
F/YR22/0031/F

Applicant: Mr John Harrison

**Agent : Mrs Alex Patrick
Alexandra Design**

Land West Of The Shieling, Lords Lane, Wisbech, Cambridgeshire

Erect 3no buildings and siting of 2no mobile homes for residential use and the formation of associated hardstanding (part retrospective)

Officer recommendation: Refuse

Reason for Committee: Number of representations contrary to officer recommendation

1 EXECUTIVE SUMMARY

- 1.1 This scheme proposes the retention of 3 buildings used in association with the orchard land of which the application site forms part; together with the stationing of 2 mobile homes of residential use on land at Lords Lane, Wisbech.
- 1.2 The submission comes forward with insufficient justification to support the provision of residential accommodation in this location, which is deemed as an elsewhere location in terms of the settlement hierarchy outlined in Policy LP3 of the FLP (2014).
- 1.3 In addition to the lack of justification the scheme fails to satisfy both the sequential and exceptions test in terms of flood risk, noting that it proposes 2 mobile homes to be used as permanent residential accommodation. Such accommodation is classified as 'highly vulnerable' and is not compatible with a flood zone 3 location.
- 1.4 Whilst the retention of the 3 buildings on the site for use in connection with the orchard activities undertaken on the land is justified and may be supported it is not possible to part approve an application and as such the whole scheme must be recommended for refusal.

2 SITE DESCRIPTION:

- 2.1 The application site is an open area of agricultural land situated to the north-east of an established orchard which is located to the north-east of Lords Lane, Wisbech. There is a field access to the site frontage which is secured by metal fencing which in turn is padlocked. From outside the site the land presents as an orchard. There are drainage ditches to the north-western, north-eastern, and south-eastern boundaries of the site.
- 2.2 There are residential properties to the south-east and north-west; these properties are sited along the frontage of Lords Lane and are therefore some distance from the application site edged red. There is a further residential/commercial property to the opposite side of Lords Lane.

- 2.3 Lords Lane is considered to be an open countryside location, situated outside of any main settlement. It features sporadic residential properties interspersed with some agricultural and commercial uses.
- 2.4 The land is designated a flood zone 3 location and the application site is circa 0.44 Ha forming part of a larger parcel of orchard land (circa 1.82 Ha)
- 2.5 At present there are 3 caravans on the site, 2 of these are occupied as residential accommodation by the applicant and his adult son with the third being utilised for storage. The general condition of these units is poor.
- 2.6 Full plans and associated documents for this application can be found at:

<https://www.publicaccess.fenland.gov.uk/publicaccess/simpleSearchResults.do?action=firstPage>

3 PROPOSAL

- 3.1 The application seeks to regularise the presence of 3 agricultural storage buildings on the site; these comprise:

Building 1: Tractor shed with a footprint of 10.5 metres x 5.5 metres with a mono pitched roof with a minimum height of x metres and a maximum height of 2.4 metres. This building is in situ and it is constructed from blue profile metal sheeting.

Building 2: Existing timber shed with a footprint of 2 metres x 2 metres with a mono-pitch roof with a minimum height of 1.8 metres and a maximum height of 2.1 metres; this building is in situ.

Building 3: Agricultural store building with a footprint of 12 metres x 5 metres with a semi-asymmetrical roof with a minimum height of 2.5 metres and a maximum height of 3.4 metres; this building is in situ and it is constructed from green profile metal sheeting.

- 3.2 Planning permission is also sought for the use of land for the stationing of 2 mobile homes these are described within the submission as:

28ft (8.5 metres) x 10ft (3.048 metres) wide x 2 No. single bedroom static caravans. The existing unauthorised caravans on site are all to be removed.

4 SITE PLANNING HISTORY

F/YR07/1269/AG1	Erection of an agricultural building and formation of an access road (Within the orchard but not within the application site)	Further details not required 07.12.2007
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5 CONSULTATIONS

- 5.1 **Town Council**
Recommend *'that the application be supported'*

5.2 **Ward Councillor – Councillor N Meekins**

'As the local District Councillor for the ward where this application is located I would like to offer my support for the application.'

I did not originally support it as there were issues with the location of the mobile homes in relation to a drainage ditch, however the applicants and agent have taken the objections of the NLIDB on board and resubmitted the application to comply with the IDBs comments.

As they have listened to, and acted on, the advice given I feel that I can now offer my support for the application'.

5.3 **Environment Agency**

'We object to the proposed development as it falls within a flood risk vulnerability category (highly vulnerable) that is inappropriate to the Flood Zone in which the application site is located. The application is therefore contrary to the National Planning Policy Framework and its associated planning practice guidance. We recommend that planning permission is refused on this basis.'

Reason(s) The PPG classifies development types according to their vulnerability to flood risk and provides guidance on which developments are appropriate within each Flood Zone. This site lies within Flood Zone 3, which is land defined by the PPG as having a high probability of flooding. The site lies within the tidal breach hazard mapping and shows the site could be flooded up to depths of 1.6m from a breach in the defences during a flood that has a 1% > fluvial / 0.5% tidal chance of occurring in any one year up to 2115.

The development is classed as Highly Vulnerable (caravans intended for permanent residential use) in accordance with table 2 of the Flood Zones and flood risk tables of the PPG. Tables 1 and 3 make it clear that this type of development is not compatible with this Flood Zone and therefore should not be permitted. Overcoming our objection - The applicant can overcome our objection by removing the caravans intended for permanent residential use for this application. If this cannot be achieved, we are likely to maintain our objection to the application'.

