

PLANNING APPEAL DECISIONS

The Council has received the following appeal decisions in the last month. All decisions can be viewed in full at <https://www.fenland.gov.uk/publicaccess/> using the relevant reference number quoted.

Planning Application Reference: F/YR19/0037/CERTLU and associated enforcement case ENF/104/14/UW

Site/Proposal: Land at Elderberry Farm (formerly south of Rosemary Cottage), Byall Fen Drove, Manea

Officer Recommendation:	Refuse/Serve notice	Decision Level:	Delegated	Appeal Decision:	Allowed
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Main Issues:

- **Legal status of development on site**

Summary of Decision:

The appeal related to the refusal of a certificate of lawful development in relation to the existing residential use of land and buildings involving the siting of caravans, and an associated enforcement notice concerning the construction of a day room.

The Council had previously served, in 2011, an enforcement notice requiring caravans to be removed from the site, however this notice did not require residential use of the land to cease. The Inspector considered that this resulted in a deemed planning permission having been granted for residential use of the land. The residential use taking place, including the siting of the caravans, was therefore lawful and the appeal against the refusal of the lawful development certificate was allowed by the Inspector on this basis.

The Council had also served an enforcement notice relating to the construction of a day room at the site. The Inspector considered that on the balance of probability this had been a "viable building" for a sufficient period to be lawful and consequently quashed the notice.

Planning Application Reference: F/YR20/1011/F

Site/Proposal: Erect a dwelling (2-storey 3-bed) involving demolition of existing garages and Anglian Water pumping station, Site Of Anglian Water Treatment Works Access Via Back Road, Murrow

Officer Recommendation:	Refuse	Decision Level:	Deelgated	Appeal Decision:	Dismissed
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Main Issues:

- **Flood risk**

Summary of Decision:

The planning application had been refused on the basis that the site was located within Flood Zone 2 and that the sequential test submitted had not adequately demonstrated that there were no sites available within Murrow at a lower risk of flooding.

The Inspector concluded that the sequential test submitted with the appeal discounted several sequentially preferable sites and that it also relied on “an overly narrow method of finding a similar site in terms of size and financial viability”. The Inspector also discounted the appeallant’s submission that no sites were being actively marketed on Rightmove as not demonstrating that no alternative sites were available to accommodate the development.

The benefits of delivering one dwelling would be limited and would not outweigh the conflict with policy arising from the failure to meet the sequential test. The appeal was therefore dismissed on this basis.

Planning Application Reference: F/YR21/0042/F

Site/Proposal: Erect a single-storey rear extension to existing HMO building for up to 14 persons, 310 Churchill Road, Wisbech

Officer Recommendation:	Refuse	Decision Level:	Delegated	Appeal Decision:	Dismissed
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Main Issues:

- **Character and appearance**
- **Amenity of existing and future occupiers**

Summary of Decision:

The development would result in the removal of a boundary hedge to the side garden of the property with this area then becoming a parking area. The Inspector concluded that this would appear excessive and discordant, urbanising the space around the HMO and harming the character and appearance of the area.

The Inspector also considered that most of the existing outdoor space to the HMO would be lost and this would result in harm to the living conditions of existing residents and would provide inadequate living conditions for future occupiers.

The appeal was therefore dismissed for these reasons.