

Applicant: Mr A J Cunningham

**Agent : Mrs Alex Patrick
Alexandra Design**

Golden View, North Brink, Wisbech, Cambridgeshire PE13 4UN

Erect 1 x dwelling (2-storey 3-bed) involving the removal of the existing mobile home

Officer recommendation: Refusal

Reason for Committee: Called in by Councillor Booth

1 EXECUTIVE SUMMARY

- 1.1 This submission seeks full planning permission to replace a mobile home at the site of Golden View; whilst the agent argues that this should fall to be considered as a replacement dwelling this is clearly at odds with both national and local planning policy.
- 1.2 The existing mobile home, and two further mobile home plots approved to the north-east were justified solely on the basis of the Gypsy and Traveller status of the intended residents. No such allowances exist with regard to the provision of permanent residential dwellings as has been demonstrated by dismissed appeals to the Planning Inspectorate.
- 1.3 Whilst it is accepted that a permanent dwelling may be more acceptable in respect of flood risk considerations such a stance would be contrary to both national and local planning policy with regard to development in the open countryside.
- 1.4 Planning history relating to this site, including an appeal which was dismissed against the backdrop of the current local plan in 2018, clearly evidence that development of permanent homes in this location is contrary to planning policy. Accordingly, the development now proposed should continue to be resisted to ensure the integrity of the local plan and consistency with regard to the earlier committee decision relating to the adjacent pitches.

2 SITE DESCRIPTION

- 2.1 Golden View comprises a long-established mobile home site situated to the north-west of North Brink just before the turning to Bevis Lane. It is some 2 miles from the main settlement of Wisbech.
- 2.2 The site comprises a mobile home situated to the rear of an established high-level hedge accessed from the south-east of the site, with this access being gated. To the rear of the site are outbuildings associated with the mobile home.

- 2.3 Two further pitches are situated to the north-east of the site, the central one of these is vacant excepting for a large garage/workshop building to its rear and the most north-easterly plot has a mobile unit to the front of the site and two further outbuildings set into the site.
- 2.4 The site is within a flood zone 3 location.

3 PROPOSAL

- 3.1 This submission seeks full planning permission for the replacement of an existing mobile home with a detached two storey 3-bedroom dwelling, constructed of Audley Antique facing bricks with Marley grey roof tiles.
- 3.2 The intended dwelling will have a footprint of 15 metres x 6.5 metres and an eaves height of 3.2 metres with a ridge height of 6.5 metres. It will run on a south-west to north-east alignment set back circa 20 metres from North Brink, responding to the positioning of the intended mobile units to the north-east of the site, albeit these will run on a south-east to north-east alignment.
- 3.3 The dwelling will feature an open plan kitchen, diner and living room at ground floor along with utility room, WC, bathroom, hall, bedroom and en-suite with a further 2 bedrooms at first floor.
- 3.4 There is an existing outbuilding to the rear of the site which is shown to be retained, as is the parking and turning area currently associated with Golden View.
- 3.5 Full plans and associated documents for this application can be found at: <https://www.publicaccess.fenland.gov.uk/publicaccess/simpleSearchResults.do?action=firstPage>

4 SITE PLANNING HISTORY

F/YR20/1074/F	Erect a 2-storey 3-bed dwelling involving the removal of the existing mobile home	Withdrawn
F/YR20/0696/VOC	Variation of condition 11 to enable amendment to approved plans of planning permission F/YR15/0284/F [...] to amend design of mobile homes - Land North East of Golden View	Grant 16.09.2020
F/YR20/0384/VOC	Variation of Condition 9 (Drainage) and Condition 11 (condition listing approved plans) relating to planning permission F/YR15/0284/F [...] to enable change of design and position of mobile home and to agree drainage details - Land North East of Golden View	Granted 09.07.2020

F/YR16/1014/F	Erection of 2 x 2-storey 3-bed dwellings Land North East of Golden View	Refused 02.03.2017 Appeal dismissed 09.01.2018
F/YR15/0284/F	Change of use of land for the siting of 2no mobile homes (1no retrospective) and erection of 1 x 2-storey garage/storage building; 1 x garage/workshop and 5 metre high floodlight - Land North East of Golden View	Grant 27.07.2015
F/YR06/0857/F	Erection of a 3-bed detached bungalow involving removal of existing mobile home	Refused 01.09.2006
F/97/0115/O	Erection of a bungalow	Refused 22.07.1997 Appeal dismissed
F/90/0140/F	Erection of a single-storey domestic garage and garden store (retrospective)	Granted 05.04.1995
F/1002/89/F	Use of land for the stationing of a mobile home, and erection of a toilet block (part retrospective)	Granted 29.03.1990

5 CONSULTATIONS

- 5.1 **Wisbech Town Council:** Recommend *'that the application be supported'*
- 5.2 **Councillor Booth:** *'I believe this is a modest development to replace the existing residential property. It is in keeping with surrounding properties and given the existing use of the land do not consider this would be an intrusion into the open countryside. The site of this property is near the boundary between Parson Drove & Wisbech St Mary and the Peckover Wards. I was previously involved with the application on the neighbouring site and believe in planning terms a permanent property would overcome flood risk issues associated with mobile homes'*
- 5.3 **Cambridgeshire County Council Highways Authority:** *'The replacement dwelling will not result in any significant impact on the highway and I have no objections to planning permission being granted. I would recommend attaching the standard condition for setting out and retaining the parking and turning area'*
- 5.4 **Environment Agency:** *'We have no objection to the proposed development but wish to make the following comments. Review of the Flood Risk Assessment We have no objection but strongly recommend that the development be carried out in accordance with the submitted flood risk assessment dated 2nd November 2021 for GOLDEN VIEW, NORTH BRINK, WISBECH, CAMBS E13 4UN and the following mitigation measures it details: 1. Finished Floor Levels will be set 1000mm above the existing ground level 2. Flood resilience and resistance*

measure to be incorporated into the building design'. Also offer advice to the applicant regarding floor resistance and resilience and foul drainage.

5.5 **North Level Internal Drainage Board:** *'My Board has no objection in principle to the above application. I would draw the applicant's attention to the riparian drain to the north of the site and enclose some information with regard to riparian responsibilities. I note that surface water is to be discharged to this drain, there have been issues with regard to this drain in the past caused by blockages and I would therefore respectfully request that this drain is kept clear at all times. A development levy in accordance with the enclosed will be payable for dealing with the additional run-off from the site'.*

5.6 **Environment & Health Services (FDC):** *'I refer to the above application for planning consideration. The Environmental Health Team note and accept the submitted information and have 'No Objections' the proposed development as it is unlikely to be affected by the existing noise or air climate. Given the nature of the proposal and that of the application site contamination is unlikely to be an issue'.*

5.7 **Local Residents/Interested Parties:** None received

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).

