
F/YR20/1138/O

**Applicant: The Executors of The Late W. Feary Agent : Mr Ted Brand
Brand Associates**

Land South Of, 85 - 89 Upwell Road, March, Cambridgeshire

Erect up to 6 x dwellings involving upgrade to access (Outline application with all matters reserved)

Officer recommendation: Refuse

Reason for Committee: Town Council comments and number of representations received contrary to Officer recommendation.

1 EXECUTIVE SUMMARY

- | | |
|-----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.1 | The application site comprises a parcel of undeveloped agricultural land set to the rear of continuous frontage development |
| 1.2 | A proposal for 4 dwellings on the site was previously refused and the appeal dismissed for reasons of significant and demonstrable harm to the character and appearance of the area in view of the incongruous location relative to the prevailing settlement pattern. |
| 1.3 | There are no material changes to the characteristics of the site since the last submission and no changes to the development plan against which, in law the application must be considered against. |
| 1.4 | Whilst a site for 9 dwellings was approved at the far end of Upwell Road in 2019, Officers do not consider that the sites are comparable, nor that this sets any precedent for backland development at the application site. |
| 1.5 | Officers consider therefore that there are no material planning reasons to indicate a departure from the development plan with this application and conclude that significant and demonstrable harm would occur with this latest application, consistent with the findings of the previous proposal. |
| 1.6 | The application is therefore recommended for refusal |

2 SITE DESCRIPTION

- 2.1 The application site consists of a roughly rectangular parcel of grassed land accessed off Upwell Road by a gap in an otherwise built up frontage between 87 and the new build property adjacent to 99 Upwell Road.
- 2.2 The site is adjoined to the south, west and east by agricultural land with residential to the fore (north). The topography remains relatively level, with tree planting and hedgerow marking the western and eastern boundaries.

3 PROPOSAL

- 3.1 The application seeks Outline planning permission for the residential development of the land for up to 6 dwellings. The application is with all matters reserved, however the proposal is supported by an indicative layout denoting how the site could be developed to accommodate the quantum of houses proposed and shows a main route through the site with houses on either side. Whilst access is not committed, the indicative plan shows that the intention would be to access the site off Upwell Road between the frontage properties No's 89 and 87.
- 3.2 The application is accompanied by a planning statement and an ecology survey.
- 3.3 Full plans and associated documents for this application can be found at: <https://www.fenland.gov.uk/publicaccess/>

4 SITE PLANNING HISTORY

Reference	Description	Decision
F/YR17/0563/O	Erection of up to 4 x dwellings involving the formation of a new access (Outline application with all matters reserved)	Refused 14.11.2017 Appeal Dismissed 25.09.2018 (APP/D0515/W/18/3200338)

5 CONSULTATIONS

March Town Council

- 5.1 Recommend approval

Environment & Health Services (FDC)

- 5.2 *A site visit hasn't been made and this response is based on a desk-top study.*

Documents considered are; -

- *Design and Access Statement – Brand Associates Ref. FE.EX.20/EJB/September 2020*
- *Site Plan*
- *Aerial photograph*
- *Planning Application Ref. F/YR19/0931/O*

There are no implications with noise being created by this proposal and there are no known noise sources which could adversely affect the proposal site.

There are no implications for local air quality with this proposal.

There are no issues with ground contamination and no known former contaminative use of the site. However, I would recommend the attachment of the standard unsuspected land contamination condition.

Middle Level Commissioners

- 5.3 No comment received

Cambridgeshire County Council Highways Authority

- 5.4 *I have no highway objections to the development in principle.*

This is an all matters reserved application. When access is committed the plans should state the dropped kerb crossover will be constructed to LHA construction specification. A sealed and drained crossover will need to extend to the highway boundary (LHA spec). The private access construction will need to be drained to prevent surface water runoff into the highway.

If FDC would like to the private road to be constructed to an adoptable standard, the road should be street lit, 5.5m wide with 0.5m service margins.

