
F/YR21/1035/O

Applicant: Mr N Baines

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

Land North East Of Horseshoe Lodge, Main Road, Tydd Gote, Cambridgeshire

Erect 1 dwelling (outline application with all matters reserved)

Officer recommendation: Refuse

**Reason for Committee: The number of representations received contrary to
Officer recommendation**

1 EXECUTIVE SUMMARY

- 1.1. This application seeks outline planning permission for the erection of one dwelling on disused agricultural land in Flood Zones 2 & 3, approximately 40m east of a group of barns converted for residential use outside the settlement of Tydd Gote. The application is made with all matters reserved for later approval, and consequently the only issue for consideration at this time is whether or not the principle of development is acceptable in this location.
- 1.2. The development site falls within an 'elsewhere' location. As identified under Policy LP3 development in such areas should be restricted to that which is essential for agriculture, horticulture, forestry, outdoor recreation, transport or utility services and to minerals or waste development. Furthermore, owing to the elsewhere location, it is necessary to apply the criteria outlined in Policy LP12. The application includes no justification regarding functional need for the dwelling being essential to rural enterprises such as those listed above. Thus the proposal therefore fails to comply with Policies LP3 and LP12 of the Fenland Local Plan 2014.
- 1.3. The submitted Flood Risk Assessment argues that no other land is at lower risk of flooding than Flood Zones 2 & 3 within Tydd Gote and as such there are no sequentially preferential sites available. However, owing to the location of the development outside the settlement of Tydd Gote, the area of search required for the Sequential Test is district wide. Thus as set out in the SPD, the sequential test is considered to be failed.
- 1.4. The proposals will see development encroach into currently undeveloped land that was previously likely part of the agricultural fields to the east and south. Development encroaching into this land would be to the detriment of the character and appearance of the area contrary to Policies LP12 and LP16 (d)
- 1.5. Thus, the proposal is considered unacceptable with regard to Policies LP3, LP12, LP14, and LP16(d) and hence is recommended for refusal.

2 SITE DESCRIPTION

- 2.1. The site is located in a rural area, approximately 40m east of a group of barns converted for residential use. The North Level Main Drain is located approximately 60m to the north of the site and essentially separates the site from the main settlement. To the west is an existing access track that culminates in a grassed footpath turning north of the site and the east and south of the site adjoin agricultural fields. The site is not visible from a public viewpoint, enclosed by hedging on all boundaries and is currently overgrown agricultural land. The site also includes a disused single-storey brick-built barn with a dual pitched roof set approximately 72m west of the proposed dwelling's position. The land is within flood zones 2 and 3.

3 PROPOSAL

- 3.1. The proposal is an outline planning application for the construction of a single dwelling on the land, with all matters reserved for later approval. The access to the site is indicated to utilise the existing access track which serves the existing residential development to the west and currently allows access to the site. The submitted illustrative drawing submitted shows a detached dwelling in proximity to the western boundary with separate detached garage, a parking and turning area the southwest of the dwelling and large garden to east.
- 3.2. Full plans and associated documents for this application can be found at: <https://www.fenland.gov.uk/publicaccess/>

4 SITE PLANNING HISTORY

F/YR14/0914/F	Conversion of existing barn and erection of part single-storey, part 2-storey side extensions to form a 2-storey 4-bed dwelling with attached garage	Refused 12.01.2015
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5 CONSULTATIONS

5.1. Environment Agency

We have no objection to the proposed development but wish to make the following comments.

Review of Flood Risk Assessment (FRA)

Our hazard mapping shows flood depths of 0.5m -1m in the event of a breach or overtopping of the flood defences, therefore we would usually advise that finished floor levels (FFL) must be set above the maximum flood depth (1m) however the FRA states this is not achievable, and has proposed sufficient flood resistant construction.

We therefore have no objection to this application, but strongly recommend that the development be carried out in accordance with the Flood Risk Assessment (FRA) prepared by Geoff Beel Consultancy dated October 2021, Ref: GCB/SWANNEDWARDS and the following mitigation measures:

- FFL must be set 400mm above ground level, with flood resistant construction to a height of 600mm above the FFL*

- *Flood resistant and resilient measures to be incorporated into the proposed development as stated, including flood doors on all ground floor openings*
- *No ground floor sleeping accommodation*

Advice to the LPA

Sequential test

What is the sequential test and does it apply to this application?