5.4 **North Level Internal Drainage Board**

Originally commented as follows:

'My Board objects to this application as it contravenes the Board's byelaws, in particular Byelaw no. 10 which states that 'no person without the previous consent of the Board shall erect any building or structure whether temporary or permanent within 9 metres of the drain'. The two touring caravans contravene this byelaw being within 9 metres of the Board's White Hall Drain to the north-east of the site. Riparian drains also form the north and south boundary of the development and the applicant should be made aware of their responsibilities in relation to these drains'.

The drawings were subsequently revised to delete one of the originally proposed caravans and to relocate the other two units outside of the 9-metre byelaw zone and the following updated consultation response was received:

'Following receipt of an amended site layout plan ref: 142/PL03 for the above planning application, I can confirm that I can now withdraw my objection to this application'.

5.5 Environment & Health Services (FDC)

'The Environmental Health Team note and accept the submitted information and have 'No Objections' to the proposed development, as it is unlikely to have a detrimental effect on local air quality and the noise climate or be affected by ground contamination'.

5.6 Local Residents/Interested Parties:

Seven letters of support were submitted with the application (from residents/business owners in Lords Lane x 1, Mile Tree Lane x 2, Cross Lane x 1, Station Road, Wisbech St Mary x 1, Emneth x 1 and unknown address x 1), these may be summarised as follows:

- General testimony regarding the applicant's character, integrity, work ethic and value as a neighbour/residents of the lane
- Site is kept tidy
- Mr Harrison and his son undertake seasonal work locally
- Hope that they continue to live and work in Lords Lane

A further 7 letters of support have been received during the evaluation phase of the application; these originate from residents in Lords Lane (x 6) and from North Brink (x 1) and may be summarised as follows:

- Again, general testimony regarding applicant's character etc and the contribution they make to the upkeep of the lane.
- *The 'lane it is mostly made up of agricultural, farming and small rural businesses and this application fits in within that criteria'.*
- *'I would urge the council to also support this application, to allow the farming and agricultural community and businesses to continue to thrive. In a time where farmers are struggling to retain employees and to recruit in, we should be assisting and encouraging those who are already part of it to continue to be able to do so'.*
- *'smaller holdings are often neglected and abandoned, whereas this one is well maintained and looked after, and helps support and provide employment for them [the applicant and his son]. If this were not to continue we are in danger of another orchard and small holding being lost, which would be a true shame and a real loss to the small farming and agricultural community they are part of'.*
- *'This road for years has been classed as a rural road that cannot be built down unless for agricultural and farming reasons, and this is exactly what John does and always has done. Therefore in my eyes this application should be approved on this reasoning.'*

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

Para. 2 - Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.

Para. 4 - The Framework should be read in conjunction with the Government's planning policy for traveller sites, and its planning policy for waste

Para. 10 - So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development

Para. 12 - The presumption in favour of sustainable development does not change the statutory status of the development plan as 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 - To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.

Para. 80 - Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;

Chapter 14 – Meeting the challenge of climate change, flooding and coastal change

Para. 159 - Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

7.2 **Planning Practice Guidance**

Paragraph: 019 - It is particularly important that the local planning authority notifies the Environment Agency of any decision taken on a planning application where the Agency has objected on flood risk grounds. (Reference ID: 21b-019-20190315)

7.3 **National Design Guide**

H1 – Healthy, comfortable and safe internal and external environment

7.3 **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

LP5 – Meeting housing need

LP12 – Rural Areas Development Policy

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

LP16 – Delivering and Protecting High Quality Environments across the District

7.4 **Cambridgeshire Flood and Water Supplementary Planning Document**

8 **KEY ISSUES**

- **Principle of Development**
- **LP3 considerations**
- **Justification**
- **Visual and residential amenity**
- **Highways**
- **Flood risk**

9 BACKGROUND

- 9.1 An agricultural notification was accepted in 2007 for a storage shed and access, the approved building being 20 metres long x 10 metres wide x 3 metres eaves height and 4 metres ridge height to be constructed from green/blue box profile. It was shown to be sited on land to the west of the access road within the orchard however it is apparent that it was not constructed in this location.
- 9.2 It is noted from the submitted documents that the applicant and his adult son have resided on the site since 2016 and have owned the land for 15 years, with the agent noting that they were unaware that planning permission was required to live on the site

10 ASSESSMENT

Principle of Development

- 10.1 This is an elsewhere location and as such development is restricted to that which is demonstrably essential to the effective operation of local agriculture, horticulture, forestry etc in accordance with the settlement hierarchy outlined in Policy LP3. Whilst the provision of the storage buildings aligns with this policy aim the argument to support the provision of 2 units of residential accommodation is not so convincing; this is explored in detail in the justification section below.
- 10.2 Matters of character, visual amenity and residential amenity also require consideration along with any other site constraints that may render the scheme unacceptable e.g. flood risk (LP14), contamination (LP16) and servicing considerations.

LP3 considerations

- 10.3 The orchard land owned by the applicant extends to circa 1.82 Ha. Whilst the applicant maintains and crops this orchard land, both in respect of fruit and timber, it is apparent that this activity in isolation does not financially support them, as both the applicant and his adult son derive income from other land-based employment elsewhere within the locality/district.
- 10.4 There is no justification within the submission to evidence that the maintenance and upkeep of the orchard is so demanding as to warrant a full-time presence on the site and there is nothing to suggest that the land could not be appropriately tended in the absence of an on-site presence. Accordingly, it may not be reasonably asserted that the development is demonstrably essential to the effective operation of the land uses highlighted in Policy LP3 relating to elsewhere locations. Albeit it is accepted that the 3 buildings which the applicant seeks to retain for agricultural use are justified under LP3.