6.2 The Council has a duty Under the Equality Act 2010, Section 149, to have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

7 POLICY FRAMEWORK

7.1 National Planning Policy Framework (NPPF) 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: Development Plan should be the starting point for decision-making

Para 47. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

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

Para 80: Avoid the development of isolated homes in the countryside unless specified exceptions apply

Para 159: Development should be directed away from areas at highest risk of flooding.

7.2 National Planning Practice Guidance (NPPG)

7.3 National Design Guide 2019

Context C1 - Relationship with local and wider context

Identity I1 - Respond to existing local character and identity; I2 Well-designed, high quality and attractive

Built form B1 - Compact form of development; B2 Appropriate building types and forms

Movement M3 - well-considered parking, servicing and utilities infrastructure for all users

Homes and Buildings H1 - Healthy, comfortable and safe internal and external environment, H3 - Attention to detail; storage, waste, servicing and utilities

Lifespan L3 - A sense of ownership

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

LP12 – Rural Areas Development Policy

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

7.5 Cambridgeshire Flood and Water Supplementary Planning Document

8 KEY ISSUES

- Principle of Development
- Justification and case law
- Character and visual amenity
- Residential amenity
- Highways
- Flood risk

9 BACKGROUND

9.1 The existing mobile home on site was granted planning permission in 1990 and was personal to the applicant J Cunningham. There have been previous submissions to replace the existing mobile home with a permanent dwelling and these have been resisted with the 1997 decision being upheld at appeal.

9.2 Further submissions for permanent dwellings on adjacent land have also been resisted one as recently as 2017, again this submission was the subject of an appeal which was dismissed.

9.3 Planning permission has been granted for a further two mobile homes to the north-east of the Golden View site; these consents were granted having due regard to the Gypsy and Traveller status of the intended residents both of which form part of the extended family of J Cunningham of Golden View. This status having been

made explicit in the evidence put forward by way of justification albeit the consent issued in 1989 was personal to Mr Cunningham on the basis of 'special circumstances' as opposed to being conditioned for occupation by person(s) who met the Gypsy & Traveller definition.

- 9.4 Given the flood risk issues on the site and the need to provide a first-floor safe refuge for each individual dwelling the original consent issued in 2015 has been varied by virtue of two Section 73 submissions these allow for mobile units which feature loft space and as such the overall height of these units exceeds that which would normally be expected as a mobile home.

10 ASSESSMENT

Principle of Development

- 10.1 Local Plan Policy LP3 defines a Settlement Hierarchy for the District and generally seeks to steer development to the most sustainable locations. The Planning Inspector in the earlier appeal decision relating to F/YR16/1014/F (relating to the erection of 2 dwellings north-east of Golden View) stated that 'The site is some 2km from Wisbech. While there are a number of other dwellings in the vicinity of the site, these do not form a settlement identified in the development plan. Consequently, the appeal site falls in the 'Elsewhere' category of Policy LP3, which seeks to restrict development to that demonstrably essential to the effective operation of local agriculture, horticulture, forestry, outdoor recreation, transport or utility services, and to minerals or waste development.'
- 10.2 Whilst there is currently a mobile home on the site this was permitted having due regard to the special circumstances of the applicant and as such may not be used as justification for a more permanent type of accommodation. It is further noted that in respect of the 1997 appeal the Inspector highlighted that the consent for the mobile home was 'personal to the applicant, Mr J Cunningham, and therefore did not run with the land and that, in granting the planning permission with that condition it was recognizing the special needs of Mr Cunningham without implying that the site was suitable for permanent residential use.' It is contended that this remains the case in respect of the current submission.
- 10.3 Furthermore in considering the 2016 application, which sought planning permission for two dwellings to replace the earlier approval for two mobile home pitches, the Planning Inspector whilst bringing into question whether the intended residents of those pitches met the definition of gypsies and travellers outlined in the Planning Policy for Travellers Sites August 2015 (PPTS) found that '*In any event, national planning policy for traveller development, primarily in the form of the PPTS, appears to be intended to apply to travellers' sites and pitches rather than bricks and mortar housing. Local Plan Policy LP5 refers to 'Meeting Housing Need' including 'Part D - Gypsy and Travellers and Travelling Showpeople'. This also appears to relate only to the provision of pitches and ancillary development rather than built dwellings. Consequently, I find no other potential justification for the proposed development in this location arising from planning policy for traveller development'*
- 10.4 With regard to the development strategy for the area the Inspector concluded that '*the proposed development would be very clearly at odds with the area's strategy for the location of new development in conflict with Local Plan Policies LP3*

(Spatial Strategy, the Settlement Hierarchy and the Countryside) and LP12 (Rural Areas Development Policy)'.

- 10.5 It remains the case that this proposal is clearly at odds with national and local plan policy as can be evidenced by earlier appeal decisions.
- 10.6 In the interests of completeness it should be noted that the loss of a gypsy and traveller pitch to deliver an unrestricted market home would in itself be a reason to resist the scheme. However as indicated in the background section above the current mobile home has a 'personal' restriction as opposed to an open consent for those who meet the Gypsy and Traveller definition. Accordingly, the loss of 'a pitch' would not manifest itself as grounds for refusal in this instance.

Justification and case law

- 10.7 Within the submitted Design and Access statement the agent has included commentary relating to replacement dwellings relating to cases in Barnet and the Wyre Forest these relate to the general stance relating to replacing 'buildings' as opposed to 'mobile accommodation' and are not deemed relevant to this submission.
- 10.8 A number of references to earlier decisions of this Council, which they consider support the current proposal, are also included within the Design and Access statement; looking at these in turn the following comments are made regarding relevance.

F/YR14/0609/F – This scheme is not a direct comparison as whilst it included the removal of residential caravans the proposal was assessed against general settlement policy and was contended to represent an 'infill' opportunity. Although away from the main settlement core the site did have a direct relationship with its surroundings and in the absence of any significant harm accruing to the area or its residents as a result of the sites development, and mindful of other recent planning approvals and local support for the scheme an 'on balance' approval was forthcoming.

F/YR20/0377/F – again this scheme is not a direct comparison representing an infill opportunity within an area which is characterised by residential properties. Furthermore, the site is within a flood zone 1 location.

F/YR19/0432/F – earlier considerations as per F/YR20/0377/F

F/YR19/0753/F and F/YR17/1077/O – these relate to the same site albeit the 2019 site area was marginally larger; again, the proposal was considered to represent an infill opportunity.

F/YR19/0002/O – again this scheme was considered as an infill opportunity.

It is concluded that the cases highlighted, which all relate to developments focused around Gull Road, Guyhirn, are not direct comparisons to the site under consideration and as such are not material to the consideration of this application.