In accordance with the National Planning Policy Framework (paragraph 162), development in flood risk areas should not be permitted if there are reasonably available alternative sites, appropriate for the proposed development, in areas with a lower risk of flooding. The sequential test establishes if this is the case.

Development is in a flood risk area if it is in Flood Zone 2 or 3, or it is within Flood Zone 1 and your strategic flood risk assessment shows it to be at future flood risk or at risk from other sources of flooding such as surface water or groundwater.

The only developments exempt from the sequential test in flood risk areas are:

- *Householder developments such as residential extensions, conservatories or loft conversions*
- *Small non-residential extensions with a footprint of less than 250sqm*
- *Changes of use (except changes of use to a caravan, camping or chalet site, or to a mobile home or park home site)*
- *Applications for development on sites allocated in the development plan through the sequential test, which are consistent with the use for which the site was allocated.*

Avoiding flood risk through the sequential test is the most effective way of addressing flood risk because it places the least reliance on measures such as flood defences, flood warnings and property level resilience.

5.2. Tydd St Giles Parish Council

The members of the Parish Council's Planning Committee considered this application at their recent meeting. They consider this application to be an unwarranted incursion into open countryside, contrary to policy LP3. The applicant has not provided any evidence of need to mitigate this. They note that the site offers the potential for several further properties in the future and believe that, if granted, this application would set a precedent. Members were also mindful of the concerns expressed by the residents of the adjoining properties.

5.3. North Level Internal Drainage Board

I would like to advise that North Level District IDB has no comment to make with regard to the above application.

5.4. **Cambridgeshire County Council Highways Authority**

The proposals are on a site that is remote from the village centre without pedestrian access off a rural, unlit road. FDC to consider the general sustainability of the site.

I have concerns regarding the width and layout of the access but improvements to this can be submitted as part of a future reserved matters application.

I have no objections to the planning application.

5.5. **Local Residents/Interested Parties**

Objectors

The LPA received 10 objections to the scheme (six from residents of Main Road, Tydd Gote, one from a resident of Hannath Road, Tydd Gote and one from residents of Wisbech and Downham Market). Several concerns were raised with regard to the suitability of the access to serve an additional dwelling in terms of highway safety. In addition, residents were concerned with the precedent that would be set by an approval of the scheme that would potentially see further residential development at or around the site that could encroach into the countryside. Furthermore, concerns were raised with regard to the loss of agricultural land, impacts to residential amenity and character.

Supporters

Contrastingly, the LPA also received 18 letters of support for the scheme (four from residents of Tydd Gote, three from Elm, three from Leverington and from residents of Murrow, Spalding, Peterborough, Eye, Sutton Bridge, Clenchwarton, West Walton and Warboys). Reasons for support included a lack of quality housing in Fenland, and an improvement to an unsightly area of land.

The relevant material planning considerations as outlined within the comments received are assessed in more detail below.

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) July 2021

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

Para 79: Housing should be located where it will enhance or maintain the vitality of rural communities.

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

Determining planning applications

7.3. **National Design Guide 2019**

Context

Identity

Built Form

Homes and Buildings

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

LP12 – Rural Areas Development Policy

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

LP15 – Facilitating the Creation of a More Sustainable Transport Network

LP16 – Delivering and Protecting High Quality Environments

7.5. **Supplementary Planning Documents/Guidance**

Cambridgeshire Flood and Water SPD (2016)

