
F/YR20/0598/O

Applicant: Mr Alan White

**Agent : Mr David Broker
David Broker Design Services**

Land north of The Barn, High Road, Bunkers Hill, Cambridgeshire

Erect up to 5x dwellings involving the formation of a new access (outline application with matters committed in respect of access)

Reason for Committee: Referred by Head of Planning.

1. EXECUTIVE SUMMARY

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| <p>1.1. The proposal for dwellings on the site has been submitted previously and was refused by the Planning Committee at the meeting of the 13th May 2020, on the grounds of a failure to demonstrate that a safe access was possible to the site.</p> <p>1.2. Following the previous consideration of the scheme by the Planning Committee, an appeal decision has been received in relation to the erection of a dwelling in an elsewhere location setting out the means by which such proposals should be considered in light of the Planning Policy within the Fenland Local Plan and the NPPF.</p> <p>1.3. That appeal decision concluded that on balance residential development in elsewhere locations would result in harmful impacts on the environment. Such impacts rendered the proposals unsustainable and in conflict with both local and national planning policy.</p> <p>1.4. Further objections have been received in relation to the scheme from residents in the area largely raising concern over the highway safety impacts of the proposal.</p> <p>1.5. In light of the recent appeal decision setting out the harm resulting from development in elsewhere locations, and notwithstanding the previous consideration of the scheme by the Planning Committee in May, the application is recommended for refusal.</p> |
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2. SITE DESCRIPTION

- 2.1. The application site is part of an open field adjacent to the highway in the Bunkers Hill hamlet. The land was previously separated from the public highway by a hedgerow; however this has recently been removed with only sporadic planting remaining within the line of that former hedgerow. The hedgerow was located on a raised section of land separating the field from the highway, with the field itself located on lower ground.

- 2.2. The field itself is surrounded on the remaining sides by mature hedgerow/tree planting and a post and rail fence to the north boundary with a close boarded fence separating the land from the dwelling to the south.
- 2.3. The field itself lies partly within flood zone 1, but with the majority of the site within flood zones 2 and 3, zones of higher flood risk.

3. PROPOSAL

- 3.1. The proposal is an outline application for the construction of up to five dwellings on the land, with a new vehicular access directly onto High Road to the north west of the site, and a separate pedestrian footway leading to Willock Lane to the south. It is essentially the resubmission of a scheme refused at Planning Committee in May this year.
- 3.2. Full plans and associated documents for this application can be found at: <https://www.fenland.gov.uk/publicaccess/applicationDetails.do?activeTab=documents&keyVal=QBED35HE0D800>

4. SITE PLANNING HISTORY

F/YR20/0167/O	Erect up to 5x dwellings involving the formation of a new access (outline application with matters committed in respect of access)	Refused 15/5/20
F/YR13/0910/F	Erection of 3x 2-storey 4-bed dwellings with detached car port (Plot 1), attached car ports (Plots 2 and 3)	Refused 7/2/14
F/YR13/0048/F	Erection of 3x 2-storey 4-bed dwellings with detached car port (Plot 1), attached car ports (Plots 2 and 3)	Withdrawn 11/3/13

5. CONSULTATIONS

- 5.1. **Parish Council:** Recommend approval subject to speed reduction features to be installed in High Road through the Infrastructure Development Policy.
- 5.2. **FDC Environmental Health:** No objections.
- 5.3. **North Level Internal Drainage Board:** No comments to make.
- 5.4. **Cambridgeshire County Council Highways Authority:** Speed survey evidence has been provided to demonstrate the proposed visibility splays are suitable. Note the comments regarding introduction of a 40mph speed limit but do not consider it reasonable for this development to pay for its introduction. General access arrangement should be detailed at this stage. Can see the merits of footway improvements between the site access and bus stops to the south, the LPA will need to consider if it is reasonable for residents to cross the road twice to access the bus stop.
- 5.5. Access details are sufficient to demonstrate that an access can be delivered, although additional details are required prior to implementation.
- 5.6. **Environment Agency:** No objection. Note that although the EA raises no objection on flood risk grounds that should not be taken to mean that the

application is considered to have passed the Sequential Test. If permission is granted the development should adopt the mitigation measures included in the Flood Risk Assessment.

