath/footway with no financial provision to enable one to be provided. The Council supports the CCC Highways previous requirement.

5.2 CCC Highways

Removal of Condition 7: *As piecemeal development comes along we should be taking the opportunity to secure lengths of footway.*

Whilst I am unable to object to this application on highway safety grounds, I do think there is a strong policy argument for the footways to be retained.

5.3 Local Residents/Interested Parties

None received

6 STATUTORY DUTY

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

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

8 KEY ISSUES

- **Principle of Development**
- **Variation/Removal of Conditions**
- **Removal of Requirement for Footpath**
- **NPPF- 6 tests for imposing conditions**

9 ASSESSMENT

Principle of Development

- 9.1 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, specifically remove the requirement imposed on the original consent (Condition 7) to secure a 70m length of footway. In addition, in order for the development to be sold off and built out as individual plots, the wording of several other conditions are proposed to be amended (Conditions 4, 6, 8, 10, 12 and 14).

Variation/Removal of Conditions

- 9.2 Section 73 of the Town and Country Planning Act 1990 allows some or all of the conditions to be removed or changed by making an application. In deciding an application under S73, NPPG states that the local planning authority must only consider the disputed conditions that are subject of the application – it is not a complete re-consideration of the application.
- 9.3 It should be noted that the original planning permission will continue to exist whatever the outcome of the application under S73. NPPG advises that to assist with clarity, decision notices for the grant of planning permission under S73 should also repeat the relevant conditions from the original permission unless they have already been discharged.
- 9.4 In granting permission under S73 the local planning authority may also impose new conditions – provided the conditions do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier permission.
- 9.5 Where an application under S73 is granted, the effect is the issue of a new permission, sitting alongside the original permission, which remains intact and amended. For this reason the time limits on this permission will reflect the deadline imposed originally, and any conditions already discharged amended accordingly.
- 9.6 The proposed amendments to the wording of the conditions to allow the plots to be sold off and built out individually are acceptable and the proposal is considered to be a minor amendment. Similarly, the removal of the condition requiring the footpath would also fall under this legislation and could be considered to be a minor amendment. However, the impact of its removal is considered in more detail below.

Removal of Requirement for Footpath

- 9.7 The 2016 permission required the provision of a 70m long footpath to the eastern side of Gull Road, at the request of the Highways Officer, although there is an established footpath on the western side of Gull Road.

- 9.8 The main character of the eastern side of Gull Road is characterised by a few scattered dwellings and the caravan park further north. Therefore the site is considered to relate more to the open countryside.
- 9.9 New development in Guyhirn should be considered on its merits but will normally be of a very limited nature and limited in scale to residential infilling. Within the immediate vicinity there has been considerable redevelopment which has extended the residential built on the western side of Gull Road where there is existing infrastructure to support it, including the existing footpath. However, this site is on the opposite side of the road which is considered to be of a significantly different character.
- 9.10 The recent comments of the Parish Council and Highways Officer are noted. But in hindsight, and in light of recent decisions including at appeal, Officers consider that the proposed footpath would be isolated or “floating” as it would not connect to an existing footpath, and is unlikely to connect to a future footpath, for the following reasons.
- 9.11 Application reference F/YR17/1213/O was refused by Members and dismissed at appeal (March 2019). The site is to the north west of Cobble House on the eastern side of Gull Road. The Inspector concluded that the development of 4 dwellings was not infilling, would result in a detrimental incursion into the open countryside and as the site is within Flood Zone 3, did not pass the sequential test.
- 9.12 Applications referenced F/YR18/0595/O and F/YR18/0956/O were refused by Officers in 2018 for 8 and 7 dwellings respectively on land to the south-east of Dove Cottage on the eastern side of Gull Road for similar reasons.
- 9.13 The above decisions indicate that future residential development on the eastern side of Gull Road is unlikely to be supported by Officers and Members. As such there will be little or no demand for, or any opportunity to secure further lengths of footway as suggested by the Highways Officer and Parish Council.