8 **KEY ISSUES**

- **Principle of Development**

9 **ASSESSMENT**

Principle of Development

- 9.1. Policy LP3 of the Fenland Local Plan sets out the settlement hierarchy for development within the district, grouping settlements into categories based on the level of services available, their sustainability and their capacity to accept further development.
- 9.2. The site falls outside the continuous built form of Tydd Gote, which excludes the small collection of dwellings to the west as defined within footnote (a) of Policy LP12. Thus, the development site falls within an 'elsewhere' location. As identified under Policy LP3 development in such areas should be restricted to that which is essential for agriculture, horticulture, forestry, outdoor recreation, transport or utility services and to minerals or waste development. Furthermore, owing to the elsewhere location, it is necessary to apply the criteria outlined in Policy LP12. Considering the proposal is to erect a new dwelling at the site, it must meet the tests set out in Part D of Policy LP12 which would require the application to demonstrate an existing functional need (amongst other criteria). This functional need would normally only be supported where is required owing to an adjacent enterprise falling within the categories outlined within Policy LP3, and any approval would likely include a restrictive occupancy condition to the same.
- 9.3. Whilst there are other dwellings in the vicinity, these generally pre-date planning or are barn conversions. The existence of these dwellings would result in the site not being 'physically' isolated, however the lack of nearby services and facilities would render the location 'functionally' isolated as such

the provisions of Para. 79 of the NPPF and the tests established by the Braintree judgement would not be relevant and would not outweigh Policy LP12 in this instance.

- 9.4. Details submitted with the application includes no justification regarding functional need for the dwelling being essential to rural enterprises such as agriculture, horticulture, forestry, outdoor recreation, transport or utility services, etc. Thus the proposal therefore fails to comply with Policies LP3 and LP12 of the Fenland Local Plan 2014 and thus the principle of development such as the proposed cannot be supported.

Character and appearance

- 9.5. There were no indicative elevations provided with this outline application, with matters relating to the specific appearance, layout and scale to be committed at Reserved Matters stage.
- 9.6. Notwithstanding, the development proposed would encroach into predominately undeveloped land (save for the existing barn to the east) that was previously likely part of the agricultural fields to the east and south. This area of land coupled with the access track set to the west forms a distinct and natural demarcation between the cluster of residential properties to the east and the countryside beyond. Development encroaching into this land would be to the detriment of the character and appearance of the area and would arguably create a precedent for further development within the countryside. As such, the proposal would be contrary to the requirements of Policies LP12 and LP16 (d).

Residential amenity

- 9.7. There were no indicative floor plans or elevations offered with the application and as such the LPA are unable to establish definitively if issues such as overlooking will need to be reconciled. However, owing to the relative position of the proposed dwelling, shown indicatively, it would appear that there may be negligible issues relating to impacts on residential amenity to reconcile from the scheme.
- 9.8. The illustrative site plan also indicates that suitable amenity space may be provided within the site to meet the requirements of Policy LP16 of the Local Plan.

Flooding

- 9.9. Policy LP14 of the Fenland Local Plan and section 14 of the National Planning Policy Framework deal with the matter of flooding and flood risk, and the siting of dwellings on land at the risk of flooding. The site is predominately located within Flood Zone 2, with a small area to the northeast corner within Flood Zone 3.

Sequential Test

- 9.10. It is for the applicant to demonstrate through an assessment that the Sequential Test has been met. In February 2018, the Council amended the approach to agreeing the scope of the Sequential Test to a settlement by settlement basis, instead of the entire district as set out in the Cambridgeshire Flood and Water SPD (2016). However, as the development is located

outside of the settlement of Tydd Gote, and there is not considered to be any justification for a dwelling in connection with an existing use, the area of search in this case is district wide.

- 9.11. The application is accompanied by a Flood Risk Assessment, which includes a section relating to the Sequential Test. The assessment argues that no other land is at a lower risk of flooding than Flood Zones 2 & 3 within Tydd Gote and as such there are no sequentially preferential sites available. However, owing to the location of the development outside the settlement of Tydd Gote, the area of search required for the Sequential Test is district wide. Thus as set out in the SPD, the sequential test is considered to be failed.
- 9.12. Upon re-consultation with the Environment Agency regarding the revised Flood Risk Assessment, they were able to remove their objection owing to the mitigation measures outlined within the report. Notwithstanding, the EA's comments of no objection should not be taken to mean that they consider the proposal to have passed the Sequential Test. As a matter of principle therefore refusal is required by the relevant planning policies as, owing to the lack of sufficient evidence to the contrary, the Sequential Test is considered failed.