Justification and LPA response

- 10.5 Within the submitted Design and Access statement the agent makes reference to agricultural worker dwellings and highlights that it is usual practice for many councils to rely on the earlier detailed guidance which preceded the current NPPF. This guidance required proposals for agricultural worker dwellings to demonstrate a clearly established functional need for a full-time worker and explore whether there was other suitable accommodation on site or in the area.
- 10.6 The agent makes reference to having sufficient man-hours to equate to two full time employees of the business, whilst also highlighting that there is no other house on the holding, nor are there any buildings which could be converted and there are no dwellings within the area with a suitable agricultural tie. However, there is unfortunately no substance to the arguments postulated and no evidence to suggest an essential need exists. It would be usual practice when submitting a planning application of this nature for such an application to be accompanied by an independent assessment to demonstrate need, no such assessment forms part of this submission. That said the activities undertaken on the site would not warrant a 24/7 presence.
- 10.7 In addition the agent also explains the term 'nomad' within the submission, but again does not offer context to this in that the applicant and his adult son are clearly settled on the land, although they may travel elsewhere to fulfil their work commitments. The agent also makes reference within the submission to the fact that the applicant and his son have lived a largely nomadic lifestyle but seek a more permanent base. However, this 'desire' does not equate to justification to divert from planning policy.
- 10.8 Similarly Policy LP5 Part D is cited within the submission as justification, with this policy making provision for Gypsy and Traveller sites. However, planning policy guidance accommodates those citizens that qualify for such status and does not extend to accommodate individuals who just choose to locate in the open countryside. As such there is no justification on the grounds of ethnicity. Within the submission it is explicit that the applicant and his son would not meet the definition of Gypsy and Traveller as outlined in the PPTS and therefore references to this Policy Guidance are not relevant.
- 10.9 With regard to flood risk considerations the agent has highlighted that recent appeal decisions have taken into account flood risk modelling data and that a similar approach should be taken by the LPA in respect of this scheme as it has been demonstrated that *'in the case of a breach of defences, the site and indeed the roads which could achieve safe passage to a place of safe refuge would not be affected. In addition, the applicant has provided scenario modelling commissioned by North Level Drainage Board which demonstrates that during a major event, when pumps may need to be throttled back allowing for some overland flooding, the site would still not be affected by flood waters'*. Whilst acknowledging the PPG guidance relating to flood risk the agent notes that *'the actual residual impacts of a major flood event have been demonstrated to have a neutral effect of the site i.e. the site would be safe from flooding in extreme events, with a breach of tidal flood defences'*.
- 10.10 As a final point the agent highlights planning case law relating to the personal circumstances of the applicant being a material planning consideration, whilst also citing the Article 8 rights of the applicant in terms of a right to respect for their family life, private life and home. Whilst both arguments are accepted in

general terms the consideration of personal circumstances would be enacted solely where there are 'exceptional or special circumstances'. Furthermore, in respect of the 'interference' with the applicants human rights it is noted that case law indicates that such interference may be justified if it is in the public interest. It is contended that the legitimate aim of conforming with planning policy and safeguarding the open countryside from inappropriate development cannot be achieved without interference with the applicants Human Rights and that this interference is proportionate and necessary in the circumstances.

- 10.11 It is further noted that the applicant was unaware that planning permission was required to reside on the site, however little weight may be given to this and it is clear that the applicant was sufficiently aware of planning controls in 2007 when the prior notification for the agricultural building was submitted.
- 10.12 Based on the above evaluation there is nothing to suggest, or indeed warrant, any special considerations being levied on the applicant and the applicant should therefore be considered solely against the prevailing planning policy.
- 10.13 It is noted that a number of local residents have written in support of the application. However, the general thrust of the comments made relate to the work ethic and community ethos demonstrated by the applicant and his son rather than the planning merits of the scheme. Whilst it is clear that the applicant and his son are valued members of the community and much respected this does not obviate the real and acute disparity of the scheme with the relevant policy framework.

Visual and residential amenity

- 10.13 The site is well screened from the roadside and the surrounding land and as such there is no demonstrable harm arising in terms of visual amenity. Indeed, there are no particular visual clues that the site in fact is occupied with the existing field access being utilised and the foreground to the buildings and application site being densely planted.
- 10.14 Similarly, the distance of the application site from the adjacent residential properties and the limited occupation of the site, which maintains an orchard function, is such that there are no residential amenity impacts associated with the proposal.
- 10.15 Accordingly, there would be no grounds to withhold consent on the basis of visual or residential amenity harm and therefore the scheme may be deemed compliant with policies LP2 and LP16 in so far as such considerations.

Highways

- 10.16 The orchard land benefits from an existing field access from which access to the site is derived, whilst the site layout drawing and associated notes contained thereon indicates that the access is to be tarmacked this would be a matter for the Local Highways Authority to agree under their Section 278 processes given that the access is currently in situ and noting that Lords Lane is an unclassified road.
- 10.17 Whilst the presence of the existing security fencing at the entrance will have some impact on the free flow of traffic along Lords Lane, should vehicles stop on the carriageway to unlock the security fencing. The likely frequency of/and

impacts arising from such instances when viewed in the context of the existing use of the site and noting that this rural road is lightly trafficked are not anticipated to represent any significant issues with regard to the operation of the highway, or indeed have impact in terms of highway safety.