NPPF- 6 tests for imposing conditions

- 9.14 Whilst it may be ‘desirable’ to secure infrastructure improvements of this type this needs to be balanced against the 6 tests outlined in paragraphs 55-56 of 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
- 9.15 For the above reasons and also as there is no objection on highway safety grounds it is considered that Condition 7 would fail parts a), b), c) and f) of the tests outlined under paragraphs 55-56 of the NPPF.

10 CONCLUSIONS

- 10.1 Taking a pragmatic approach to the matter, and considering the constraints of the site and adjacent land to the east of Gull Road, it is considered that the provision of a 70m length of footway as required by Condition 7 would not meet the tests outlined in the NPPF.

10.2 Taking a similar pragmatic approach to the variation of Conditions 4, 6, 8, 10, 12 and 14, the variations are likely to encourage the delivery of dwellings on the site as it will allow the plots to be purchased as single development opportunities.

10.3 The recommendation is to approve the application as described.

11 RECOMMENDATION: Grant

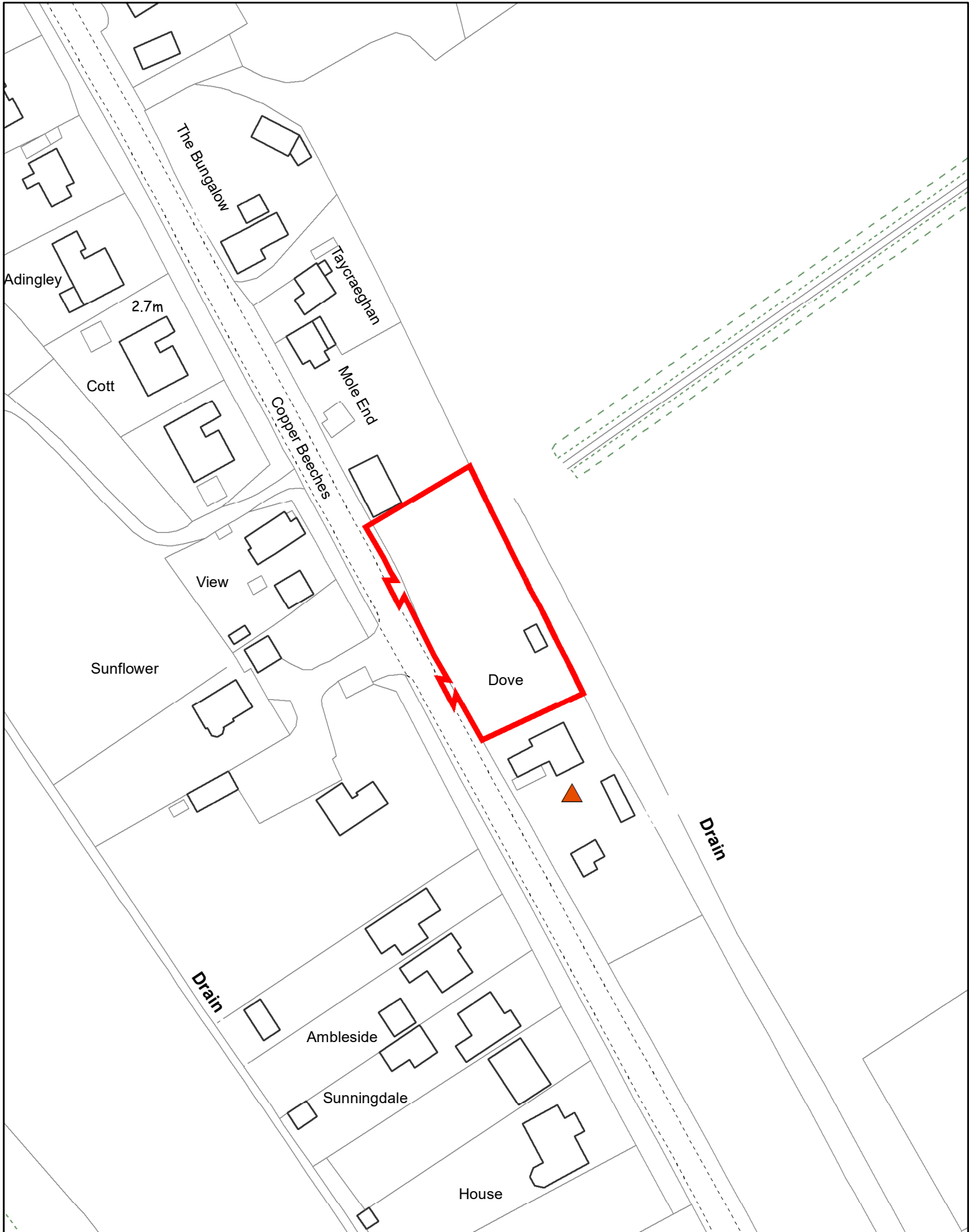
The proposed conditions are as follows:

1	<p>The development permitted shall commence before 24 May 2021.</p> <p>Reason - To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004.</p>
2	<p>If during development, contamination not previously identified, is found to be present at the site then no further development (unless otherwise agreed in writing with the LPA) shall be carried out until the developer has submitted, and obtained written approval from the LPA, a Method Statement detailing how this unsuspected contamination shall be dealt with.</p> <p>Reason- To ensure that the development complies with approved details in the interests of the protection of human health and the environment.</p>
3	<p>The gradient of the proposed vehicular accesses shall not exceed 1:12 for a minimum distance of 5.0m into the site as measured from the near edge of the highway carriageway.</p> <p>Reason- In the interests of highway safety and in accordance with LP15 of the Fenland Local Plan 2014.</p>
4	<p>Prior to the occupation of each dwelling the associated vehicular access where it crosses the public highway shall be laid out and constructed in accordance with detailed plans to be submitted to and approved in writing by the Local Planning Authority.</p> <p>Reason- In the interests of highway safety and to ensure satisfactory access into the site in accordance with LP15 of the Fenland Local Plan 2014.</p>
5	<p>Notwithstanding the submitted plans, the accesses shall be constructed with adequate drainage measures to prevent surface water run-off onto the adjacent public highway, in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority prior to the commencement of development.</p> <p>Reason- To prevent surface water discharging to the highway</p>

	and in accordance with LP15 of the Fenland Local Plan 2014
6	<p>Prior to the occupation of each dwelling the associated on-site parking /turning shall be laid out in accordance with the approved plan and thereafter retained for that specific use.</p> <p>Reason - To ensure the permanent availability of the parking / manoeuvring area, in the interests of highway safety in accordance with LP15 of the Fenland Local Plan 2014.</p>
7	<p>Any external lighting shall be designed to be baffled downwards to minimise any potential disturbance to foraging bats.</p> <p>Reason- In the interests of Policy LP19 of the Fenland Local Plan 2014</p>
8	<p>Prior to the commencement of development of each dwelling full details of the associated hard and soft landscape works for that dwelling shall be submitted to and approved in writing by the Local Planning Authority. Subsequently, these works shall be carried out as approved. The landscaping details to be submitted shall include:</p> <p>a) proposed finished levels which should not exceed 2.30m AOD;</p> <p>b) hard surfacing materials; and</p> <p>c) new tree planting plans, including specifications of species and size.</p> <p>Reason - The landscaping of this site is required in order to protect and enhance the existing visual character of the area and to reduce the visual and environmental impacts of the development hereby permitted and in accordance with Policy LP16 and LP19 of the Fenland Local Plan 2014.</p>
9	<p>All hard and soft landscape works including any management and maintenance plan details, shall be carried out in accordance with the approved details. All planting seeding or turfing and soil preparation comprised in the above details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings, the completion of the development, or in agreed phases whichever is the sooner, and any plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation. All landscape works shall be carried out in accordance with the guidance contained in British Standards, unless otherwise agreed in writing by the Local Planning Authority.</p> <p>Reason - To ensure proper implementation of the agreed landscape details in the interest of the amenity value of the development and in accordance with Policy LP16 of the Local Plan.</p>