- 10.9 By way of further justification, the agent states that the design of the dwelling will reflect the mobile homes which have been approved on the adjacent two plots to

the north-east. However, as the current proposal is of a permanent construction as opposed to a temporary mobile dwelling there is no comparison in this regard. Furthermore, the temporary nature of the Golden View is such that the scheme does not constitute a replacement dwelling and therefore falls outside the criteria outlined in Policy LP12 – Part C (c) which clearly states that the original dwelling should not be a temporary or mobile structure.

- 10.10 Officers also note that whilst the 1997 appeal documentation appears to assert that Mr Cunningham had not claimed gypsy/traveller status in support of the original 1989 consent and the archived case file offers no further clarification in this regard however it is clear that the only justification for development within the open countryside was relating to Gypsy and Traveller status and it must be acknowledged that the later 2015 application did focus on the ethnicity of the intended residents of the two further plots, who are the son and daughter of Mr Cunningham and who had been explicit in their representation that their birth right was as a Romany/Gypsy family.
- 10.11 It is clear from this permission therefore that the original consent granted for the mobile home was on the basis that the application site fulfilled a specific need personal to the applicant and was not considered acceptable as the location for a permanent residential dwelling.

Character and visual amenity

- 10.12 In accepting the revised mobile home design under the Section 73 submission relating to the adjacent plots the LPA clearly adopted a pragmatic approach to the issues faced by the applicants in satisfying the flood risk mitigation requirements of the earlier consent, which was determined having due regard to the G&T status of the intended residents.
- 10.13 It remains the contention of the LPA that by permitting mobile homes in this location it has not opened the door for more permanent accommodation which will have a different impact in terms of the general character of the location. Whilst this is unlikely to cause significant harm, especially when viewed cumulatively in context with the mobile units on the adjacent site once they are stationed on the land it would set an undesirable precedent in terms of how subsequent applications are considered.
- 10.14 Furthermore whilst 'physically' the development would have a limited impact the 'character' of the use of the site would be substantially altered by the introduction of a permanent residential dwelling that does not accord with the locational policies of the development plan.

Residential Amenity

- 10.15 The development would not represent any adverse impact on the existing residential amenity of the adjoining occupants and makes ample provision for private amenity space and already has provision for servicing. However, these factors do not override the policy considerations of the scheme

Highways and sustainability

- 10.16 With regard to the issue of sustainability the agent directly quotes from an earlier officer report in respect of one of the schemes highlighted in the justification

section above, supplementing 'Wisbech St Mary' for the earlier reference to 'Guyhirn' and appending to the list of services and facilities. However, the site currently under consideration does not sit within an established grouping of houses as in the case of those highlighted. This location is poorly related to the main settlement and the residents will continue to be reliant on private motor vehicles to gain access to the services and facilities of the main settlement to support their day to day living.

- 10.17 An appeal decision (Bevis Lane ENF/183/17/UW) relating to the provision of gypsy and traveller sites identified that the 'PPTS envisages that gypsy sites may be located in rural areas, whilst noting that new traveller sites in open countryside away from existing settlements should be very strictly limited'. In the case of the Bevis Lane appeal the Inspector considered that 'the proximity of the facilities available [...] mean that the site is suitably close to an existing settlement and would not conflict with the advice in the PPTS'. Additionally, an Inspectors decision relating to The Spinney, Horsemoor Road, Wimblington highlighted that: 'There is nothing within either the National Planning Policy Framework (NPPF) or PPTS to suggest that traveller sites have to be accessible by means other than by private car. In fact, both recognise that the lifestyle of travellers must be factored into the planning balance'. This stance is further reinforced by the Bevis Lane appeal highlighted above.
- 10.18 However, it is clear that such factors do not come into play in this instance as this proposal is for a new permanent dwelling not a Gypsy and Traveller pitch as such the dispensations allowed for above are not relevant to the consideration of this submission and the proposal is unacceptable in terms of sustainability considerations.

Flood risk

- 10.19 The site falls within a flood risk 3 location; it is a tenet of planning policy to direct new development to areas of lowest flood risk, unless it can be demonstrated that there are no sequentially preferable sites. Whilst there would be some flood risk benefit arising from erecting a permanent home with a first-floor refuge this does not outweigh the more fundamental considerations of local plan policy in terms of protecting the countryside from un-justified development.
- 10.20 Notwithstanding the above it is questionable as to whether the two bedrooms indicated at first floor will ultimately afford the residents meaningful bedroom space given the constrained head-height available, with the maximum dimensions shown at 2.1 metres. It is noted that the head-height achieved is similar to that approved under F/YR20/0696/VOC however in respect of these two mobile units the first-floor area was to be used exclusively as a first floor refuge, thereby satisfying the requirements of the original condition imposed on planning permission reference F/YR15/0284/F.
- 10.21 The Environment Agency in their consultation response have raised no objection subject to a condition requiring adherence to the FRA however this relates to the on-site situation as opposed to the more fundamental policy principles.

Other matters

- 10.22 The existing mobile home is not the only such structure in the vicinity, whilst planning applications are determined on their own merits it is of note that should

consent be granted for the current proposal it is possible that the decision would increase the likelihood of similar applications coming forward in relation to the replacement of other mobile units within the immediate vicinity and the wider district, whilst simultaneously establishing that such schemes are acceptable as a matter of principle and that only site specific impacts would be justification for their refusal.

10.23 As noted above, the principle of a permanent residential dwelling is not supported by the relevant planning policies and therefore the potential for the scheme to set a precedent 'in principle' is a material consideration that also weighs against the granting of permission.