- 5.7. **Local Residents/Interested Parties:** 6 objections have been received from 5 separate sources raising objections against the proposal. 1 letter of support has been received. All the letters have been received from High Road, Bunkers Hill.
- 5.8. The letters of objection identify the following issues:
- The proposed access is located in a dangerous place due to the speed of traffic along High Road
 - Speed limit on the road should be reduced to 40mph
 - Multiple accidents due to vehicles travelling through the area too fast, including a head on collision with a public bus
 - Access is already available via Willock lane
 - Consider the doubts cast on previous comments regarding traffic incidents as insulting
 - Concerned that at the last meeting of the Planning Committee one Councillor stated they didn't know where Bunkers Hill was and couldn't find it on a map
 - The proposal is completely out of character with the area
 - There would still not be a footpath to Wisbech St Mary
 - Only considering this application because members previously rejected 3 out of 4 officer recommended reasons for refusal with little or no reason
 - Speed survey is out of date
 - Concern previously raised at the Wisbech St Mary Parish Council meeting of September 2013 raising concern over the safety of a footpath on this dangerously fast road
 - Surprised at the limited consideration given to impacts of the proposal by Councillors at the previous Planning Committee.

The letter of support states the following:

- Speed report is not reflective of true traffic speeds, and is out of date.
- The whole of Bunkers Hill should be made 40mph, or 30mph.
- The housing would be suitable but speeds on High Road put driveways at risk.
- More housing may encourage more young families to the area and High Road is too fast. Cambridgeshire Police have stated that more properties would give the feeling of a built up area.

This letter clearly states that it is made in support of the application, however it is notable that it appears to indicate that the proposal is supported with a view to the additional houses justifying reductions in the speed limit through Bunkers Hill.

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

National Planning Policy Framework (NPPF)

Para 2: NPPF is a material consideration

Para 8: 3 strands of sustainability

Para 11: Presumption in favour of sustainable development

Para 12: Conflict with an up-to-date plan should not usually be granted

Para 78: Housing should be located where it will enhance or maintain the vitality of rural communities.

Para 155: Development should be directed away from areas at highest risk of flooding.

Para 157: Need to apply the sequential and exceptions tests.

Para 158: Development should not be permitted if there are reasonably available sites in areas at lower risk of flooding.

Para 170: Contribution to and enhancement of the natural and local environment.

Para 175: Harm to habitats and biodiversity.

National Planning Practice Guidance (NPPG)

Determining a planning application

Fenland Local Plan 2014

LP1 – A Presumption in Favour of Sustainable Development

LP2 – Facilitating Health and Wellbeing of Fenland Residents

LP3 – Spatial Strategy, the Settlement Hierarchy and the Countryside

LP4 – Housing

LP12 – Rural Areas Development Policy

LP16 – Delivering and Protecting High Quality Environments across the District

8. KEY ISSUES

- **Principle of Development**
- **Visual Impact & Character**
- **Flood Risk & Sequential Test**
- **Highway Safety**

9. BACKGROUND

9.1. Outline planning permission (with access included) for five dwellings was refused at the 13th May Planning Committee meeting.

9.2. That scheme was recommended for refusal to the Committee on four grounds (summarised below):

- That the application site does not lie within any defined settlement and does not meet any of the exceptions identified in the development plan to proposals beyond those defined settlements.
- That the development of the site would be detrimental to the character of the area by being located on an open field that currently helps to define the area's character, and would constitute ribbon development contrary to the development plan.
- The proposed access details for the scheme failed to demonstrate acceptable visibility splays and therefore could not meet the policy requirement to provide a safe and convenient access for all.
- The proposal would result in residential development in a zone of higher flood risk and is not accompanied by a sequential test to demonstrate that there are no suitable alternative sites in an area of lesser risk.