Local Residents/Interested Parties

Objectors

- 5.5 7 letters of objection received from properties at the following locations;
- Upwell Road x 5
 - Cavalry Drive x 2

Raising the following concerns;

- Access & Highway safety
- Backfill/ Backland development
- Design/Appearance
- Environmental Concerns
- Loss of view/Outlook
- Out of character/not in keep with area
- Overlooking/loss of privacy
- Traffic or Highways
- Visual Impact
- Wildlife Concerns
- Would set a precedent
- Encroachment into countryside
- Other developments are available
- Density/Over development
- Drainage
- Flooding
- Trees
- Light Pollution
- Noise
- Application does not accord with: NPPF para. 155, 163, 174a, b, 175a, 177 or LP1, LP3.3.11, LP16 b, c, d, e and LP19
- The Planning Inspectorate dismissed the appeal against the refusal of the previous application for 4 properties on this site
- As this application site is larger than the previous application (F/YR17/0563/O) this application will present more harm.
- The Planning Inspector dismissed the argument that this is an infill site (provides quote from the appeal)
- The agent refers to application number F/YR19/0931/O for 9 dwellings as setting a precedent whereas this site was brownfield land. This site is agricultural land.
- Not possible to form the access without removal of a street tree
- 2-storey development will harm views of skyline and the streetscene
- all the reasons for refusal of the previous application still stand

Supporters

- 5.6 16 letters of support received from residents at the following addresses;
Upwell Road x 12
Cavalry Drive x 3
Smiths Drive x 1

Raising the following points;

- Will enhance the area
- Will provide homes
- 6 bungalows would add to the area
- Would not harm street scene
- Would not harm wildlife

6 STATUTORY DUTY

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined (by the Local Planning Authority) 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)

7.2 National Planning Practice Guidance (NPPG)

7.3 National Design Guide 2019

Context

Identity

7.4 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

LP5 – Meeting Housing Need

LP14 – Responding to Climate Change and Managing the Risk of Flooding in Fenland

LP15 – Facilitating the Creation of a More Sustainable Transport Network in Fenland

LP16 – Delivering and Protecting High Quality Environments across the District

LP17 – Community Safety

LP18 – The Historic Environment

LP19 – The Natural Environment

7.5 March Neighbourhood Plan 2017

H2 – Windfall Development

7.6 The Cambridgeshire and Peterborough Minerals and Waste Core Strategy (2011) which includes the RECAP CCC Waste Management Design Guide SPD (2012)

7.7 Supplementary Planning Documents/ Guidance:

- Delivering & Protecting High Quality Environments in Fenland SPD (2014)
- Cambridgeshire Flood & Water SPD (2016)

8 KEY ISSUES

- **Principle of Development**
- **Design & Character**
- **Flood Risk & Drainage**
- **Ecology & Biodiversity**
- **Indicative Access**
- **Other Considerations**

9 BACKGROUND

- 9.1 A proposal for residential development of this site was previously refused by the LPA at the Planning Committee of November 2017 (see planning history). An appeal was lodged but was subsequently dismissed with the Inspector concurring with the Council's reasoning; that development of this land would be harmful to the character of the area due to its backland location. The Inspector considered that notwithstanding questions raised by the Council's housing supply at that time, that the development would result in significant and demonstrable harm which would not be outweighed by the benefits.
- 9.2 The appeal was determined with regard to the newly released NPPF in 2018 thereby demonstrating that policies of the Local Plan remained up to date.
- 9.3 It is with the backdrop of the Council's previous decision, the Inspectors conclusions, and the absence of any material amendments to the development plan that this application is assessed against.

10 ASSESSMENT

Principle of Development

- 10.1 This site adjoins the built footprint of March. The principle of development in March itself is acceptable in terms of the settlement hierarchy which identifies that March should be a main focus for housing growth, given that it is a sustainable location which offers good access to services.
- 10.2 Furthermore, policy H2 of the MNP supports development in March, subject to 7 criteria in addition to the provisions set out under the Fenland Local Plan, 2014. These criteria (a) to (g) are summarised as;
- Impact on levels of light, privacy and private amenity space,
 - Not resulting in the net loss of formal or informal open space,
 - The site is at a low risk of flooding
 - The proposal includes a safe vehicular access and with no severe highways impacts
 - The proposal provides any on or off-site infrastructure where required
 - The proposal is of a high standard of design;
 - The proposal will not result in the loss of community facilities or services without justification.