11 CONCLUSIONS

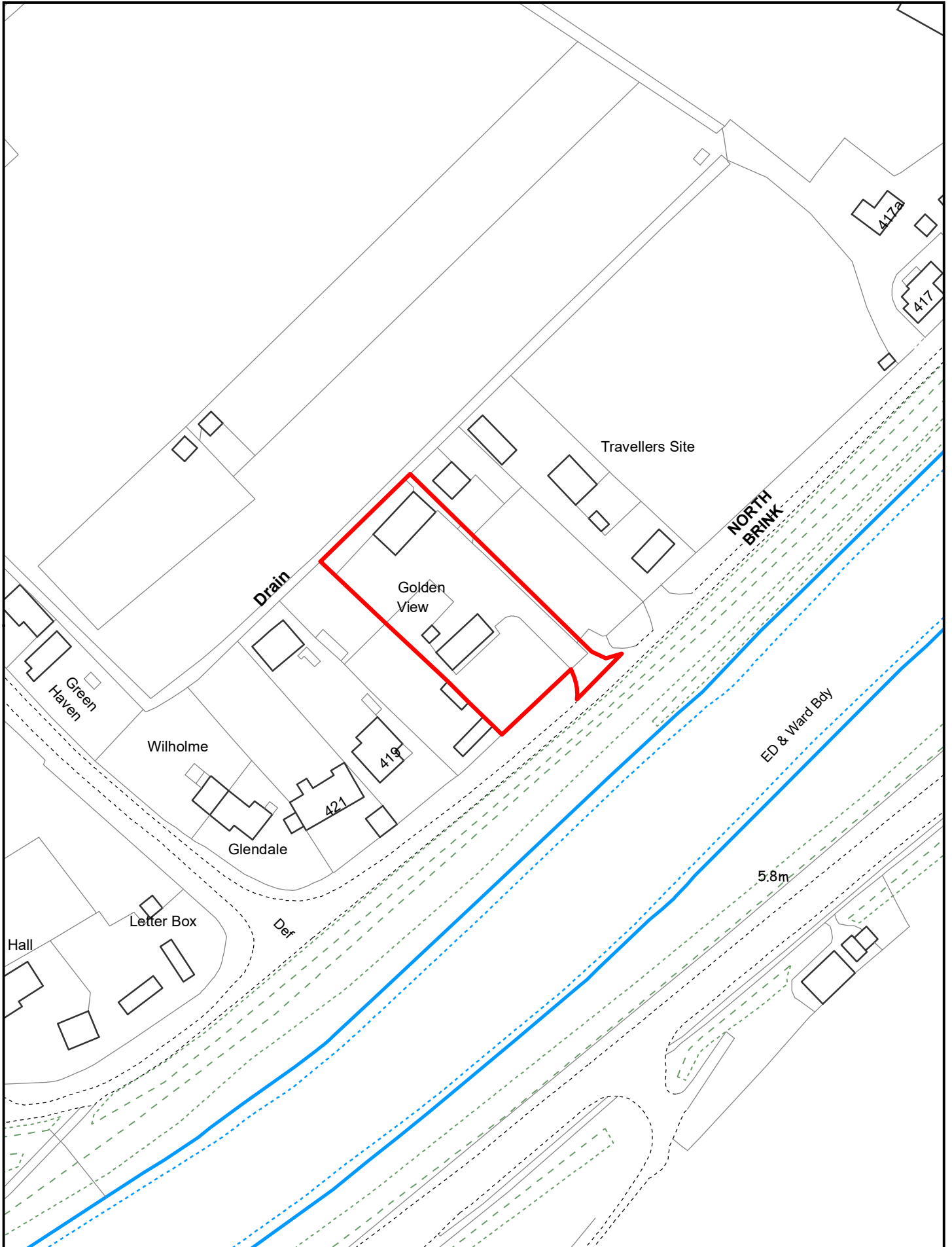
11.1 The scheme would result in permanent residential accommodation within an elsewhere location and as such is contrary to the key locational strategy outlined in Policy LP3 of the Fenland Local Plan and as such it represents unsustainable development. The dwelling is not required in connection with any of the exceptions identified by policy LP3, and a personal or restricted occupancy condition would therefore fail to overcome the policy principle of opposition to this type of development. No material considerations have been identified that would overcome this.

12 RECOMMENDATION: Refuse

Reasons

1	The proposal is for the development of a dwelling located within the countryside. Fenland District Council's Spatial Strategy for sustainable growth seeks to steer development to sustainable locations by the implementation of a Settlement Hierarchy in Policy LP3 of the Fenland Local Plan adopted 2014. Developments such as the proposal, located in 'Elsewhere locations' (i.e, they do not fall into Market Towns, Growth Villages, Limited Growth Villages or Small or Other villages) will be restricted to that which are demonstrably essential for the effective operation of local agriculture, horticulture, forestry outdoor recreation, transport or utility services or mineral or waste developments. The proposed dwellings are not considered demonstrably essential in the countryside. Furthermore, the application fails to demonstrate that the development accords with Policy LP12 regarding appropriate exceptions in rural areas (Rural Area Developments). Therefore, it is concluded that the proposal represents unsustainable development contrary to the NPPF and Policies LP3 and LP12 of the Fenland Local Plan adopted May 2014.
2	Policy LP12 (C) allows for the replacement of 'dwellings' located outside, or not adjacent to, the developed footprint of a settlement. However, this policy is subject to a number of qualifying criteria which include that the original dwelling is not a temporary or mobile structure, such as a caravan. Golden View is a mobile home and as such Policy LP12 (C) is not relevant to the consideration of the current application and may not be used as justification for the erection of the proposed permanent dwelling.
3	Policy LP14 of the Fenland Local Plan (2014) and Paragraph 159 of the National Planning Policy Framework (2021) and seeks to direct development to areas of lowest flood risk. The development is located within Flood Zone 3, the area of highest flood risk and therefore would

<p>result in Highly Vulnerable development being located in the area of highest flood risk. The application is required to pass a sequential test to demonstrate there are no sequentially preferable sites reasonably available that can meet the developments need. Guidance on the application of the sequential test is given in ' The Cambridgeshire Flood and Water Supplementary Planning Document' adopted by the LPA 15th December 2016. The application is considered to fail the sequential test and is therefore contrary to paragraph 159 of NPPF (2021), and Policy LP14 of the Fenland Local Plan (2014).</p>