- 10.18 Based on the above evaluation it is not considered that there are any matters to reconcile with regard to Policy LP15 of the FLP (2014).

Flood risk

- 10.19 The Environment Agency have objected to the scheme as it proposes highly vulnerable development (caravans intended for permanent residential use) within a flood zone 3 location, being as it the highest flood risk zone.
- 10.20 Furthermore, it is noted that the EA have identified that the site lies within the tidal breach hazard mapping and shows the site could be flooded up to depths of 1.6m from a breach in the defences during a flood that has a 1% > fluvial / 0.5% tidal chance of occurring in any one year up to 2115. The agent within the submission states that the 'floor levels of the static homes will be set no lower than 500mm above ground and anchored to the ground in the unlikely event of a flood'.
- 10.21 Notwithstanding the site-specific flood risk concerns this scheme fails to address the sequential and exception test noting that no functional need has been demonstrated for the placing of 2 independent residential units on the site. In the absence of such justification, it is not possible for the scheme to satisfy the sequential test nor is it possible to satisfy the exception test. Noting that in addition to a failure to demonstrate that the development will be safe against all sources of flooding for its lifetime it is also apparent that the development would not offer any wider sustainability benefits to the community. Accordingly, the scheme does not achieve compliance with Policy LP14 of the FLP (2014).
- 10.22 The agent states within the submission that '*under Para 104 of the NPPF an application for minor developments or change of use does not require sequential/exception test to be undertaken*'; this is incorrect in that Para 104 relates to transport issues with Para 168 relating to the application of the sequential and exception test, whilst the statement of the agent is correct as far as quoted the footnote to this para which clearly states that this guidance excludes caravans and mobile home proposals.
- 10.23 It is acknowledged that the agent has provided an updated FRA in response to the Environment Agency comments. However, noting the consultation response and guidance offered by the EA, which has indicated that unless the caravans for permanent residential use are deleted from the scheme, they are likely to maintain their objection to the application. It is therefore anticipated that an objection on flood risk grounds will be maintained; albeit the outstanding consultation response will be reported to the committee meeting.
- 10.24 Members are reminded that there is a requirement to notify the Environment Agency of any decision taken on a planning application where the Agency has objected on flood risk grounds.