- 10.2 Given the position of the development outside of what can be considered the main built form of March, the proposal will represent urban sprawl into open countryside, contrary to the provisions of Local Plan Policy LP16 which seeks to ensure the delivery of high quality environments and H2 which seeks to secure high quality development. This is considered in more detail as follows;

Design and character

- 10.3 The principle of introducing dwellings within the back land area of 85-89 Upwell Road would be unacceptable when viewed in the context of Policy LP16. This view is taken given that the area is characterised by its uniform linear layout, which clearly addresses the road. In order to accommodate the dwellings, it is necessary to locate it to the rear of No's 85 and 89 which would be contrary to the existing settlement pattern.
- 10.4 The proliferation of units into the open countryside at this location represents urban sprawl at odds with the established pattern of development and thus contrary to both LP16 of the FLP and DM3 of the High Quality Environments SPD. This would also be contrary to policy H2 (f) of the MNP given that it would be of a layout design that would fail to respect the prevailing frontage character of the area and therefore not of high quality.
- 10.5 Existing backland development in the Upwell Road area was previously considered by both the LPA and the Planning Inspector but were considered to be comparatively different and did not set any precedent. Previously, consideration was given to existing in-depth development in the vicinity e.g. Upwell Park to the east. However, this was not deemed to set any precedents for backland development in the area, both through the Council's consideration of the scheme at Planning Committee in 2017 and through the subsequent planning appeal where by it was considered to be "*an anomaly in the otherwise linear building pattern*" which "*predate the Council's current policies*".
- 10.6 Whilst the Council has since that time approved an outline scheme for 9 dwellings at the edge of the settlement further east (ref: F/YR19/0931/O), this site offers significantly different characteristics to the application site, already incorporating buildings in depth, notwithstanding that it is located further away than Upwell Park, on the edge of the settlement and therefore offers less relationship to the application site. The application site in contrast comprises an area of undeveloped countryside behind a row of continuous frontage development on either side of the proposed point of access.
- 10.7 The applicant also shows the provision of access to further development as shown on their location plan and to allow for this application would set a dangerous precedent and see the proliferation of further piecemeal development contrary to the notion of "sustainable" development, and a process that can only prejudice the delivery of strategic housing allocations shown in the adopted Local Plan. This was a concern and a conclusion that was agreed by the Planning Inspector.
- 10.8 In this regard, it is understood that this land and land adjacent to the west has been promoted under the latest call for sites under the Local Plan review. However, as the land submissions are still under review and at this time, it is considered that very limited weight can be afforded to this, other than that the

land is being promoted and by different landowners and therefore not indicated at this time to come forward as a consolidated area of land.

- 10.9 Therefore, in the absence of any changes to the development plan, or any strong precedents having been set, Officers consider that significant weight is to be applied to the Council's previous conclusions for backland development of this site, and the conclusions of the Planning Inspector, in the interests of consistency of decision making.
- 10.10 Notwithstanding the significant and demonstrable harm to the settlement pattern and character of the area as previously established, the indicative layout denotes that 6 dwellings could reasonably fit within the site – albeit that the 2 plots on the eastern boundary offer limited private amenity space as arranged which would likely fail the requirement of LP16(h). However, there is likely to be sufficient room to reconfigure this e.g. through smaller dwellings or a reduced quantum, which would be a matter for reserved matters consideration.

Flood Risk & Drainage

- 10.11 The application site lies within flood zones 1. For developments (other than changes of use) less than 1 hectare in Flood Zone 1, the main flood risk issue to consider is usually the management of surface water run-off. Drainage from new development must not increase flood risk either on-site or elsewhere.
- 10.12 The applicant has stated that they will use soakaways as a means of disposal and this matter remains for consideration at the building control stage were permission to be granted.
- 10.13 Whilst it is acknowledged that surface water flooding has recently occurred with properties immediately adjacent to the site, this has also been the case in other areas where flooding may not have previously occurred. Given the small scale of the proposal, it would be for the developer to set out a suitable drainage strategy via the Building Regulations process to address any surface water impacts which may arise through the development. The indicative layout plan denotes a SuDS feature adjacent to the boundary to accommodate surface water run-off from the site. However, this would constitute development in its own right that would need to be included within the red line site boundary. As such, should an attenuation pond be an option, this would need to be secured with the application site and not outside as shown indicatively.
- 10.14 The previous application was not refused on these grounds and Officers therefore consider it could be deemed unreasonable to refuse the application on this ground.