Exception Test

- 9.14. Notwithstanding the failure of the sequential test, had this been deemed as passed it would then be necessary for the application to pass the Exception Test, which comprises of demonstration of wider sustainability benefits that outweigh flood risk, and that the development will be safe from flood risk without increasing flood risk elsewhere. No details pertaining to the Exception Test were submitted at this stage, however these measures could be considered and included at Reserved Matters stage and may result in the satisfactory compliance with the Exception Test in this regard.
- 9.15. *Flooding and Flood Risk - Conclusion*
The evidence submitted has failed to fully demonstrate that there are no sequentially preferable sites that could accommodate the quantum of development proposed under the terms of the current scheme and thus the proposal has failed the Sequential Test. As such, it is considered that the current scheme is not compliant with Policy LP14 and should be refused.

Highway Safety

- 9.18. Access to the site will be via an existing access from the A1101 and along a shared access road leading from the existing residential development to the west. There is ample room within the site for parking and turning. The Highway Authority have no objection to the scheme at this stage, as adequate details for access, parking, and turning could be detailed and secured at Reserved Matters Stage.
- 9.19. However, the Highways Authority have outlined that the site is *remote from the village centre without pedestrian access off a rural, unlit road*, and recommended consideration of the suitability of the site for residential development. These comments support the considered position that the site is 'functionally' isolated (para 9.3) and the lack of services and infrastructure to support the site should be a material consideration.

Other issues

Brownfield Land

- 9.20. The applicant in the submitted Design and Access Statement opines that the site is brownfield land, owing to the existence of outbuildings on the site. It is acknowledged that the NPPF (para. 120 (c)) sets out that substantial weight should be given to the value of using suitable brownfield land within settlements for homes and other identified needs, supporting appropriate opportunities to remediate despoiled. Degraded, derelict, contaminated or unstable land.
- 9.21. In this regard, the NPPF defines Brownfield Land in its Annex 2: Glossary (p.65), setting out that this is defined as 'Previously Developed Land' (p.70) as;

Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.

- 9.22. The application form submitted for this application states that the current use of the site is agricultural, which would therefore exclude the site from the above definition. Furthermore, and notwithstanding this, as the site sits outside of the settlement the substantial weight given by NPPF para. 120 is not applicable in any event. As such, the argument put forward regarding the use of previously developed land is not considered to have any merit.
- 9.23. As noted, the site comprises agricultural land and the development would result in the loss of this. However, given the overall scale of the development, the loss of agricultural land would not be so significant to warrant refusal on this ground.

Untidy land

- 9.24. It is noted that comments have been received concluding that the site would be tidied up if developed due to its current overgrown nature. Given its position, the site is not noticeable from the street scene at present and is not considered to have a harmful impact on the amenity of the area. Notwithstanding this, the condition of a site due to neglect should not alone provide justification for development. Furthermore, where an 'untidy' site was deemed to be causing nuisance, this can be resolved through appropriate enforcement action where in the public interest.

10 CONCLUSIONS

- 10.1. On the basis of the consideration of the issues contributing to the principle of the development of the site listed above, there would be conflict with adopted

planning policy in two of those areas. Such conflict arises through the principle of the development of the site rather than as a result of matters that could be addressed at the design stage, and as such it is concluded that the application is contrary to the relevant planning policies of the development plan, LP3 and LP12.