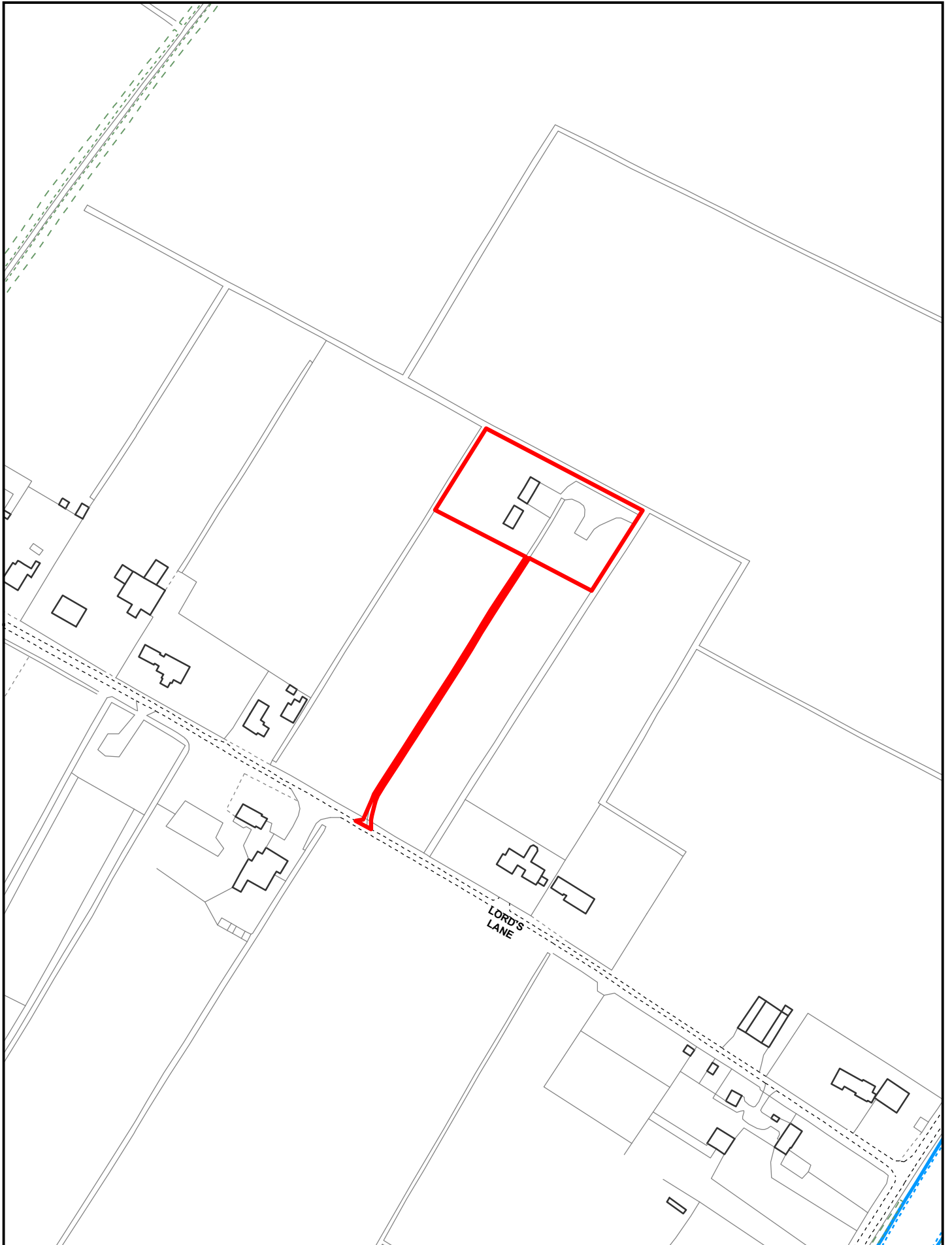
11 CONCLUSIONS

- 11.1 The absence of visual and amenity harm is noted however this does not tip the balance of weight towards a favourable recommendation when matters of justification and need along with flood risk considerations are factored in.
- 11.2 Whilst Officers have some empathy with the personal circumstances of the applicants and acknowledge the personal desire of the applicants to secure a permanent residential base on land which they own. Such 'desire' does not override the more fundamental countryside policies which seek to restrict development within the open countryside to that which is essential for agricultural purposes; nor does it override matters of flood risk as evidenced by the objection raised by the Environment Agency.
- 11.3 There is no policy justification to support the provision of two mobile homes on the site for permanent residential accommodation, based on settlement considerations and flood risk issues. Accordingly, the only recommendation can be one of refusal on these grounds.

12 RECOMMENDATION - Refuse

Reasons for refusal

1	<p>Policy LP3 of the Fenland Local Plan 2014 and National Planning Policy guidance steer new development to sustainable areas that offer the best access to services and facilities. This is unless it can be demonstrated that such development is essential to the effective operation of local agriculture, horticulture, forestry, outdoor recreation, transport or utility services, or that there is a justifiable reason for locating development in otherwise unsustainable locations.</p> <p>The proposed mobile homes would be located in the open countryside and insufficient justification has been provided to outweigh Policy LP3 considerations. The proposal is therefore contrary to Local Plan Policies LP3 and LP12 of the Fenland Local Plan (adopted May 2014) and Paragraph 79 of the National Planning Policy Framework.</p>
2	<p>Policy LP14 (Part B) of the Fenland Local Plan 2014 requires development proposals in high flood risk areas to undergo a sequential test to demonstrate through evidence that the proposal cannot be delivered elsewhere in the settlement at lower risk of flooding. Policy LP2 seeks to deliver high quality environments, ensuring that people are not put at identified risks from development thereby avoiding adverse impacts in the interests of health and wellbeing. The site lies within Flood Zone 3 which is a high risk flood area. The applicant has failed to demonstrate that the development could not be delivered in an area of lower flood risk thereby failing LP14 (Part B). Consequently, the proposal also fails to satisfy policy LP2 of the Fenland Local Plan as it fails to deliver a high quality environment and unjustifiably puts future occupants and property at a higher risk of flooding.</p>