10	<p>Prior to the commencement of the development of each plot trade descriptions of the external facing and roofing materials to be used in the construction of the dwelling hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved detail.</p> <p>Reason- To ensure that the new materials are in keeping with the surroundings in accordance with Policy LP16 of the Fenland Local Plan 2014.</p>
11	<p>Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015, (or any Order or Statutory Instrument revoking and re-enacting that Order with or without modification), planning permission shall be required for the following developments or alterations:</p> <p>i) the erection of freestanding curtilage buildings or structures including car ports, garages, sheds, greenhouses, pergolas, or raised decks (as detailed in Schedule 2, Part 1, Classes A and E);</p> <p>ii) the erection of house extensions including conservatories, garages, car ports or porches (as detailed in Schedule 2, Part 1, Classes A and E);</p> <p>iii) alterations including the installation of additional windows or doors, including dormer windows or roof windows (as detailed in Schedule 2, Part 1, Classes A and B);</p> <p>iv) alterations to the roof of the dwelling house (as detailed in Schedule 2, Part 1, Class C);</p> <p>Reasons-</p> <ol style="list-style-type: none"> 1. To ensure that the Local Planning Authority retains control over the future extension, alteration and enclosure of the development, in the interests of protecting visual amenity and the character of this part of the area in which it is set. 2. To prevent overlooking of neighbouring properties, in the interest of the protection of residential amenity. 3. To safeguard the amenities currently enjoyed by the occupants of adjoining dwellings 4. In order to control future development and to prevent the site becoming overdeveloped. In accordance with Policies LP2 and LP16 of the Fenland Local Plan 2014.
12	<p>Prior to the commencement of development of each plot details of:</p> <ul style="list-style-type: none"> • a range of bat boxes or bat tiles for incorporation into the new dwelling; • a range of bird nest boxes be installed that cater for a number of different species such as House Sparrow, Starling & Swift. Details regarding numbers, designs and locations should be provided; • construction trenches to be covered overnight or a means of escape provided for any hedgehogs (or other mammals or reptiles) that may have become trapped;

	<p>and</p> <ul style="list-style-type: none"> • impenetrable barriers to be avoided, by allowing adequate gaps to be retained under any new fencing; • shall be submitted to and approved in writing by the local planning authority. Details regarding numbers, designs and locations should be included. The development shall be built out including and in accordance with these approved details. <p>Reason- In the interests of biodiversity in accordance with LP16 and LP19 of the Fenland Local Plan 2014</p>
13	The development hereby permitted shall be carried out in accordance with the following approved plans and documents



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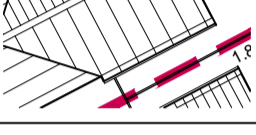