- 9.3. Members in their consideration of the application discounted the location of the site as a reason for refusal on the basis that they did not consider it to be an elsewhere location. The impact on the character of the area was considered by Members to be positive, and the matter of flood risk was not considered to justify refusal of the scheme as the risk could be mitigated against.
- 9.4. Members, however, refused planning permission for the proposal on the third of these reasons concerning highway safety, due to the lack of an appropriately drawn visibility splay/geometric details of the proposed access.
- 9.5. The current application has therefore been re-submitted to attempt to overcome this reason for refusal. However, subsequently there has been an appeal decision received by the Council which is considered to be material to the consideration of this new application.

10. ASSESSMENT

Principle of Development

- 10.1. When reporting the application previously Officers set out that, “Policy LP3 defines the settlement hierarchy within the district. Bunkers Hill is not one of the identified settlements within this policy and as such is considered to be an ‘Elsewhere’ location where development *“will be restricted to that which is demonstrably essential to the effective operation of local agriculture, horticulture, forestry, outdoor recreation, transport or utility services”*.

Policy LP12 details the requirements for supporting evidence in relation to proposals for new accommodation within Elsewhere locations, however as the proposals are not submitted on the basis that they meet the criteria in LP3, no such evidence accompanies the application.

The principle of the proposed development does not accord with the relevant policies of the development plan. This approach is supported by recent appeal decisions in relation to proposals within the District, in particular schemes at Kings Delph (F/YR18/0515/F), Westry (F/YR17/1114/O) and Four Gotes (F/YR18/0725/O)”.

10.2. Notwithstanding this Members concluded that Bunkers Hill was not an elsewhere location and therefore decided to not refuse planning permission on the basis of a conflict with LP3.

10.3. However, in July the Council received an appeal decision (APP/D0515/W/20/3245490) relating to planning application F/YR19/0828/F, concerning a proposed dwelling at Crooked Bank, Wisbech (a copy of the appeal decision and a site location plan is included for reference in Appendix 1). This involved a site within what the Inspector described as “a small group of dwellings, farmsteads and enterprises known as Begdale. It is not within any of the settlements specified in Policy LP3 of the LP”. Begdale has a similar relationship to the settlement of Elm that Bunkers Hill has to Wisbech St Mary and there must therefore be parallels between that decision and how this application should be determined.

10.4. The Inspector considered that Begdale was an elsewhere location and that the principle of development would conflict with Policies LP3 and LP12 of the Local Plan. Consequently it is considered that Bunkers Hill must also be an

elsewhere location and again that the principle of residential development must conflict with these policies.

- 10.5. The Inspector went on to consider that due to the limited services, facilities and employment within Begdale future occupiers would have “limited transport choice other than to rely on private motorised transport” although recognising that there would be some modest social and economic benefits from the dwelling. The overall conclusion was “whilst recognising the overall national objective to boost the supply of housing, the combined benefits of the scheme are still relatively modest such that they are outweighed by the environmental harm arising from the dependence on the private car and development in the countryside. The proposed development would not therefore amount to sustainable development when considered against the Framework as a whole”.
- 10.6. It is considered that the conclusions drawn by the Inspector at Begdale are equally relevant to the current proposal and that consequently the application conflicts with Policies LP3 and LP12 of the Local Plan and the wider aims and objectives of the NPPF.
- 10.7. Whilst reference was made by Members when the previous application was considered that limited weight should be given to Inspector’s decisions, as subsequent Inspectors have sometimes taken a different view on an issue to their colleagues, this is not a common occurrence and so appeal decisions should normally be given significant weight.

