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**F/YR20/0707/O**

**Applicant: Mr P Day**

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

**Land Rear of 222 Lynn Road, Wisbech, Cambridgeshire**

**Erect up to 14 dwellings (outline application with all matters reserved) involving the demolition of existing buildings**

**Officer recommendation: Refuse**

**Reason for Committee: Town Council comments contrary to officer recommendation**

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## **1. EXECUTIVE SUMMARY**

- 1.1. The proposal is for the construction of up to 14 dwellings on the land, with all details of the proposed scheme reserved for later approval.
- 1.2. The application site is located within the built-up part of the town of Wisbech, on land currently used for commercial purposes.
- 1.3. The indicative plans submitted alongside the application show a form of development that appears cramped on the site, and which is dominated by off street parking provision to the detriment of the appearance of the development.
- 1.4. The road layout indicated is not satisfactory in respect of the requirements of the Local Highways Authority, and would see all the existing features of biodiversity value removed from the site, including a tree protected by a tree preservation order (TPO).
- 1.5. The site is located within Flood Zone 2 and the Flood Risk Assessment submitted alongside the application fails to satisfy the requirements of the Environment Agency with regard to demonstrating that the development would be safe from flooding for its lifetime.
- 1.6. The latest calculations in respect of the storm water flows from the site have resulted in an objection from the Lead Local Flood Authority on the grounds of the discharge rate from the site being ten times higher than previously indicated.
- 1.7. The application is therefore recommended for refusal.

## **2. SITE DESCRIPTION**

- 2.1. The application site is located within the town of Wisbech, to the east of the town centre. It is an existing commercial premises and consists of three distinct

parts – the first of these parts is the existing Superseal sales building and workshop. These are located to the front of the site and along the western boundary.

- 2.2. The central section of the site consists of a 'showpark' with several conservatory type buildings constructed on the land as examples of the products offered by Superseal.
- 2.3. The final section is the land in the eastern part of the site, which is currently undeveloped.
- 2.4. There are several mature trees set around the boundaries of the site, including a Walnut tree located on its northern boundary that is the subject of a Tree Preservation Order.
- 2.5. The site is surrounded by residential development on all sides. The application site is classed as being within flood zone 2.

### 3. PROPOSAL

- 3.1. The proposal is an outline application for the development of up to 14 dwellings on the land. All matters are reserved for later approval, although the application indicates access is to be gained from Lynn Road.
- 3.2. Full plans and associated documents for this application can be found at:  
<https://www.publicaccess.fenland.gov.uk/publicaccess/applicationDetails.do?activeTab=documents&keyVal=QDRGL9HE0D800>

### 4. SITE PLANNING HISTORY

F/YR04/0004/O	Erection of 16 flats together with parking and landscaping	Granted	31/3/2004
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### 5. CONSULTATIONS

#### **Wisbech Town Council**

- 5.1. That the application be supported, subject to the proposal according with the requirements of the Local Highway Authority in terms of: width of the access road; footway provision; kerb sweep; the provision of a suitable turning head; visibility splays

#### **Cambridgeshire County Council Highways Authority**

- 5.2. The details shown on the submitted indicative layout would not be acceptable.  
Access road is not wide enough  
The curve in front of plots 5 & 6 is too tight  
A turning head should be provided, suitable from an 11.5m refuse vehicle  
Pedestrian priority along Lynn Road should be maintained and visibility splays provided.
- 5.3. The Local Highways Authority accepts that the application reserves all matters for later consideration but has provided the above comments to ensure that a realistic layout can be provided on the site.

#### **Cambridgeshire County Council Lead Local Flood Authority**

- 5.4. Objection. The applicant has amended the discharge from the site to 5l/s, which is significantly higher than the previously proposed 0.5l/s. Until it is demonstrated that the rate cannot be reduced as previously agreed, unable to support the application.

**Environment Agency**

- 5.5. Objection. FRA should set finished floor levels at a minimum of 1m above the existing ground level, with flood resilient construction to a height of 300mm above the predicted flood depth and demountable defences to 600mm above the finished floor level.

**FDC Environmental Health**

- 5.6. Recommend a condition requiring contamination, and one in respect of construction practices on the site.