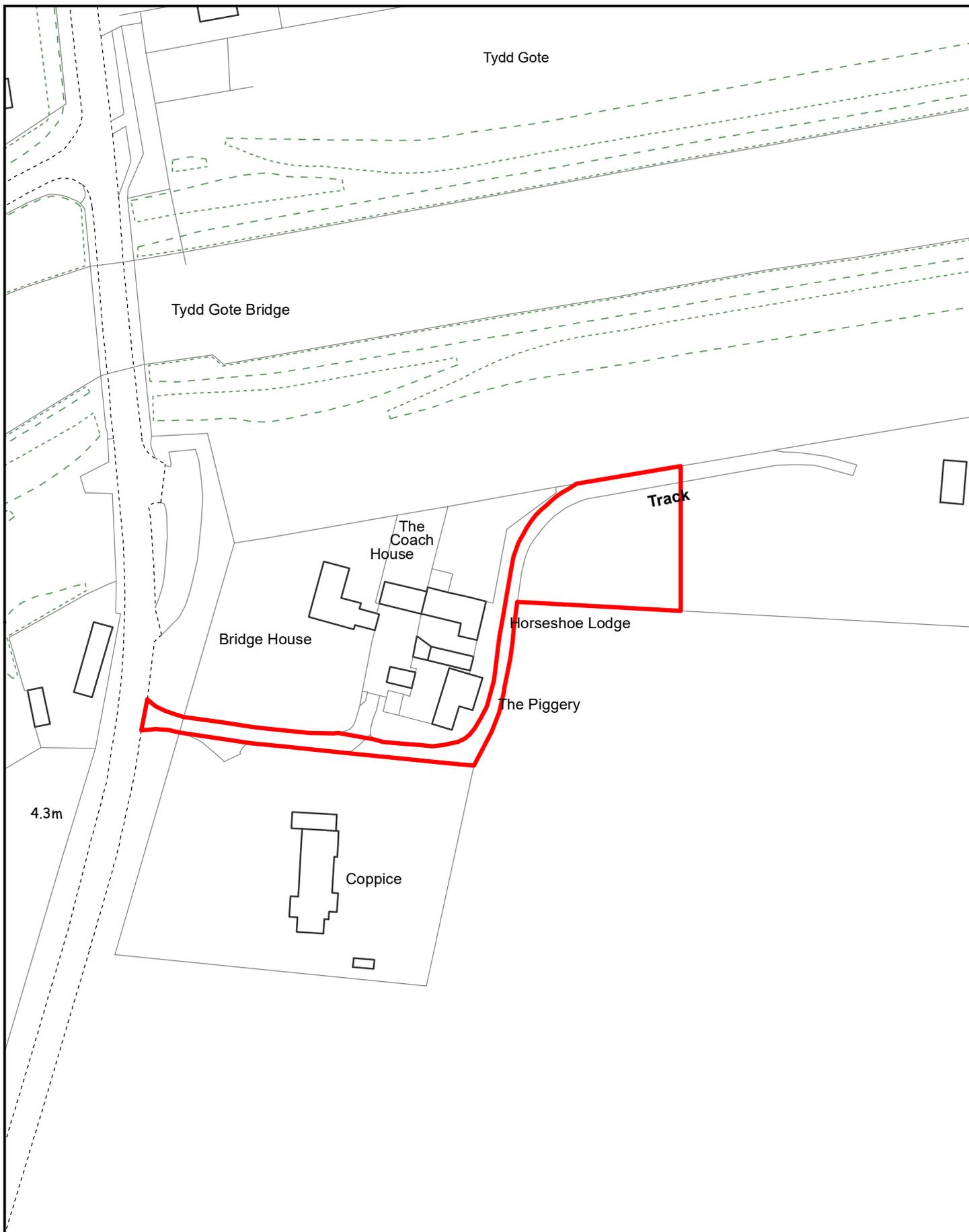
- 10.2. Furthermore, no justification was provided within the Sequential Test to establish that the quantum of development could be accommodated within and area of lesser flood risk, in contravention of Policy LP14.
- 10.3. As such the proposed development is contrary to local planning policy and should be refused.

11 RECOMMENDATION

Refuse, for the following reasons;