Visual Impact & Character

- 10.8. Once again, when reporting the application previously Officers set out that, “Policy LP16 of the Fenland Local Plan sets out the requirements for development proposals with regard to delivering and protecting high quality environments throughout the district. In particular it notes that proposals will be required to make a positive contribution to the local distinctiveness and character of the area, enhancing its local setting, and responding to and improving the character of the local built environment, whilst reinforcing local identity and not adversely impacting on the street scene, settlement pattern or the landscape character of the area.

Planning policy within the development plan discourages ribbon style development, which is development that extends along the roads leading into and out of a settlement without also developing the land behind the frontage. The Design and Access Statement says that the proposal is intended to “reinforce the linear character of the hamlet.” The linear nature of the proposal when combined with its location beyond the existing developed extent of Bunkers Hill would result in ribbon style development. As it stands, the site is of a particularly open character in this location, and this makes a significant contribution to the overall rural character of the area and the relationship of the countryside to Bunkers Hill in this location. Development along the frontage of the field in this location would therefore result in demonstrable harm to the character and appearance of its surroundings and the character of Bunkers Hill at odds with policy LP16 noted above, and National Design Guidance.

In addition to the above, Bunkers Hill is also distinctive due to the sporadic nature of its development, in particular on the east side of High Road where the application site is also located. The majority of development forming part of Bunkers Hill is located to the west of High Road. The shape of the application site and its extent, combined with the proposed number of dwellings forming

part of the scheme would result in a regular form of development at odds with this distinctive character”.

- 10.9. However Members when considering the previous application did not find that there would be any harm to the character and appearance of the area arising from residential development of the site. Consequently no reason for refusal is recommended to Members in respect of this as part of the determination of the current proposal

Flood Risk & Sequential Test

- 10.10. When considering the previous application Members were advised, “The application site lies within flood zones 2 and 3. National and Local Planning Policy requires development to be directed to areas of lowest flood risk in preference to those within higher risk areas, unless a sequential test demonstrates that there are no such areas capable of accommodating the level of development proposed on the site. Fenland District Council sequential test protocol is that for development in elsewhere locations, such as the application site, the area of search for preferential locations will be the entirety of the district.

No separate sequential test has been submitted alongside the application, however two other documents do comment on the proposals from a sequential test perspective. The first of these is the Flood Risk Assessment (FRA), dated May 2020 and undertaken by Ellingham Consulting Ltd. This document acknowledges the need for a sequential test but rather than providing information on potential alternative sites, it simply states that large parts of the district lie within Flood Zone 3 and therefore there are limited opportunities to undertake the development on a site at lower flood risk. This does not constitute a sequential test.

The second document is the Design and Access Statement, however rather than undertaking a formal sequential test, this document merely identifies that the Planning Committee approved residential development within Bunkers Hill on land within Flood Zone 3 in January 2019, and references an appeal where the Inspector allowed a residential use on land in Flood Zone 3. Notwithstanding those decisions, the current application site is of distinctly different character and relationship to the existing group of dwellings forming Bunkers Hill, and therefore there is no precedent established by those decisions that must be followed in the consideration of the current application”.

- 10.11. Members however decided not to pursue a reason for refusal on the grounds of flood risk, given that they considered any risk could be mitigated. Consequently no reason for refusal is recommended in respect of this issue in relation to the current scheme, albeit that Officers remain of the view that the proposal does not meet with policy requirements in that no sequential test has been undertaken.

Highway Safety

- 10.12 Policy LP15 of the Fenland Local Plan (2014) requires development to provide well designed, safe and convenient access for all.