Ecology & Biodiversity

- 10.15 Concerns have been raised by residents over the impact of the development on wildlife – with residents reporting a range of wildlife using the site.
- 10.16 The applicant has commissioned an Ecology survey to establish the existing ecology and habitats across the site and adjoining and the impacts and/ or mitigation that may be required to address this.
- 10.17 The ecology survey considers reptiles, Badgers, bats, birds hedgehogs and invertebrates and concludes that there are no habitats upon the site that are considered to have conservation value, although the potential presence of

protected species will need to be considered prior to and during development works.

- 10.18 Section 6 of the report sets out a series of opportunities for protecting and enhancing biodiversity through the development e.g. introducing landscape features such as ponds, wildflower areas, further reptile surveys and inclusion of bird and bat boxes/ bricks.
- 10.19 It is considered that there is sufficient evidence to indicate that development on this site could proceed without significant adverse impact of biodiversity and that opportunities are available to achieve biodiversity net gain. This would be subject to securing an agreed mitigation and enhancement plan following the principles as set out in the ecology report, should the application be approved, which would accord with the aims of LP16 and LP19 of the FLP.

Indicative Access

- 10.20 The LHA has raised no objections to the proposal indicating that the development would be unlikely to have an adverse effect on highways. Again, the precise details of the access arrangement would need to be agreed through a reserved matters submission. It is acknowledged that the previous proposal was not refused on highways grounds.
- 10.21 As such, it is concluded that the proposal would be unlikely to result in severe highways issues and that it is likely that a suitably designed access could be achieved to cater for the quantum of development proposed in accordance with Policy LP15 of the FLP, albeit that the indicative layout denotes that the access would not be built to adoptable standards

Other considerations

- 10.22 Some residents have commented that the development would lead to overlooking, loss of light, loss of views or outlook and light pollution. Some residents have also supported the proposal for bungalows or have objected on the grounds of 2-storey dwellings. For clarification, matters of scale are not committed with this application, and therefore whether the dwellings are single storey or otherwise is not considered with this application. Likewise matters of overlooking, loss of light and visual dominance would be matters to be considered at reserved matters stages, through the detailed design.
- 10.23 Likewise for matters of noise, it does not automatically follow that the introduction of residential development would generate severe noise issues – but the layout and road surfacing which may have potential to cause nuisance, notwithstanding construction activity would also be matters to be considered at detailed design stage.
- 10.24 The previous application was considered the Cambridgeshire County Council's Archaeology team who recommended a pre-commencement condition requiring a written scheme of investigation to be secured in the event of the application being approved. It is considered that this would still apply notwithstanding the absence of comments from that team with this latest application.