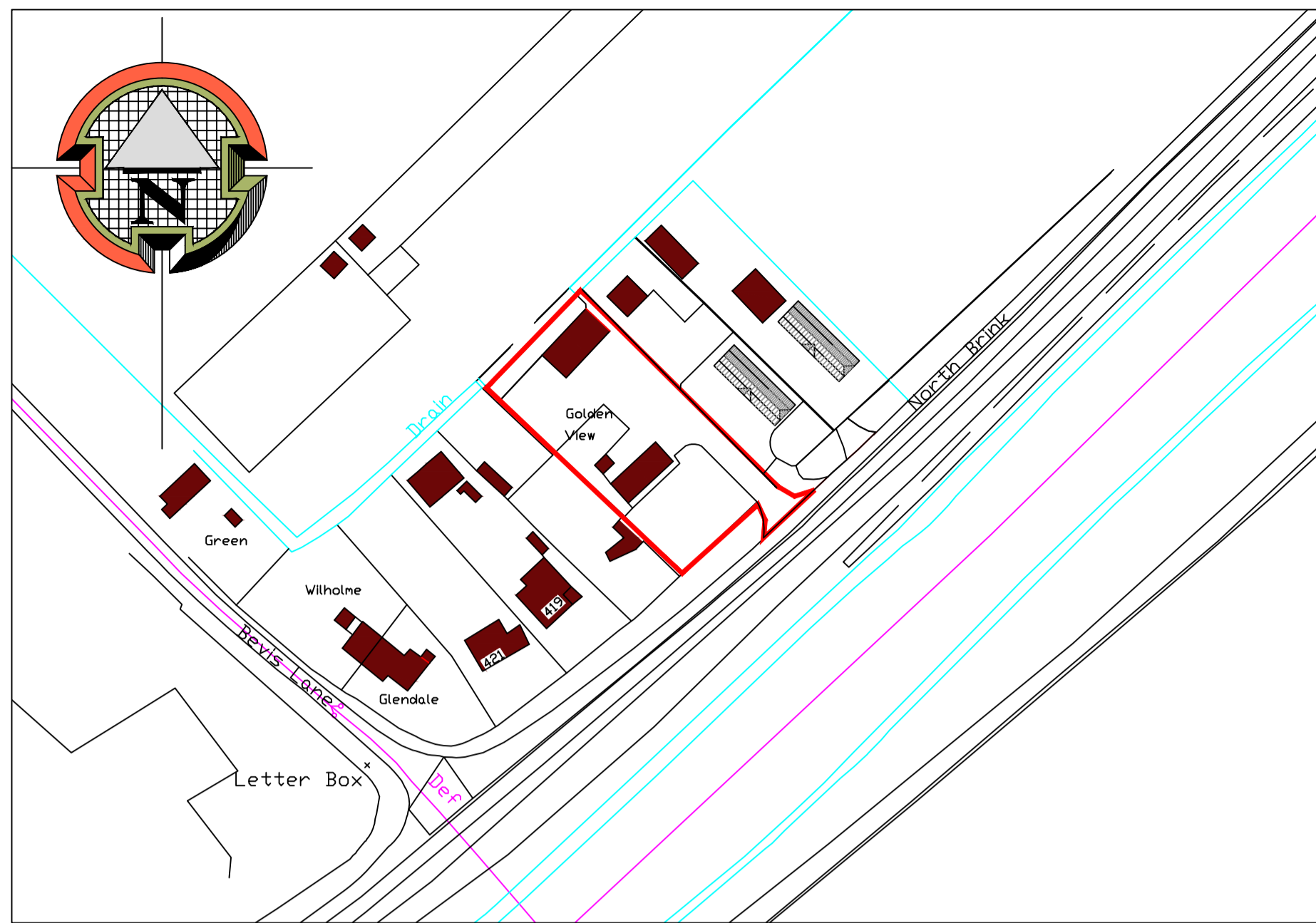
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F/YR21/1306/F

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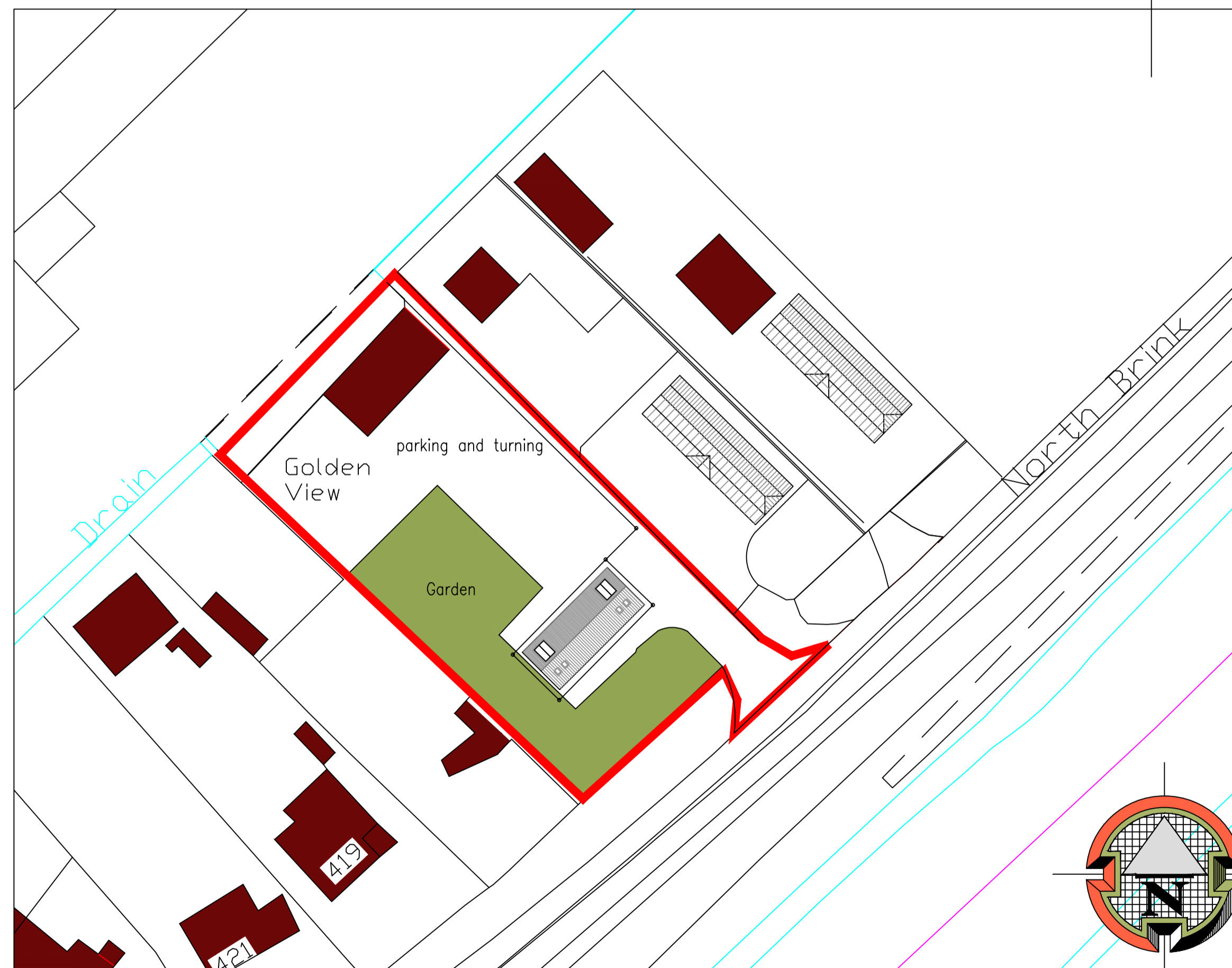