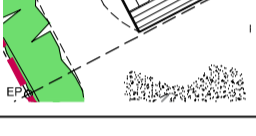

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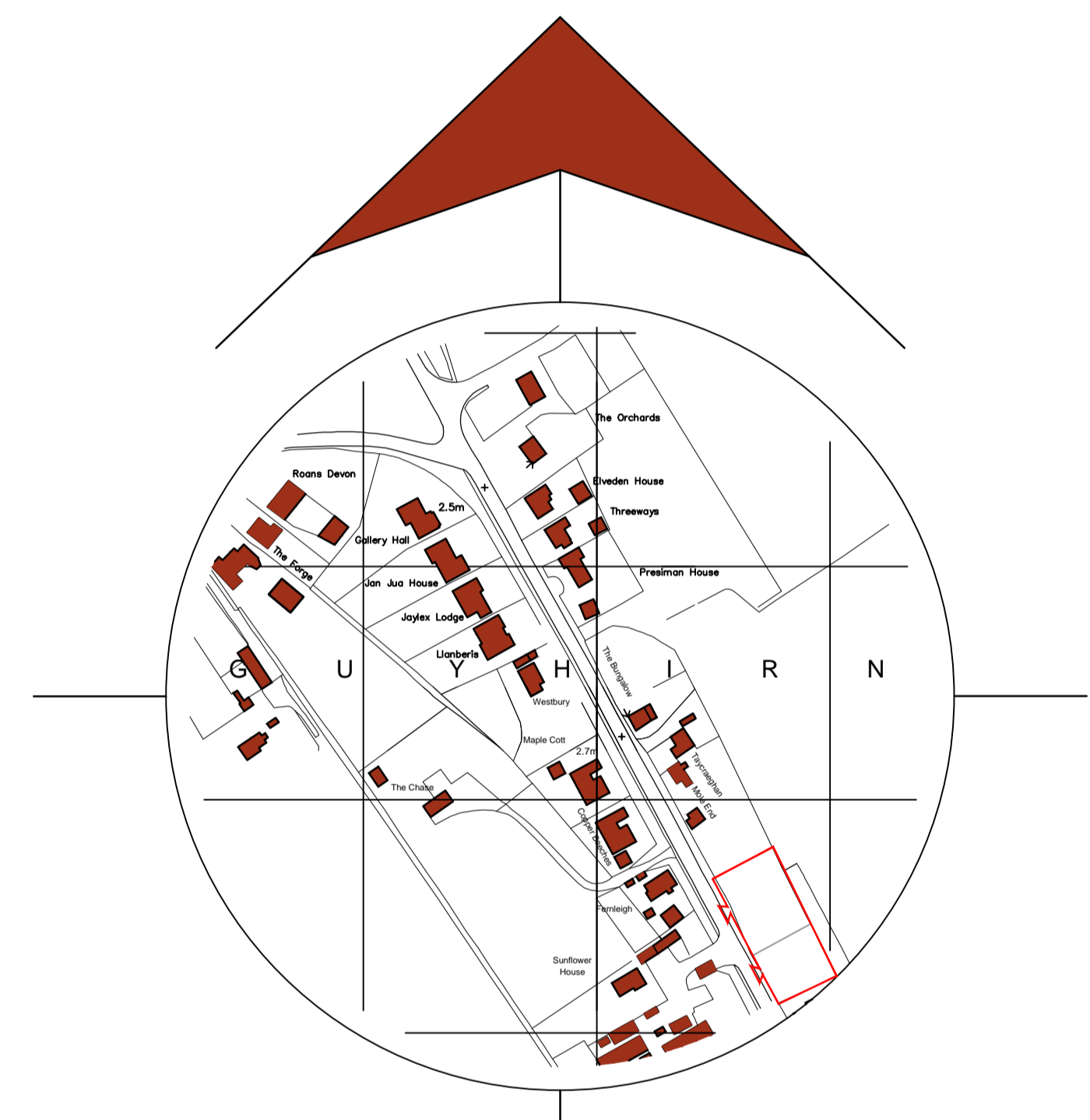




- General Notes
1. This drawing shall not be scaled, figured dimensions only to be used.
 2. All dimensions are shown in 'mm' unless otherwise stated.
 3. The contractor, sub-contractors and suppliers must verify all dimensions on site prior to the commencement of any work.
 4. This drawing is to be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

SITE PLAN KEY

-  Indicates buildings un-surveyed (from ordnance survey location plan)
-  Indicates existing un-surveyed trees, hedges and planting
-  Indicates proposed footprint of buildings
-  Indicates proposed site access
-  Indicates existing overhead cables
-  Indicates proposed site access to be sealed and drained into the site



Revisions

A	Feb 2016	Minor amendments made in acc. with planning officer comments
B	March 2016	Red Line Amended on Location Plan
C	June 2016	Foot Path Added
D	Nov 2017	Site access notes amended
E	June 2018	Dimensions Added
F	July 2019	Path Revised
G	Sept 2019	Access Revised
H	Oct 2019	Footpath Removed

Status
FOR COMMENT



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Proposed Residential Development Mole End, Gull Road Guyhirn, Wisbech for Mr R Grundy	Job Title Date 2015	Scale As Shown Sheet Size A1
Planning Drawing Location & Site Plan	Job No. SE-509 Dwg No. 02	Drawn by SJB Revision H

Site Plan
Scale: 1:200