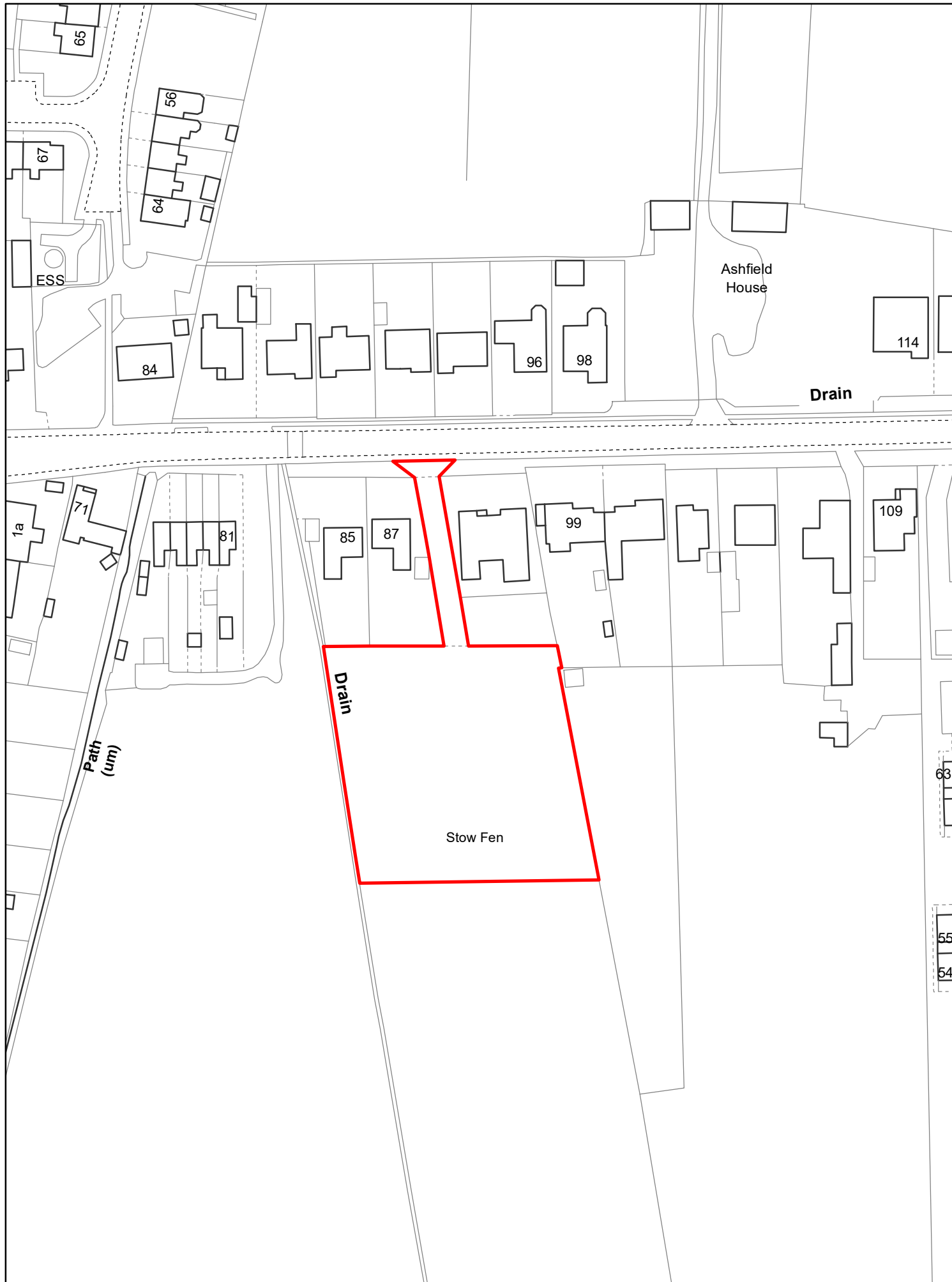
11 SUMMARY AND CONCLUSIONS

- 11.1 The application for outline permission for 6 houses follows a previous application for development of up to 4 dwellings in the same location, which was refused and subsequently dismissed at appeal due to significant and demonstratable harm to the character of the area due to the backland and incongruous location.
- 11.2 As with the previous proposal, this application yields no technical issues to warrant a refusal of the application on any technical grounds. However, importantly there are also no material changes to the development plan or the site surroundings. Therefore, in Officers opinion, the harm that was previously identified remains and the minor increase in quantum proposed would not substantially improve the benefits of the scheme when considered against the harm, in the context of overall housing demands across the district and the requirements of the development plan.
- 11.3 The Council is able to demonstrate a 5 year supply of housing meaning that the policies of the development plan are fully engaged and it is considered that there are no material planning reasons to depart from them in this instance. Previously, consideration was given to existing in-depth development in the vicinity e.g. Upwell Park to the east. However, this was not deemed to set any precedents for backland development in the area, both through the Council's consideration of the scheme at Planning Committee in 2017, and through the subsequent planning appeal.
- 11.4 Whilst the Council has since that time approved an outline scheme for 9 dwellings at the edge of the settlement further east, this site offers significantly different characteristics to the application site, already incorporating buildings in depth, notwithstanding that it is further away than Upwell Park and on the edge of the settlement, rather than in this case; an area of undeveloped countryside behind a row of continuous frontage development on either side.