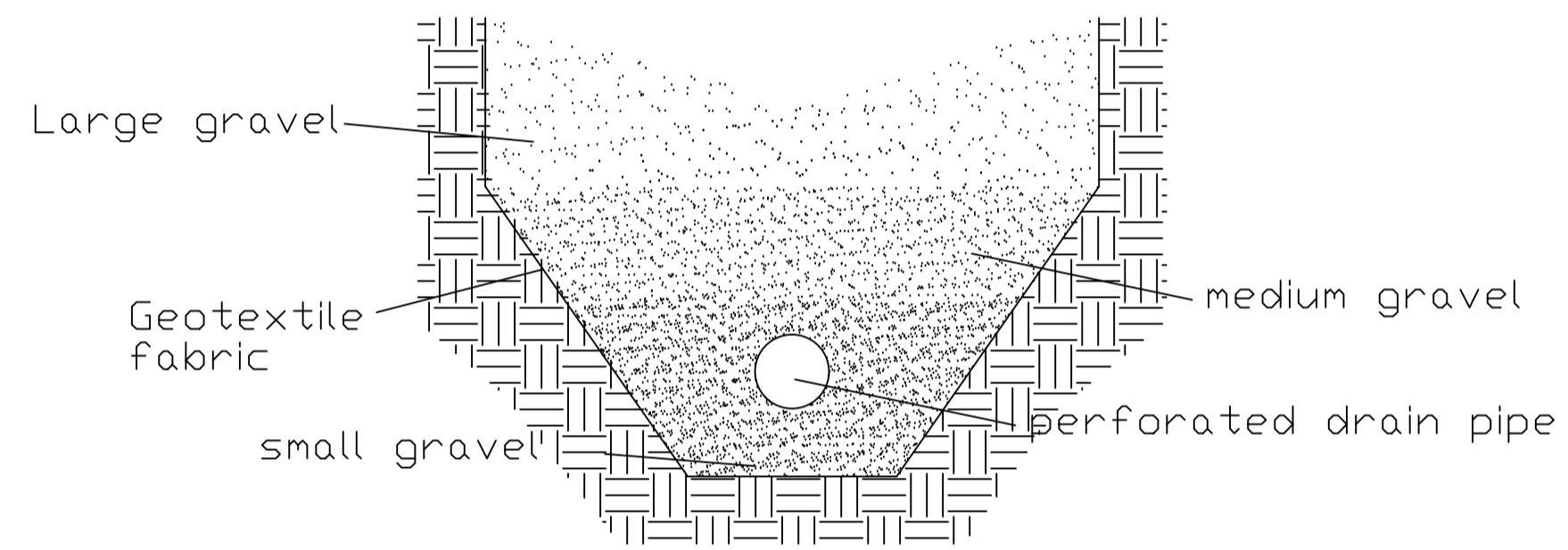
Existing Location Plan 1:1250 (approved under F/YR15/0284/F)



Existing Site Plan 1:500



Proposed Site Plan 1:500



FRENCH DRAIN DETAIL 1:10

General Notes:
 -Dimensions on all drawings are shown in "mm".
 -The contractor, sub-contractor and supplies must verify all dimensions before commencement of any works on site.
 -This drawing is to be read in conjunction with any relevant engineers and specialist sub-contractor drawings and specifications.

Revisions:
 Planning officer drainage layout

Reference: sketch scheme	Pages: 2
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Scale:
as shown

Project:
Replacement dwelling

Site Address:
Golden View
North Brink
Wisbech

Client:
Mr A J Cunningham
Golden View
North Brink
Wisbech

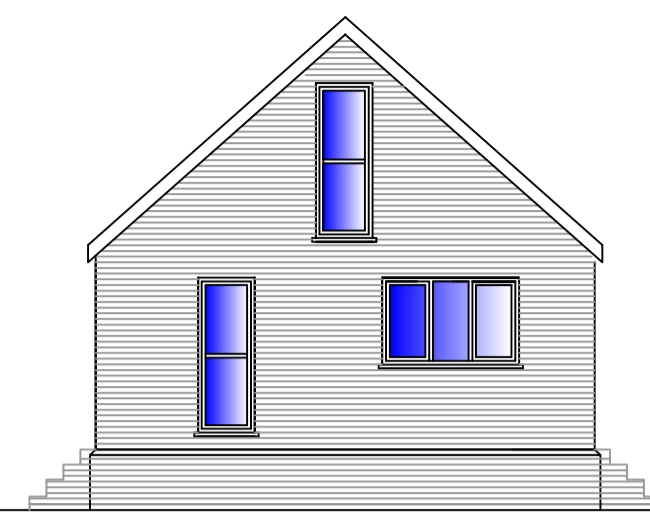


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Seadyke Bank
Murrow
Cambridgeshire
PE13 4SD

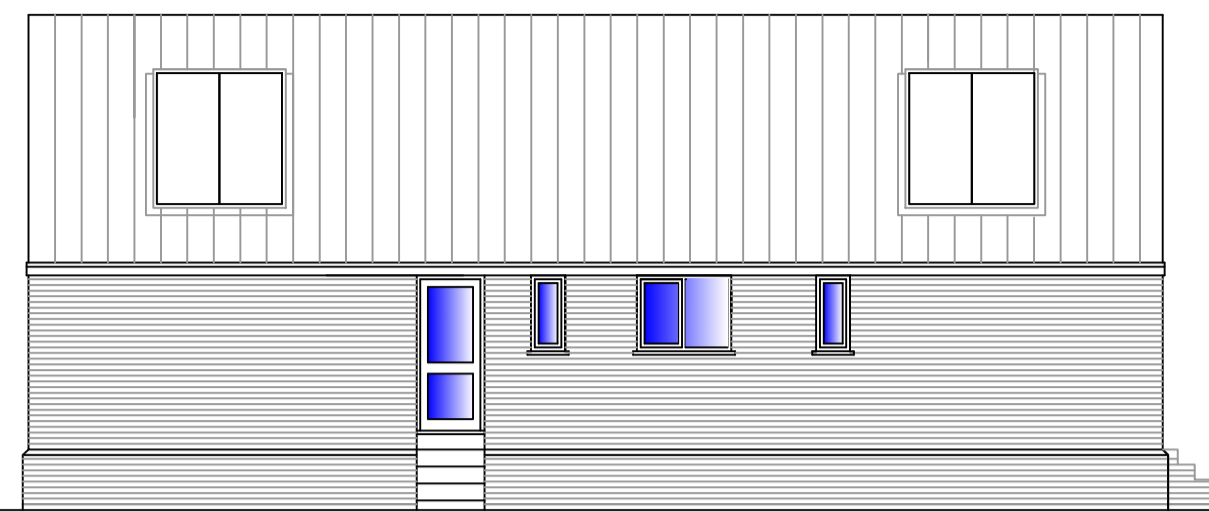
T: 07891175649
E: info.alexandradesign@gmail.com