**FDC Environmental Services**

- 5.7. Indemnity required if road is not to be adopted.  
Swept path plan required to demonstrate a refuse vehicle could access the site, turn and leave in a forward direction.  
Refuse and recycling bins required to be provided.

**FDC Housing Strategy**

- 5.8. Expect a contribution of 4 affordable dwellings (3 affordable rented and 1 shared ownership)

**Anglian Water**

- 5.9. No objections but request informative text is included on the decision notice if the application is approved.

**Cambridgeshire Constabulary**

- 5.10. No objection at this stage but would be happy to discuss measures to reduce vulnerability to crime prior to the detailed matters being submitted.

**Cambridgeshire Fire Authority**

- 5.11. Request provision is made for fire hydrants

**Local Residents/Interested Parties**

- 5.12. Four responses have been received in relation to the proposal from Lerowe Road and Fenland Road, raising the following matters.
- Impact on wildlife, particularly the bird population, and hedgehogs
  - Loss of significant trees – layout does not respect them
  - Concerned the local infrastructure cannot support more houses
  - Impact from the indicated parking areas on adjoining properties

## **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)**

Para 2: NPPF is a material consideration in planning decisions.

Para 7: Purpose of the planning system is to contribute to the achievement of sustainable development

Para 117: Promote effective use of land

Para 118: Opportunities and benefits of the reuse of land

Para 127: Well-designed development

Para 130: Permission should be refused for development of poor design that fails to take opportunities for improving the character and quality of an area.

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

Para 175: Harm to habitats and biodiversity.

### 7.2. **National Planning Practice Guidance (NPPG)**

Determining a planning application

### 7.3. **National Design Guide 2019**

Context

Identity

Built Form

### 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

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

LP19 – The Natural Environment

## 8. **KEY ISSUES**

- **Principle of Development**
- **Highway safety**
- **Biodiversity Impact**
- **Flooding and Flood Risk**
- **S106 Developer Contributions (Affordable Housing)**

## 9. **BACKGROUND**

9.1. There is no relevant background in relation to the application

## 10. **ASSESSMENT**

### **Principle of Development**

10.1. The application site is located within the built-up part of the settlement of Wisbech. Wisbech is identified as one of only two Primary Market Towns within the district under the terms of policy LP3 of the Fenland Local Plan, and as such is considered one of the main locations for new development. New residential

development within the town of Wisbech is therefore supported as a matter of principle, and more site-specific considerations must be assessed.

- 10.2. The application site is located within Flood Zone 2, and detailed matters regarding flood risk are to be considered later, however the principle of the development of a site within Flood Zone 2 needs to be addressed.
- 10.3. From a principle point of view the LPA approaches development within Wisbech on the basis that for sites within the existing built up urban area of the town that fall within use classes A, B, C or D and the proposal is for redevelopment, the LPA accepts that the sequential test is considered to have been passed.
- 10.4. The final point in respect of the principal of development of the site is the consideration of the amount of development proposed, namely the construction of up to 14 dwellings on the land. Consideration is given to this on the basis that the proposal is for the construction of 14 dwellings, and not some reduced number below that figure.
- 10.5. The site extends to 0.35 hectares, and therefore the proposed development density is 40 dwellings per hectare (dph). Such a figure is higher than would normally be expected (approximately 30dph) for an urban location such as this, and considerably in excess of that typical of the development surrounding the site (approximately 20-25dph). The indicative plan submitted alongside the application shows a form of development that appears cramped on the site, with poor amenity provision for several of the dwellings indicated. It also appears to result in the complete removal of all the existing trees from the site, in particular the significant mature specimens along the northern boundary, one of which is the subject of a tree preservation order.
- 10.6. The Local Highway Authority comments in relation to the indicative layout also indicate that they would not be acceptable in that regard, and the layout fails to demonstrate how a refuse collection vehicle could enter, turn and leave the site in a forward gear.
- 10.7. Overall therefore, whilst the principle of the residential redevelopment of the site may be acceptable, the application fails to demonstrate how the proposal for 14 dwellings can be satisfactorily accommodated on the site without resulting in unacceptable harm to the site and its surroundings.