- 10.13 The proposal includes the provision of vehicular access to the site directly onto High Road, towards the northern extent of the application site. The application form states that access is committed for approval at this stage, and the plans have been amended during the course of the application to detail the proposed access geometry.
- 10.14 Much of the concern identified in the responses received from members of the public centres around the proposed access and its safety, particularly with reference to traffic speeds through Bunkers Hill itself.
- 10.15 Several of the comments relate to the age of the speed survey, which was undertaken in 2013, asserting that as a result of its age it is no longer fit for purpose.
- 10.16 The Highways Authority has responded to those concerns noting that the road layout and conditions have not changed since the survey was undertaken and there is no evidence to suggest that vehicle speeds would have changed in the intervening period. It also notes there is no record of any accidents in the last five years. In addition, the comments note that the visibility splays shown could be extended beyond what is required based on the speed survey.
- 10.17 The comments of the Highways Authority conclude that the information provided is sufficient to demonstrate that a safe and convenient access can be provided to the development sufficient to satisfy the requirements of policy LP15.
- 10.18 The comments of the members of the public in respect of the safety of the proposed access are noted, however none provide any evidence to demonstrate that the speed survey is incorrect, nor that the conclusions of the Highway Authority are unjustified. Several accidents are described however these appear to be older than the 5-years cited by the Highway Authority.
- 10.19 Crash Map data indicates 4 accidents recorded in the last 21 years through Bunkers Hill, 2 of these are classified as slight severity and 2 serious. The four incidents took place in 1999, 2002, 2003 and 2011. It is reasonable to conclude therefore that both the public responses highlighting the incidents and the Highways Authority statement that there are no records of collisions in the last five years are both correct.
- 10.20 In view of that, there is no justification for refusal of the application on the grounds of and adverse impact on highways safety.

11. CONCLUSIONS

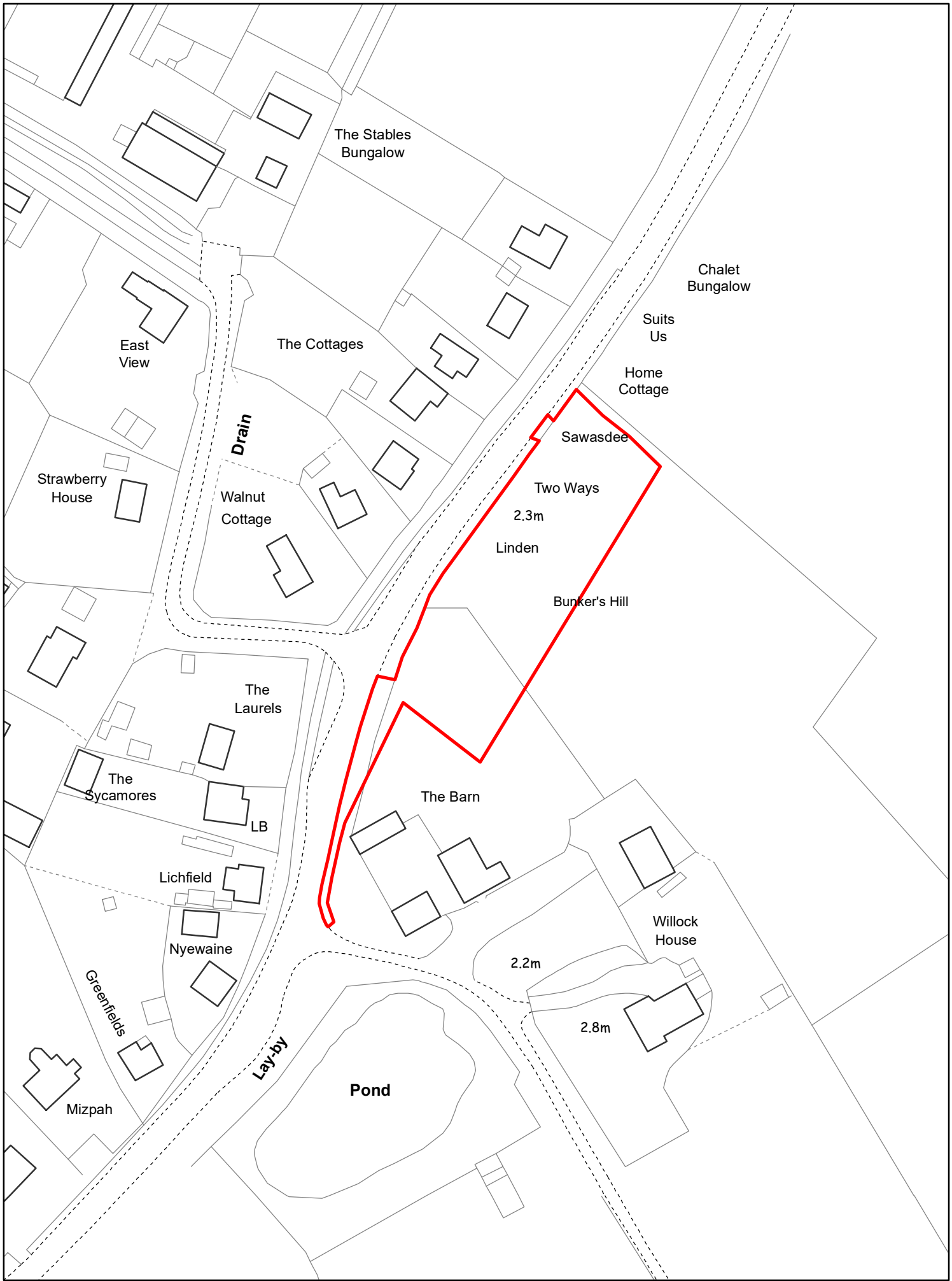
- 11.1. In light of the comments received from the Highway Authority it is considered that the previous reason for refusal in relation to the development of this site has been overcome.
- 11.2. However it is also considered that the recent appeal decision received in relation to the site at Begdale is a material consideration, and in light of this, and notwithstanding the previous decision of the Committee concerning the development of this site for five dwellings, the officer recommendation is to refuse due to the conflict with Policies LP3 and LP12 of the Local Plan and with the aims and objectives of the NPPF in respect of development in an elsewhere location with limited access to services and facilities.