1	Policy LP3 of the Fenland Local Plan (2014) sets out the settlement hierarchy within the district, and Policy LP12 details a range of criteria against which development within the District will be assessed. The site is considered an 'elsewhere' location where development should be restricted to that which is essential for agriculture, horticulture, forestry, outdoor recreation, transport or utility services and to minerals or waste development. The proposed development is located in an unsustainable location outside the settlement limits of Tydd Gote, where residential development is not normally supported unless justified. The proposal will introduce development into an area that currently has a strong relationship with the adjoining countryside, with no evidence to a clear link to rural enterprise and hence does not demonstrate an essential need for the dwelling in this location. Furthermore, the site by virtue of its 'functional' isolation limits the scope for sustainable development given the lack of pedestrian connectivity to the settlement. Thus the proposal therefore fails to comply with Policies LP3 and LP12 of the Fenland Local Plan 2014.
2	Policy LP14 of the Fenland Local Plan, section 14 of the National Planning Policy Framework (2019) and Cambridgeshire Flood and Water Supplementary Planning Document (2016) require development proposals to adopt a sequential approach to flood risk from all forms of flooding. Owing to the 'elsewhere' location and the lack of specific need for development at the application site relating to an existing use, the Sequential Test must be considered across the whole District. The Sequential Test fails to fully identify land available within the whole of the District that is available to accommodate the proposed quantum of development, and the test is therefore considered to be failed; contrary to policy LP14 of the Fenland Local Plan (2014), Section 14 of the National Planning Policy Framework (2019) and Cambridgeshire Flood and Water Supplementary Planning Document (2016).
3	Policy LP12 seeks to support development that does not harm the character of the countryside. Policy LP16 (d) of the Fenland Local Plan (2014) and Policy DM3 of Delivering and Protecting High Quality Environments in Fenland Supplementary Planning Document (2014) requires development to deliver and protect high quality environments