#### **Highway safety**

- 10.8. Notwithstanding the above matters of principle, further consideration is given to the comments of the highways authority in respect of the requirements on site.
- 10.9. The indicative plan shows an access road that is 4.5m in width. The Local Highways Authority states that the access road should be a minimum of 5m wide, and ideally 5.5 to allow for adoption and two-way traffic flow.
- 10.10. Whilst it may be possible to accommodate the LHA requirements, an amended plan has not been requested to determine if this is possible due to other 'in principle' issues regarding this application.
- 10.11. Therefore the application has failed to demonstrate that the highway requirements can be achieved to facilitate the quantum of development that is being applied for.

### **Biodiversity Impact**

- 10.12. The biodiversity impact in relation to the site is considered in two parts – the impact on protected species that may make use of the site itself, and the impact on the existing biodiversity features of the site, in particular the mature trees present on the land.
- 10.13. In this regard, the application is accompanied by an initial biodiversity checklist completed by the applicant/agent. This checklist has been completed in the negative in relation to all species and features of the site. Comments received in relation to the proposals have stated that the land is used by a range of species including hedgehogs and a range of birds including Owls, Sparrows, Song Thrushes, Starlings and Dunnocks, and a Sparrow Hawk. The trees on the site have the potential to support protected species, and other features of the site (rough grassland, hedgerows and scrub) would also form a suitable habitat for a range of protected species. The lack of a formal ecological appraisal of the site should therefore form a reason for refusal at this stage.
- 10.14. The second aspect relates to the existing trees on the land, in particular the mature Walnut on the north boundary that is the subject of a tree preservation order. No arboricultural assessment accompanies the planning application to identify and assess the health and contribution of the existing trees on the site. Such an assessment should normally be undertaken at the outset of the planning process as retained trees can significantly affect the resulting land available for development and allows features that can contribute to the quality of the scheme to be identified, protected and enhanced.
- 10.15. The lack of any such assessment, combined with the indicative plans showing the complete removal of the existing trees from the site is sufficient to conclude that the application has failed to demonstrate that the development proposed can be accommodated on the site without unacceptable impacts on biodiversity within the site.

### **Flooding and Flood Risk**

- 10.16. The principle issues relating to flooding are addressed above, however the matter remains for consideration in respect of the specific impacts of the potential for flooding of the site. In that regard, the application is accompanied by a Flood Risk Assessment, which has been revised during the consideration of the process, and information has also been submitted in respect of the proposed surface water drainage strategy, initially amended to satisfy the comments of the Lead Local Flood Authority, and subsequently amended again following discussions with Anglian Water, resulting in an objection from the LLFA.
- 10.17. The Flood Risk Assessment proposes mitigation in respect of flood risk at the site consisting of floor levels raised 0.6m above the existing ground floor levels with a further 0.6m of flood resilient construction above the finished floor levels, and on this basis concludes that the development passes the second part of the exception test in respect of demonstrating that the development will be safe from flooding for its lifetime.
- 10.18. The comments of the Environment Agency however present a different conclusion in this respect, noting that the hazard mapping for the site indicates a potential breach depth of 1.2m, concluding that finished floor levels should be set a minimum of 1m above existing ground levels, with a further 300mm of

flood resilient construction above this level and 0.6m of demountable defences above the finished floor level.

- 10.19. It is evident therefore that the mitigation proposed under the flood risk assessment would fall short of the measures required to see the objection of the Environment Agency removed. As it stands therefore the Flood Risk Assessment fails to satisfy the requirements of the Environment Agency in respect of the development of the site and the proposal fails to accord with the requirements of policy LP14 of the Fenland Local Plan (2014).
- 10.20. It should be noted that accommodating the mitigation required by the Environment Agency would have resultant impacts on the detailed development proposals for the site, in particular the overall height of any development proposed, and therefore consideration of this matter goes beyond simply amending the Flood Risk Assessment at this stage to accommodate the increased floor level.
- 10.21. With regard to the second matter in relation to drainage on the site, the Lead Local Flood Authority initially registered an objection to the proposal, which they subsequently withdrew following revised details provided by the agent. These details showed a discharge rate from the site of 0.5l/s.
- 10.22. The applicant has subsequently further revised these details and the calculations supporting them, stating that the revised flow rates had been accepted by Anglian Water. These revised details were reconsulted on with the Lead Local Flood Authority and this has resulted in a return to their original stance of objection to the proposal. This is stated as being on the basis that the proposals do not demonstrate that the previously agreed discharge rates are not achievable.