- 11.3. Whilst not a material planning consideration, should Committee agree that this reason for refusal is now relevant, Members should be aware that in the event of an appeal there is the risk of an award of costs on the grounds of unreasonable behaviour. However it is considered that this risk is significantly mitigated as the Council received the appeal decision for the Begdale site 'between decisions' and this is now a material consideration.

12. RECOMMENDATION

REFUSE, for the following reasons:

1. Policies LP3 and LP12 of the Fenland Local Plan (2014) set out the settlements hierarchy within the district, with the application site location being considered as an 'Elsewhere' location where new dwellings are only to be permitted if they are demonstrably essential to the effective operation of a range of countryside type uses. The proposal is made in outline for the construction of up to five open market residential dwellings and contains no indication that the dwellings are required to support any of the uses identified. The proposal would result in the construction of several residential dwellings in an area of the district where supporting facilities for such development are not available, and as a result the scheme would be contrary to the requirements of these policies of the Local Plan and in conflict with the aims and objectives of the NPPF.



Appeal Decision

Site visit made on 14 July 2020

by **L Fleming BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 July 2020

Appeal Ref: APP/D0515/W/20/3245490

31 Crooked Bank, Wisbech PE14 0BB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs R O’Gorman against the decision of Fenland District Council.
 - The application Ref F/YR19/0828/F, dated 9 September 2019, was refused by notice dated 12 November 2019.
 - The development proposed is a new dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposed development would provide a suitable site for housing, having particular regard to the accessibility of local services and facilities, the development plan and national policy;
 - the effect of the proposed development on the character and appearance of the area.