	<p>through, amongst other things, making a positive contribution to the local distinctiveness and character of the area. The development proposed would encroach into currently undeveloped land which coupled with the access track set to the west forms a distinct and natural demarcation between the cluster of properties to the east and the countryside beyond. Development encroaching into this land would therefore be to the detriment of the character and appearance of the area. As such, the proposal would be contrary to the requirements of the Policies LP12, LP16(d) and DM3 (2014).</p>
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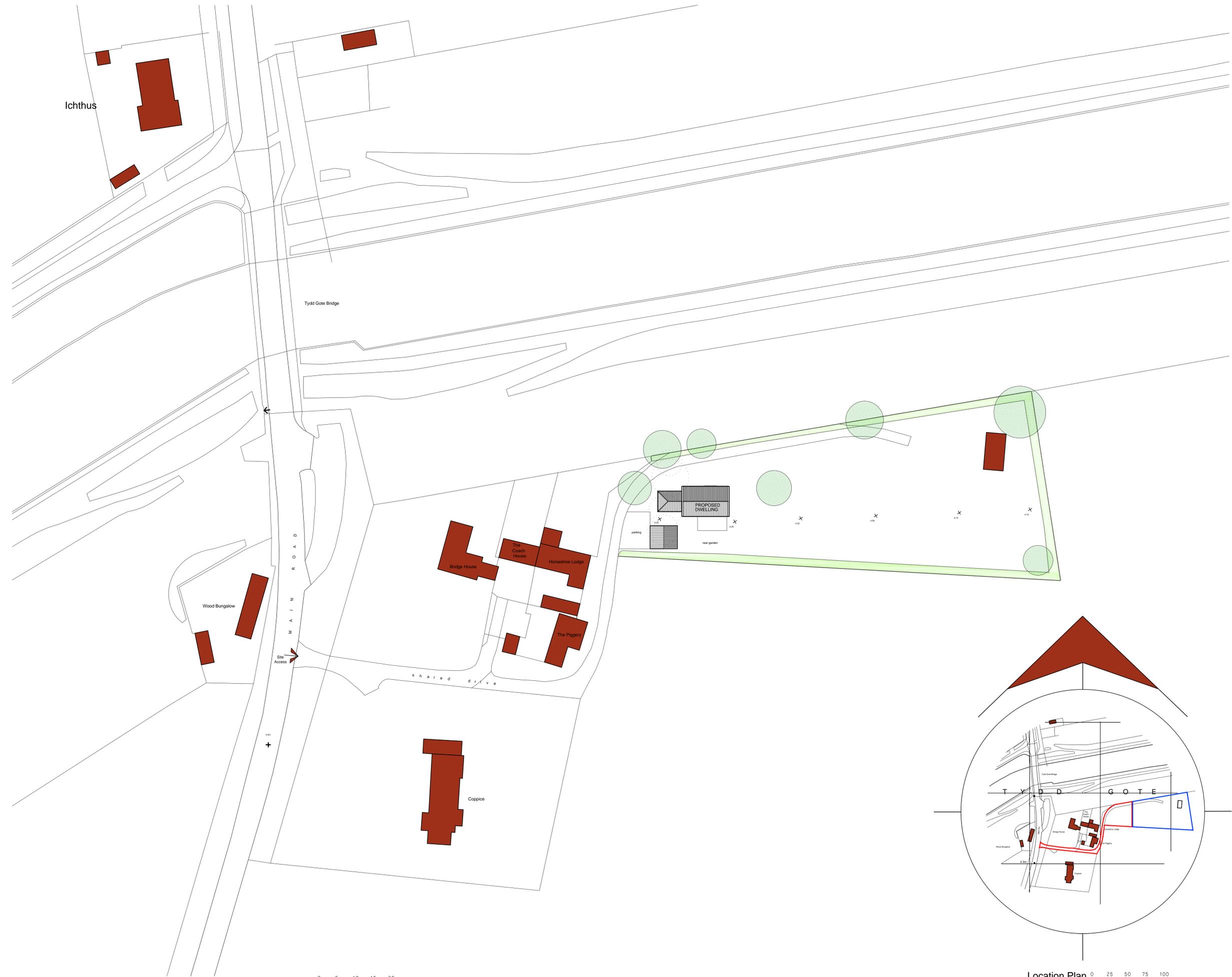
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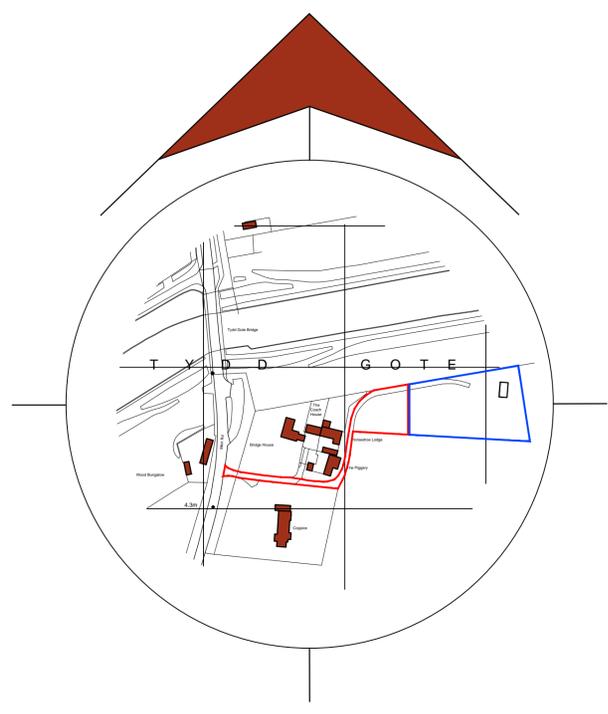
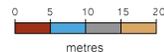
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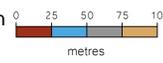




Indicative Site Plan
Scale: 1:500



Location Plan
Scale: 1:2500



General Notes
 1. All dimensions are shown in 'mm' unless otherwise stated.
 2. The contractor, sub-contractors and suppliers must verify all dimensions on site prior to the commencement of any work.
 3. This drawing is to be read in conjunction with all relevant engineers and specialist sub-contractors drawings and specifications.
 4. Any discrepancies are to be brought to the designers attention.

AREA SCHEDULE
 APPLICATION SITE AREA = 1637m²

SITE PLAN KEY

- Un-surveyed buildings taken from OS map
- Proposed development
- Existing vegetation

Revisions

A	Sept 2021	Planning Validation

Status
FOR APPROVAL

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Job Title Proposed Dwelling	Date June 2021	Drawn by JB
Land East of Horseshoe Lodge Main Road, Tydd Gate, PE13 5RG	Checked by RS	
Drawing Title Planning Drawing	Job No. SE-1629	Sheet Size A1
	Dwg No. PP1000	Revision A