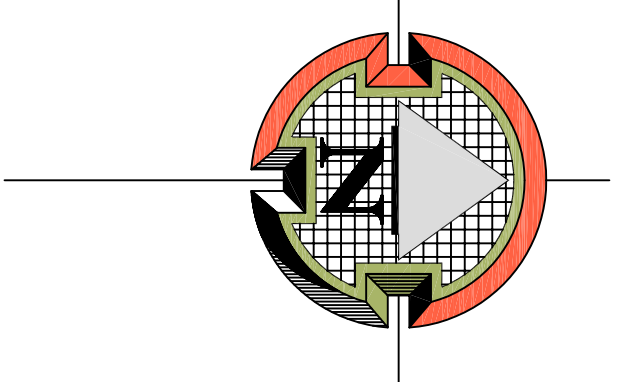
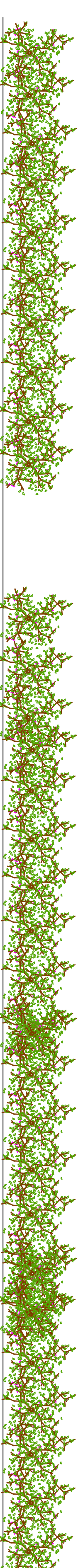
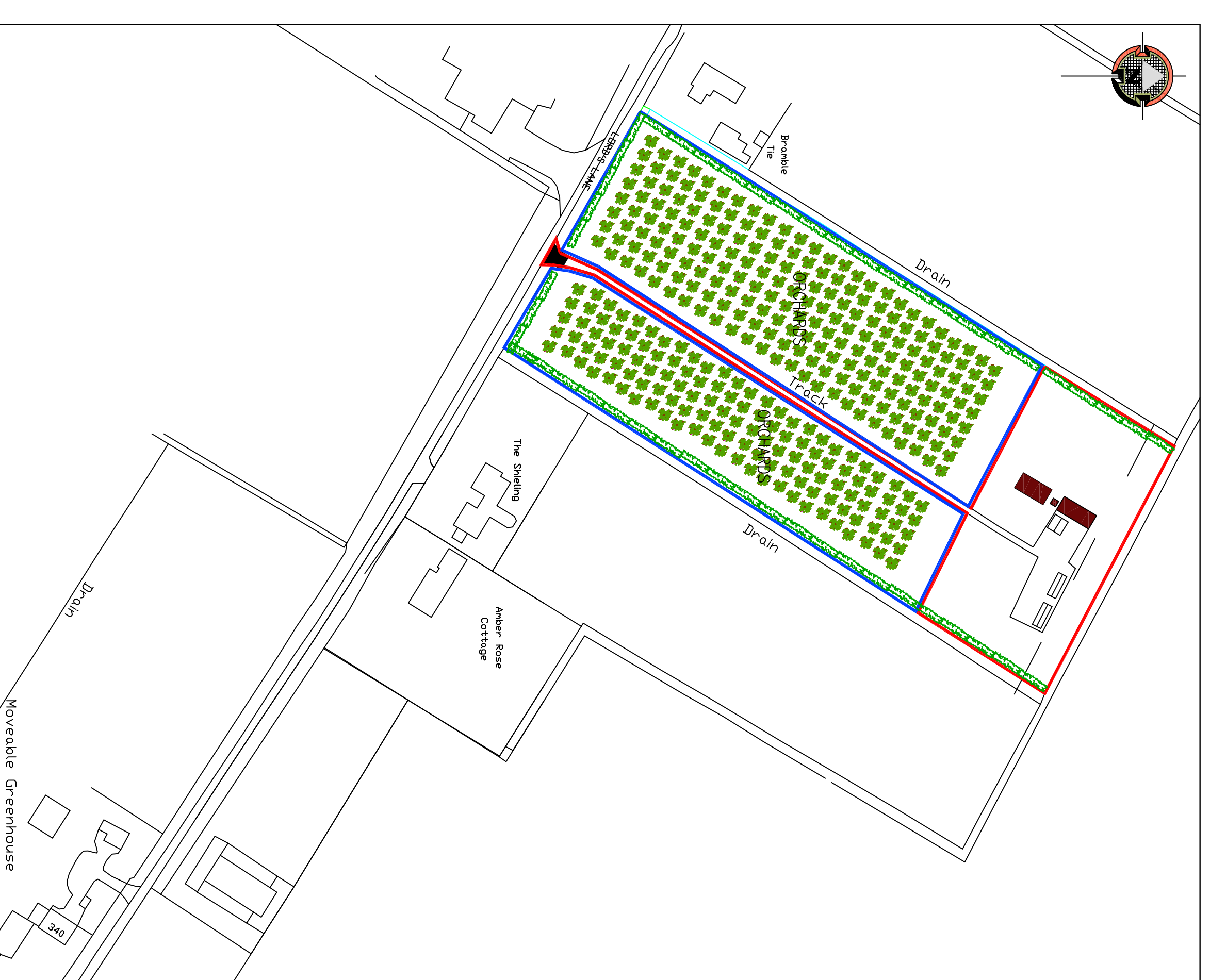
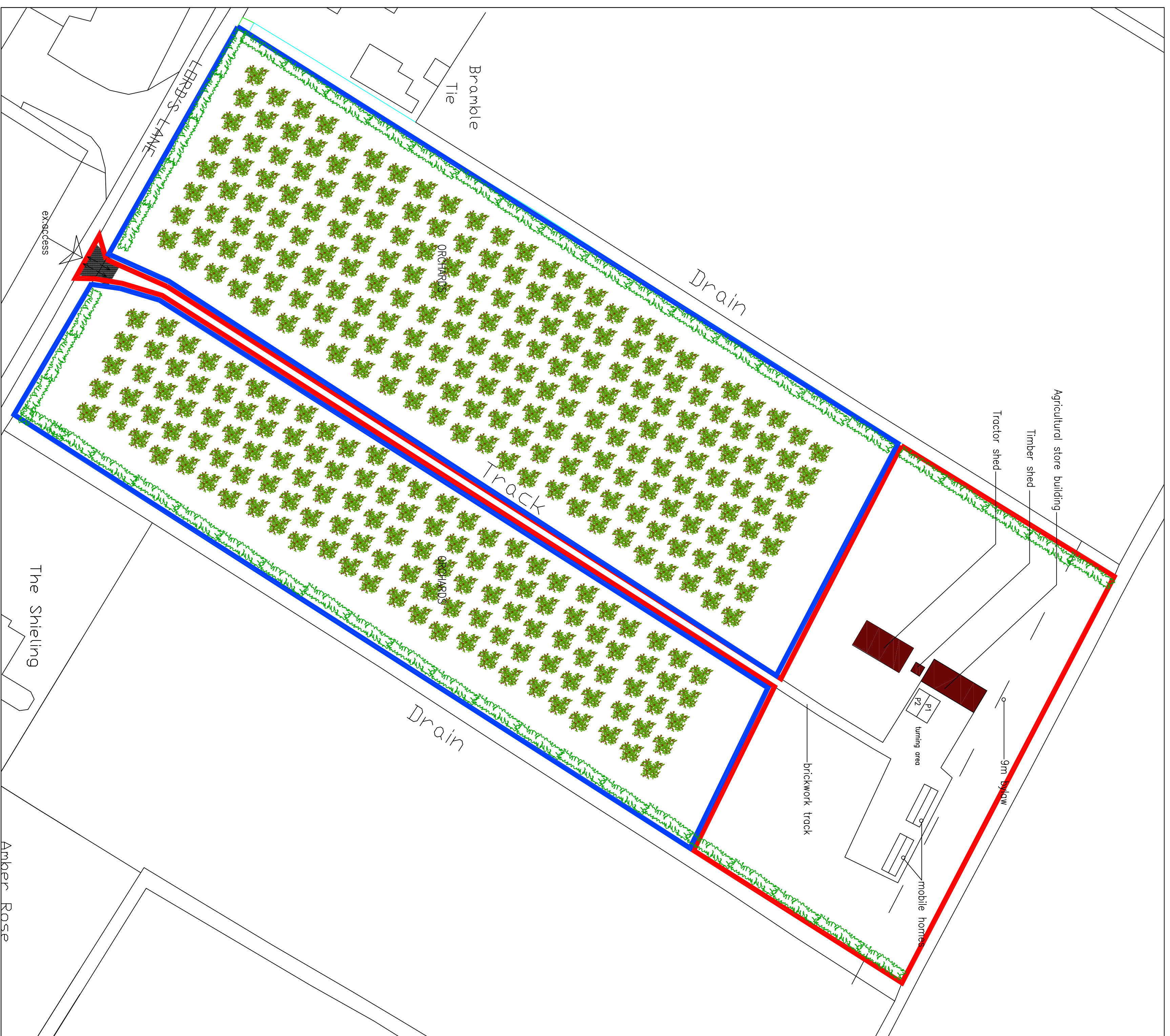
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