Reasons

Access to Services and Facilities

3. Policy LP3 of the Fenland Local Plan (2014) (LP) LP defines the settlement hierarchy. It directs development to within larger specified settlements. Outside of those specified settlements or ‘elsewhere’ it limits development to that which is demonstrably essential where Policy LP12 of the LP sets out the circumstances in which new dwellings in the countryside or ‘elsewhere’ will be permitted.
 4. The appeal site is within a small group of dwellings, farmsteads and enterprises known as Begdale. It is not within any of the settlements specified in Policy LP3 of the LP. There is also no substantive evidence before me which demonstrates that the specific circumstances exist to justify a new dwelling ‘elsewhere’ as required by Policy LP12 of the LP. I must therefore conclude that the proposed development is in direct conflict with Policies LP3 and LP12 of the LP.
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5. Paragraph 78 of the National Planning Policy Framework (the Framework) makes clear that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Furthermore, paragraph 79 states decisions should avoid the development of isolated homes in the countryside. Therefore, having regard to the appeal decisions¹ and judgement² put before me, I find the proposed dwelling being within a group of other dwellings and buildings in Begdale would not be isolated.
6. One new dwelling would be a social benefit to the area. Furthermore, new customers and potential employees for local businesses and services and the construction of the development would also generate economic benefits. However, given the scale of development these combined benefits would be modest. Therefore, without specific evidence to the contrary I find the proposal would have a negligible effect on the vitality of the rural community of Begdale or the vitality of those nearby such as Elm.
7. Furthermore, whilst I acknowledge there are some services, facilities and employment opportunities³ nearby, these do not include healthcare or education. Overall without any substantive evidence to the contrary it seems to me that Begdale and its immediate surroundings contain only limited services, facilities and employment opportunities. Moreover, I am not provided with any substantive evidence which allows me to fully assess access to bus services or the frequency of those services connecting to larger centres. I also note many of the roads in the area do not benefit from footpaths or street lights.
8. Thus, based on the evidence before me I find that future occupiers of the proposed dwelling would have limited transport choice other than to rely on private motorised transport to access services, facilities and employment. Whilst one new dwelling would only give rise to a small number of trips, private motorised transport is the least sustainable transport mode and the proposed development would still therefore result in environmental harm. I accept the travel circumstances of any future occupants of the proposal would be similar to those experienced by many existing residents living in the area. However, this does not justify the proposal.
9. Therefore, whilst recognising the overall national objective to boost the supply of housing, the combined benefits of the scheme are still relatively modest such that they are outweighed by the environmental harm arising from the dependence on the private car and development in the countryside. The proposed development would not therefore amount to sustainable development when considered against the Framework as a whole.
10. For these reasons the proposed development would not provide a suitable site for housing, having particular regard to the accessibility of local services and facilities. It would therefore be in conflict with Policies LP3 and LP12 of the LP and the Framework which taken together seek to ensure a sustainable pattern of development.

¹ Appeal Decisions APP/D0515/W/20/3201780 & APP/D0515/W/20/3201560

² Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2017] EWHC 2743 (Admin); [2018] EWCA Civ 610

³ Including Little ranch Leisure & The Orchard Tea Room and Farm shop

Character and appearance

11. Crooked Bank is a narrow lane on the edge of a group of sporadic and informally arranged dwellings, agricultural buildings and commercial properties next to open countryside. Overall, the area has a spacious, rural edge of settlement character and appearance.
12. I note the character and pattern of the built development in the area is varied. I also acknowledge the proposed development would sit alongside the existing dwelling at No 31 Crooked Bank and would be viewed alongside a commercial building and domestic gardens as part of a wider group of buildings and Begdale.
13. However, even though single storey with a relatively low ridge height, the substantial four bed dwelling would occupy a relatively large L-shaped footprint significantly increasing the bulk of domestic development on this part of Crooked Lane. The erosion of space would be noticeable from the countryside to the west and when passing by on Crooked Lane.
14. Consequently, I find the proposal would have an urbanising effect on the area harming it's overall spacious, rural edge of settlement character and appearance. The proposal would therefore conflict with Policies LP12 and LP16 of the LP which aim to ensure good design and safeguard the local character of an area.

Conclusion

15. For the reasons set out above, having had regard to all other matters raised, I conclude that the scheme would not accord with the development plan and the appeal should therefore be dismissed.

L Fleming

INSPECTOR