#### **S106 Developer Contributions (Affordable Housing)**

- 10.23. The proposal is for the construction of up to 14 dwellings on the site, which would trigger the provision of affordable dwellings as part of the scheme on the basis that the proposal is for more than 10 dwellings.
- 10.24. No indication of an agreement in principle to such provision has been submitted alongside the proposal, nor has any indication been made that the provision of such a contribution would make the development unviable.
- 10.25. Given the other matters surrounding the development of the site that are sufficient to result in a recommendation of refusal for the scheme, the matter of Developer Contributions has not been pursued further.

## **11. CONCLUSIONS**

- 11.1. The application proposes a level of development that goes beyond that which could be reasonably accommodated on the site without causing harm to the site, its existing features and those of its surroundings. The indicative plan submitted alongside the proposal shows a layout that results in the total loss of all biodiversity features of the site, including a mature walnut tree protected by a tree preservation order. The proposal would therefore be contrary to policy LP19 of the Fenland Local Plan (2014).
- 11.2. The level of development proposed on the site combined with its constrained nature have a significant detrimental effect on the environmental quality of the

development such that it is considered the proposal would fail to accord with the requirements of policies LP2 and LP16 of the Fenland Local Plan (2014).

- 11.3. The residential development of the site could be acceptable in principle, however the information presented at this time fails to demonstrate that the amount of development proposed (14 dwellings) could be delivered alongside an acceptable highway layout to serve the development.
- 11.4. The flood risk assessment submitted alongside the application proposes a level of mitigation that fails to satisfy the requirements of the Environment Agency in respect of the safety of the site from a flood risk perspective. The latest information provided with regard to the proposed discharge rates of surface water from the site result in a high rate of discharge, but fail to demonstrate that lower rates are not achievable. The proposal is therefore contrary to policy LP14 of the Fenland Local Plan (2014)

## 12. RECOMMENDATION

### Refuse

Policies LP2 and LP16 of the Fenland Local Plan require development proposals to create high quality environments within the district that enhance the character and appearance of their surroundings. The proposal indicates a level of development that results in a high-density scheme that is at odds with its surroundings and fails to provide a high quality environment, both in terms of its cramped nature in order to accommodate the number of dwellings proposed and the removal of all biodiversity features of value from the site that could make a significant contribution to the character of the development and its amenity value to prospective residents. This high density scheme also results in an unacceptable layout of development from a highways perspective and the indicative layout proposed fails to demonstrate how an acceptable layout could be accommodated within the site. The proposal is therefore contrary to the requirements of policies LP2, LP15 and LP16.