- 11.5 In this regard, Officers consider it would be consistent for the Council to refuse the application for the same reasons as before, given that the site and surroundings and the adopted development plan have not materially altered. The application comes forward without any sound material planning reasons to indicate that Officers should take a different approach and Officers consider it would be wholly inconsistent to now allow the development.
- 11.6 The application submitted does not represent sustainable development in that it will represent urban sprawl into the open countryside and does not respect the form, character and settlement pattern of the existing area. As such, the proposal conflicts significantly with policy LP16 of the Fenland Local Plan, H2(f) of the March Neighbourhood Plan, 2017 in that it fails to achieve high quality development and paragraph 217 of the NPPF for the same reason.

12 RECOMMENDATION

12.1 Refuse for the following reason;

- | | |
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| 1. | Policy LP16 of the Fenland Local Plan (2014) requires that proposals for new development should deliver and protect high quality environments which respond to and improve the character of the local built form and respond to the street scene and existing settlement patterns. The proposed development is shown to occupy a secondary position within the street scene which does not respond to the existing linear settlement pattern and therefore represents urban sprawl into the open countryside, contrary to Policy LP16 of the Fenland Local Plan, 2014 and H2 of the March neighbourhood Plan, 2017 |
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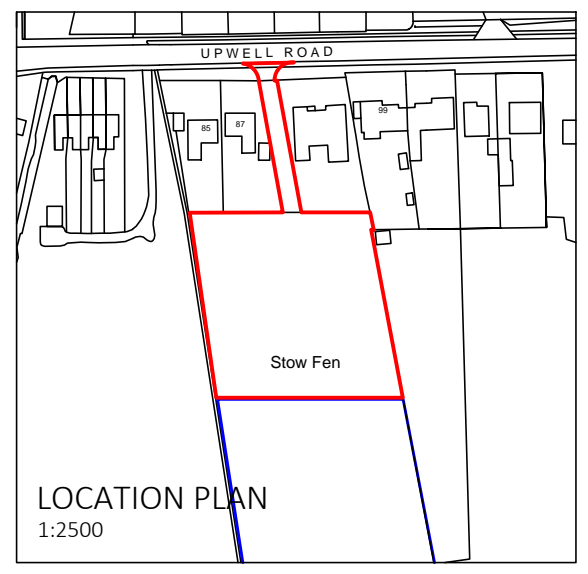
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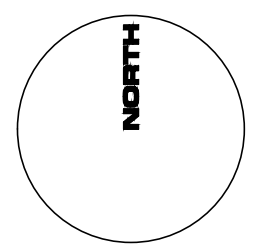
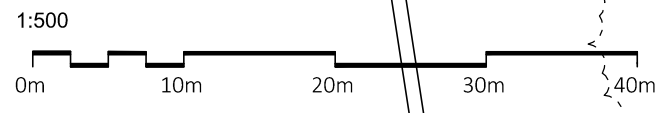
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- KEY**
- GARAGE PARKING - min. 7m x 3m internal dimensions per car.
 - PARKING SPACE - min. 2.5m x 5m per car.
 - PRIVATE ROAD
 - PROPOSED TREES
 - EXISTING TREES
 - TREES/ HEDGES/ SHRUBS REMOVED
 - PROPOSED HEDGES/ SHRUBS
 - VISIBILITY SPLAYS



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A - 04/11/20 - Location plan amended

PROPOSED RESIDENTIAL DEVELOPMENT
LAND SOUTH 85 - 89 UPWELL ROAD
MARCH PE15 ODA

EXECUTORS OF THE LATE W. FEARY

INDICATIVE SITE PLAN

1:500 @ A3 : AHS : MAR.20
FEA.EX.20 : 1 : A