F/YR22/0031/F

Scale = 1:2,500





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.
 -Landscaping Ker (hard and soft)

 Entrance threshold
 Native hedge planting around perimeters

Asphalt Access Area construction detail
 1. Refer to BS EN 13108-1 for material spec for asphalt concrete.
 2. Refer to BS EN 13108-4 for material spec for hot rolled asphalt.
 3. Refer to BS EN 13108-5 for material spec for stone mastic asphalt.
 4. Refer to BS 5949/7 for transport, laying and compaction of all asphalts.
 5. Bond coats to be used in accordance (no.4) to be applied on all kerb and edging faces along with gully and cover frames. Bond coats to be applied on top of base and binder courses. Joints in binder and base course to be over banded.
 6. Construction thicknesses based on CBR value.
 7. If CBR value is less than 2.5% special engineer measurements will be required.
 8. If sub-grade is deemed to be frost susceptible sub-base thickness to be thickened to provide min. construction depth of 450mm.
 9. Footpath sub-base to be thickened to 150mm under vehicular crossings.
 10. SMA to be grided whilst material is hot-1-2kg per m² applied by roller mounted hopper.
 Native hedgerow retention
 • Common Hawthorn

Revisions:

Reference:	Pages:
142/PL03	3

Scale:
 OS shown

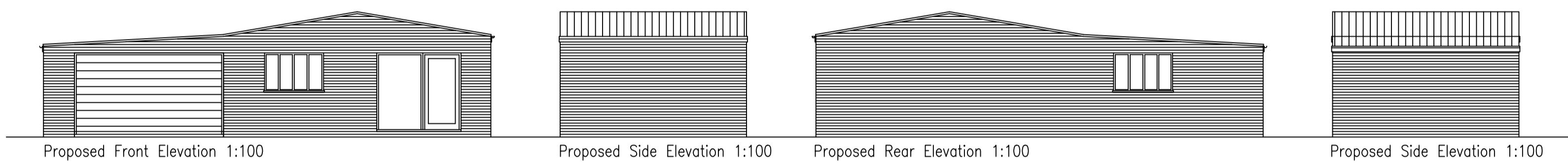
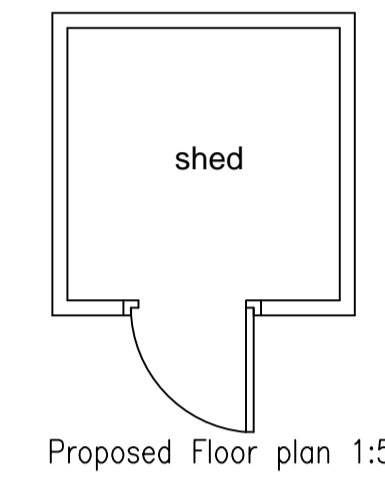
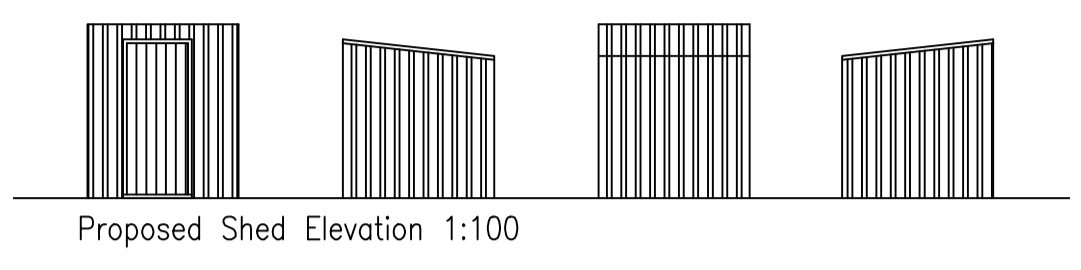
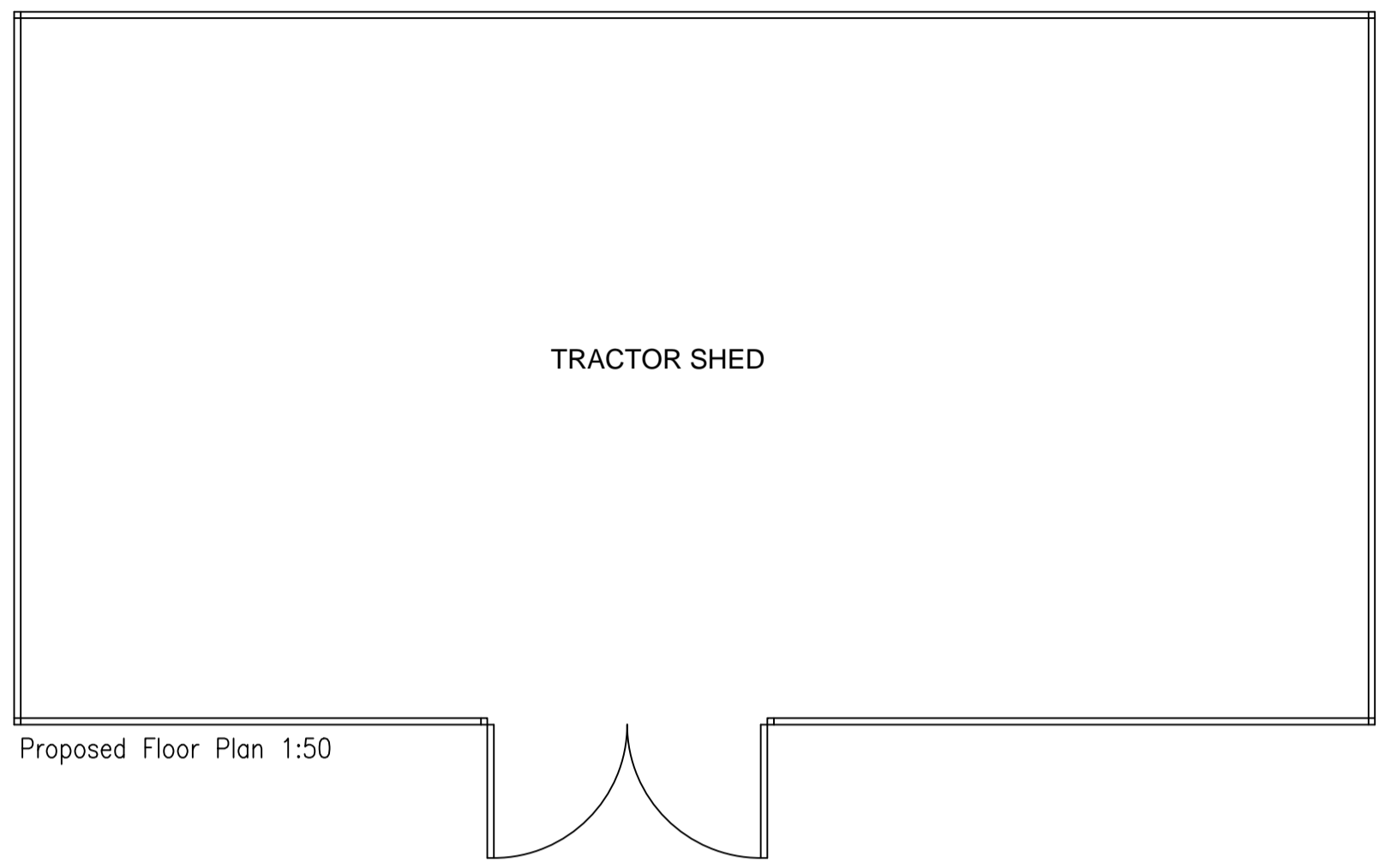
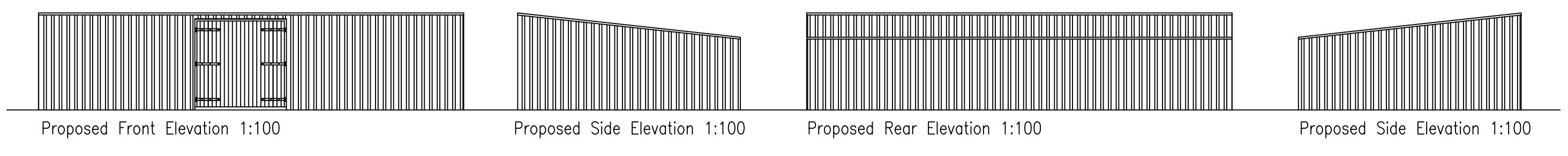
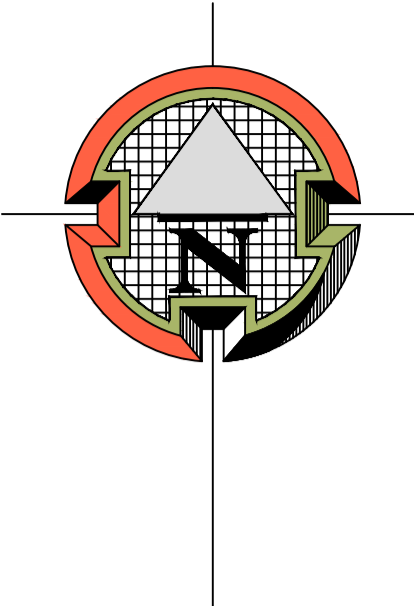
Project:
 Proposed 2x mobile homes
 Agricultural shed and Tractor Shed

Site Address:
 Fenland Bramleys
 Lords Lane
 Wisbech st Mary
 Client:
 Mr and Mr Harrison
 Fenland Bramleys
 Lords Lane
 Wisbech st Mary



ALEXANDRA
 Design

Southfork Farm
 Seadyke Bank
 Murrow
 Cambridgeshire
 PE13 4SD

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



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-  Entrance threshold
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Native hedgerow retention
 • Common Hawthorn

Revisions:

Reference: 142/PL03	Pages: 3
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Scale:
as shown

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Proposed 2x mobile homes
Agricultural shed and Tractor Shed

Site Address:

Fenland Bramleys
Lords Lane
Wisbech st Mary

Client:
Mr and Mr Harrison
Fenland Bramleys
Lords Lane
Wisbech st Mary



Southfork Farm
Seadyke Bank
Murrow
Cambridgeshire
PE13 4SD

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