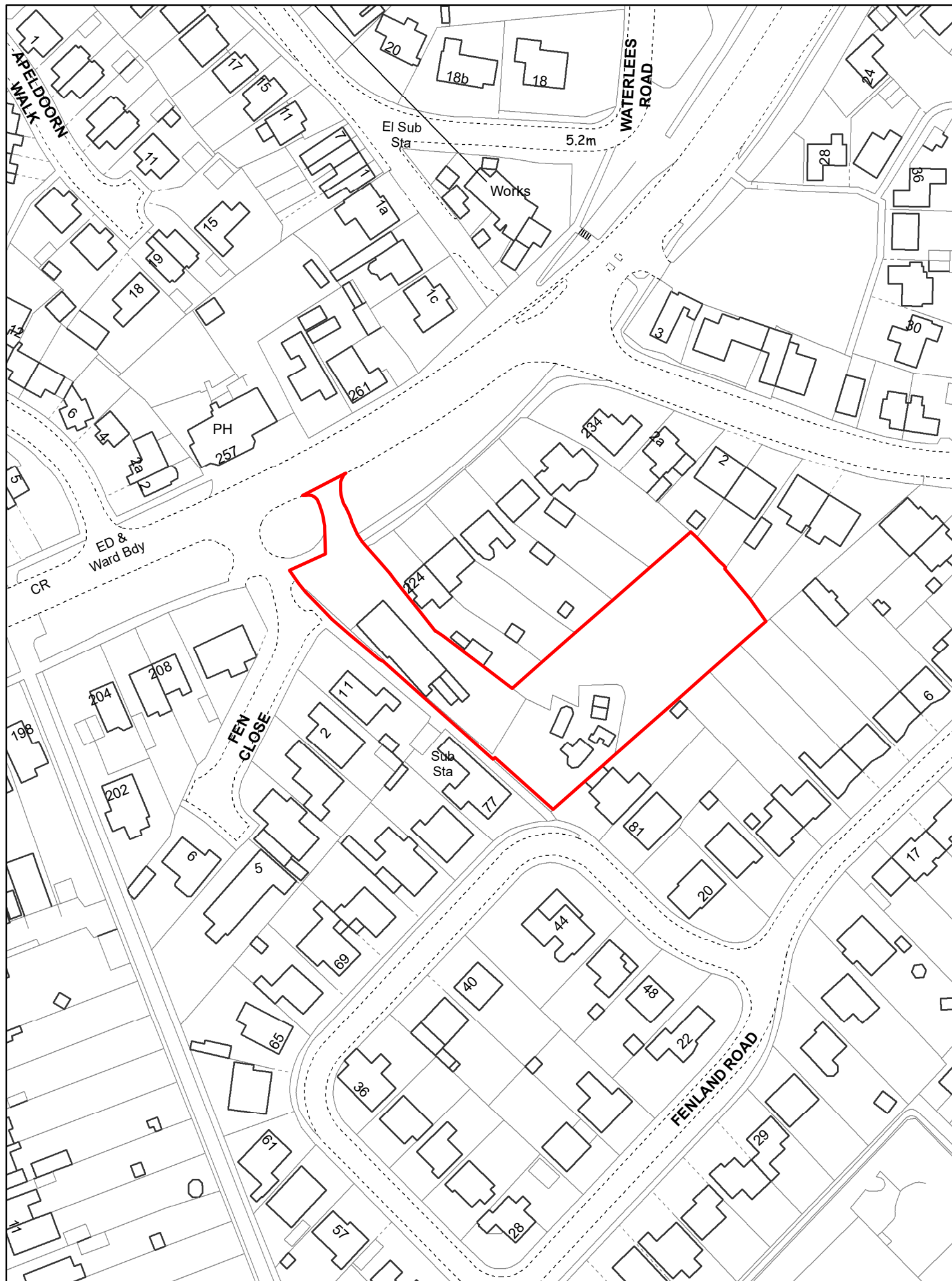
Policy LP19 of the Fenland Local Plan (2014) states that the Council will refuse permission for development that would cause demonstrable harm to a protected habitat or species, unless the need for and public benefits of the development clearly outweigh the harm and mitigation measures can be secured to offset the harm and achieve a net gain for biodiversity. The proposal is not accompanied by an ecological survey of the land, which incorporates features that may provide suitable habitat for protected species. The scheme also fails to provide an arboricultural assessment to identify how a scheme could be designed to accommodate the existing mature trees on the site that provide a positive benefit to the biodiversity contribution of the site. On that basis, the application is unable to demonstrate that it would not cause demonstrable harm to protected habitat or species, and no mitigation is identified to ensure that there is no net biodiversity loss as a result of the development of the proposal. The scheme is therefore contrary to policy LP19 of the Fenland Local Plan (2014).

Policy LP14 of the Fenland Local Plan requires development through the submission of a site specific flood risk assessment to demonstrate that appropriate flood risk management procedures and safety measures are in place. The Flood Risk Assessment submitted alongside the application has resulted in an objection from the Environment Agency to the proposed mitigation measures to make the development safe. The proposed surface water drainage proposals have also



resulted in an objection from the Lead Local Flood Authority as they have failed to demonstrate that lower discharge rates are not achievable on the site. The proposal is therefore contrary to the requirements of policy LP14 of the Fenland Local Plan (2014).

A Section 106 Agreement or Heads of Terms have not been submitted to secure the financial and infrastructure contributions generated by the proposed development. The proposed development would therefore be contrary to the requirements of the NPPF, policies LP5 and LP 13 of the Fenland Local Plan (2014), the Developer Contributions SPD, and the Infrastructure Delivery Plan (IDP).



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