Proposed Front Elevation 1:100



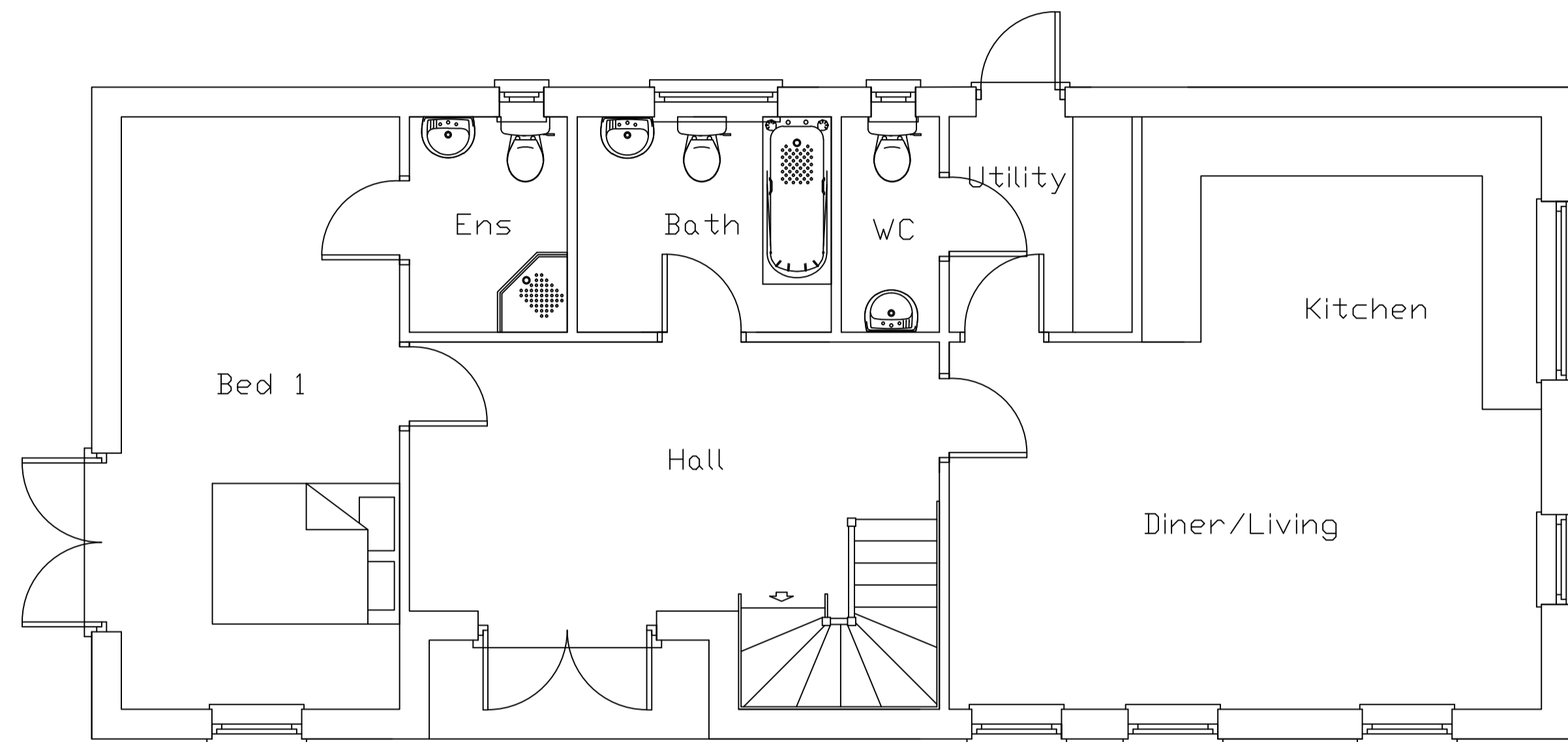
Proposed Side Elevation 1:100



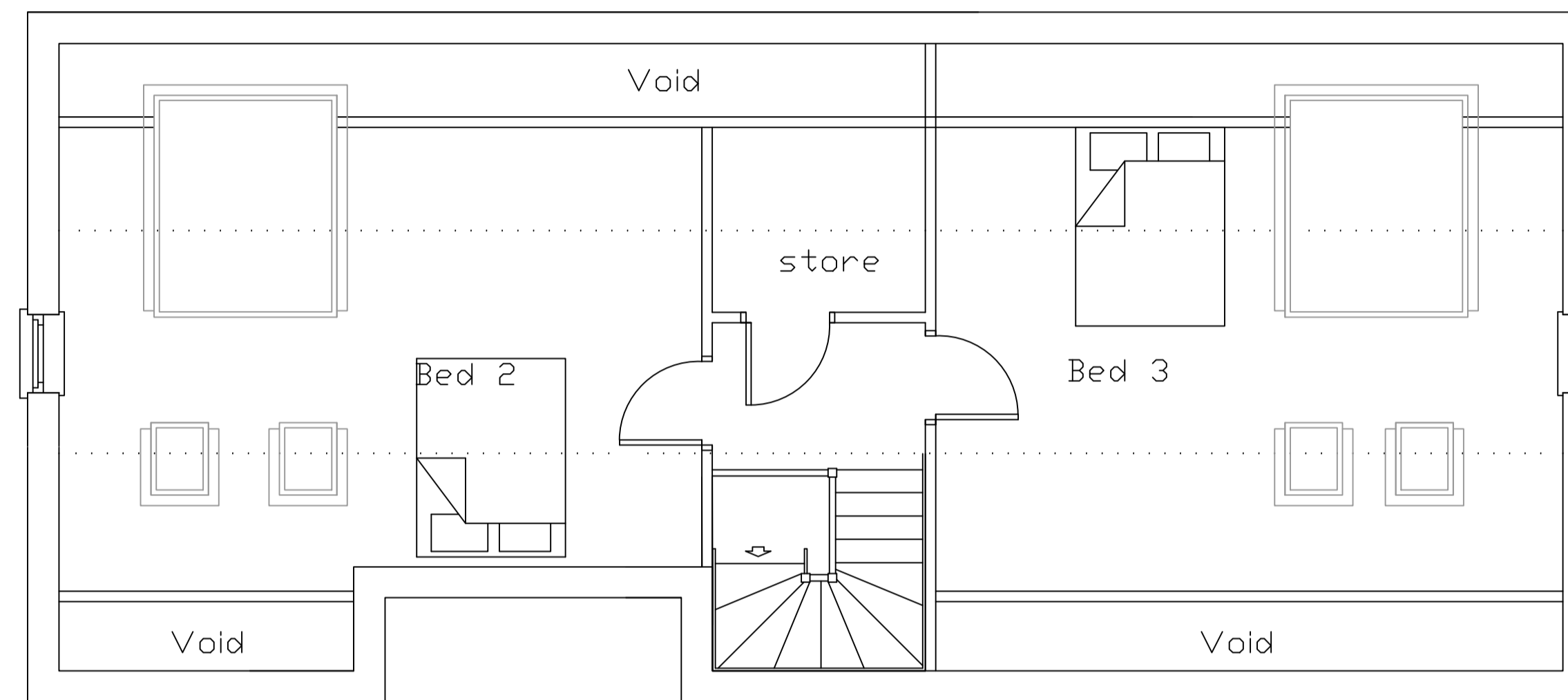
Proposed rear Elevation 1:100



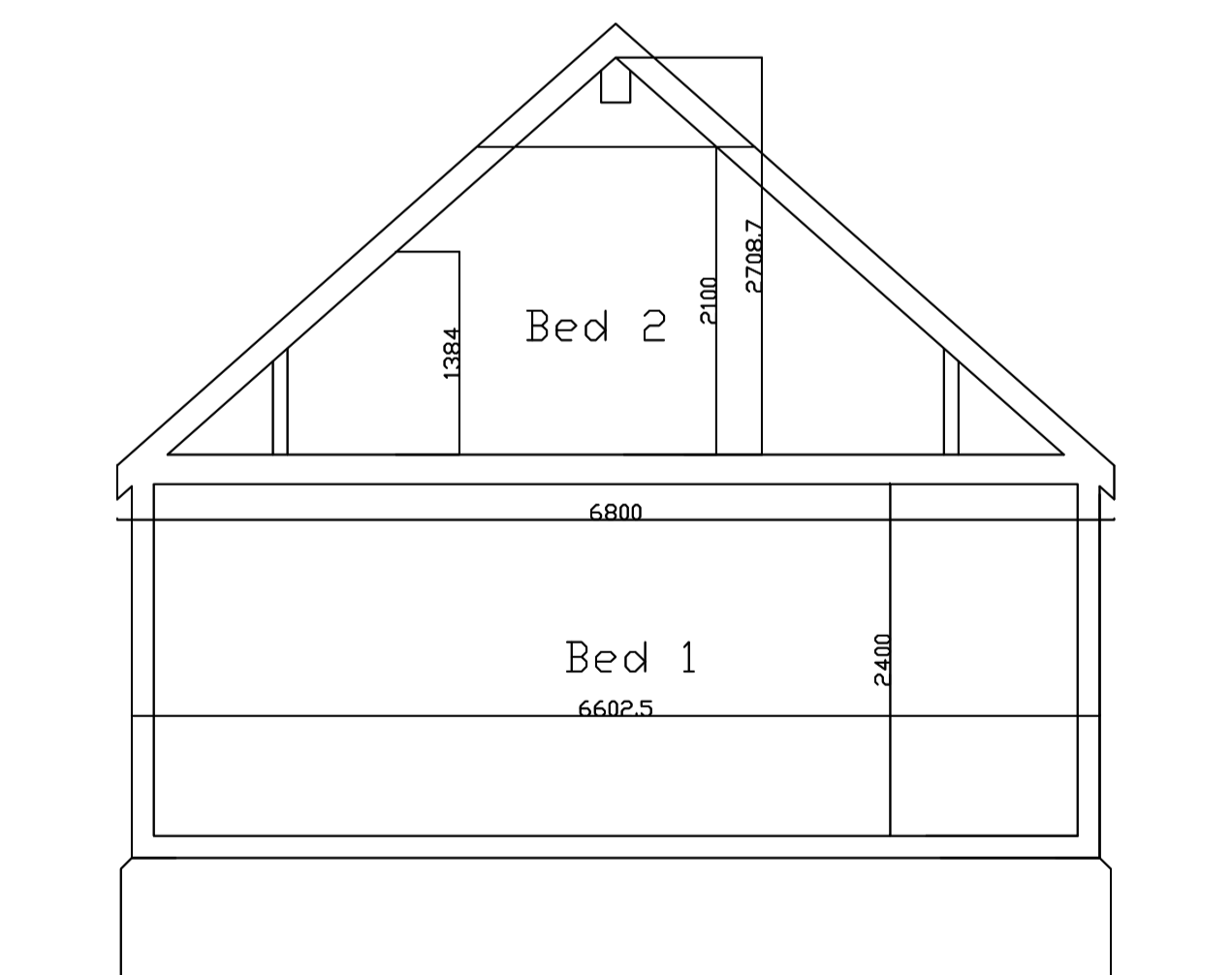
Proposed Side Elevation 1:100



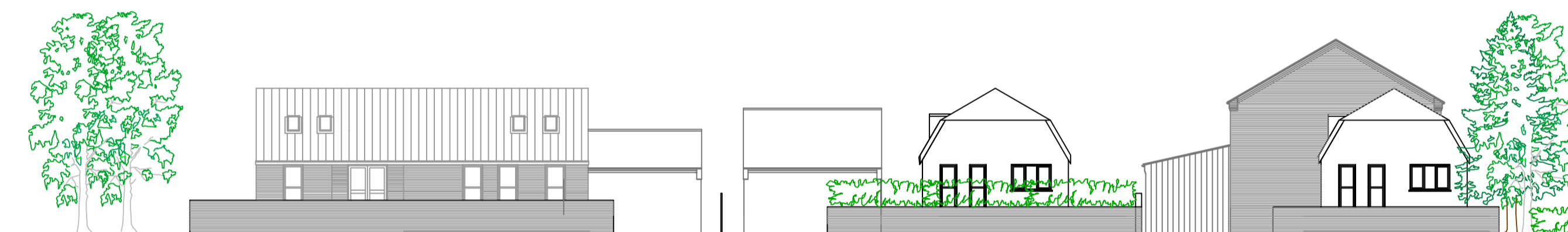
Proposed Ground Floor Plan 1:50



Proposed First Floor Plan 1:50

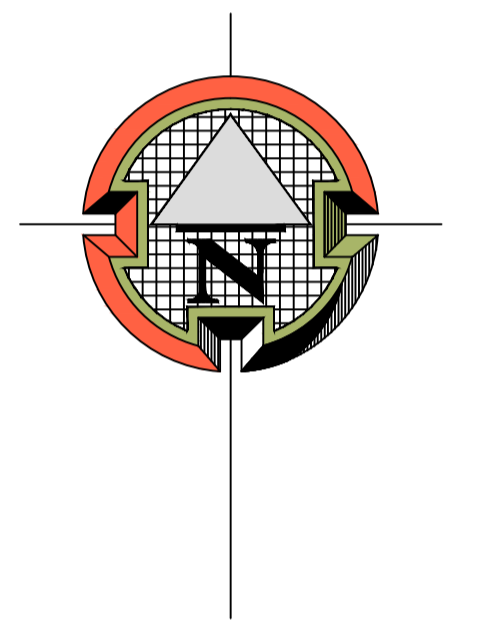


Proposed Section 1:50



Proposed Street Scene 1:200

General Notes:
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 -The contractor, sub-contractor and supplies must verify all dimensions before commencement of any works on site.
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Revisions:

Reference: p101	Pages: 1
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Scale:
as shown

Project:
Replacement dwelling

Site Address:
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Wisbech

Client:
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