


Agenda Item No:	7	
Committee:	Cabinet	
Date:	22 March 2022	
Report Title:	Article 4 Direction – Land to the rear of B1098, Horseway, Nr Chatteris	

1 Purpose / Summary

- 1.1 To seek authority from Cabinet (under the Part 3, Table 1 of the Council's constitution: Any function under a local Act other than a function specified or referred to in Regulation 2 or Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000) to serve an immediate Article 4 Direction to remove permitted development rights for means of enclosure, formation of accesses, temporary uses and caravans, formation of tracks on land located in the open countryside to the rear of established and unrelated residential properties on the B1098, Horseway, Nr Chatteris, in the interests of the protection and appearance of the countryside.

2 Key Issues

- 2.1 Land to the rear of the B1098, Horseway has been divided up in to approximately 100 parcels many of which have been sold off to the general public. Owners have begun to erect fences and gates and place buildings and general paraphernalia on their parcels of land. This development is beginning to alter the appearance of locality to its detriment. Some of the development may require planning permission and be unauthorised. Given the remote location, the large number of plots and individual owners involved, the monitoring and identification of unauthorised development is very challenging.
- 2.2 Officers are therefore recommending that an immediate Article 4 Direction is served. Once in force a detailed survey of the site will be undertaken in order to establish the 'as is, baseline position'.

3 Recommendations

- 3.1 That Committee authorise the serving of an immediate Article 4 Direction to remove permitted development rights as set out in Section 1 of this report a) to d) and authorise a full survey of the site be carried out to be funded from the Planning Reserve.

Wards Affected	Manea
Forward Plan Reference	N/A
Portfolio Holder(s)	Councillor Dee Laws - Planning
Report Originator(s)	Nick Harding – Head of Planning
Contact Officer(s)	Nick Harding – Head of Planning nharding@fenland.gov.uk Becky Rousell – Senior Enforcement Officer brousell@fenland.gov.uk Dan Horn – Acting Assistant Director dhorn@fenland.gov.uk
Background Papers	General Permitted Development Order Development National Planning Policy Framework (NPPF) Planning Policy Guidance (NPPG).

1 BACKGROUND AND INTENDED OUTCOMES

- 1.1 This report is seeking authorisation for the issue of an immediate Article 4 Direction (Town and Country Planning (General Permitted Development) Order 2015 (as amended). The Direction proposes to remove a number of permitted development rights. The land in question has / is being sold off in a series of plots (c100) and some of the new owners have undertaken works/ changed ten use of the land. Given the rural location, away from any settlement, the introduction of fences etc, tracks, caravans, temporary uses/ buildings and caravans on the plots over a wide area, would be detrimental to the appearance of the countryside. There is the need to control these developments in the interest of the protection of the countryside.
- 1.2 The Article 4 Direction sought to immediately remove the following permitted development rights;
- a) The erection, construction, improvement or alteration of a gate, fence, wall or other means of enclosure referred to in paragraph A.1 being development comprised within Class A of Part 2 of Schedule 2 to the Order and not being development within any other Class.
 - b) The formation, laying out and construction of a means of access to a highway which is not a trunk road or a classified road, where that access is required in connection with development permitted by any Class in this Schedule (other than by Class A of this Part) being development comprised within Class B of Part 2 of Schedule 2 to the Order and not being development within any other Class.

- c) Temporary use of land comprised within Class B of Part 4 of Schedule 2 to the Order and not being development within any other Class.
 - d) Use of land as a caravan site within Class A Of Part 5 of Schedule 2 to the order and not being development within any other class.
- 1.3 The effect of the Article 4(1) Direction is that development comprising the erection, construction, improvement or alteration of a gate, fence, wall or other means of enclosure; the formation, laying out and construction of a means of access to a highway; temporary use of the land: or use of the land as a caravan site, will now require the formal determination through the submission of a planning application.
- 1.4 If the recommendation is accepted by the Committee Article 4, the Council will publish a notice of the Article 4 direction in the local newspaper, display at least two site notices for a period of not less than six weeks. Given the number of owners involved, it is not practical to service notice on them individually. The notice will allow for a minimum period of 21 days for any representations to be made to the Council to which will be taken into account by the Council when deciding whether to confirm the Article 4 Direction.
- 1.5 To reiterate, an Immediate Article 4 Direction is proposed. This means that permitted development rights are removed with immediate effect and then consulted on. The Article 4 (1) Direction will lapse after 6 months from when it was made unless it is confirmed beforehand. Any objections will be considered by the Council before it considered whether to confirm the Direction, or not. An immediate Article 4 (1) Direction is used where there is an urgent, justified requirement for protection. Once confirmed, an immediate Article 4(1) Direction becomes permanent.
- 1.6 As an alternative to an immediate Article 4 Direction is a non-immediate Article 4 Direction. Under this procedure the Direction does not take effect until at least 28 days after the Direction has been published AND it has been confirmed by the Council. With a non-immediate Direction, the permitted development activity that is being brought under control will be able to continue on taking place until such time as the Direction is confirmed by the council following public consultation.
- 1.7 If the recommendation is accepted by Committee, then a full survey of the site will be undertaken in order to establish the baseline position of what is present on the site at that point in time. This will enable the Council to monitor, record and action (as may be found to be appropriate) any subsequent unauthorised development.

2 REASONS FOR RECOMMENDATIONS

- 2.1 The land in question has / is being sold off in a series of plots (c100) and some of the new owners have undertaken works/ changed the use of the land. Given the rural location, away from any settlement, the introduction of fences etc, tracks, caravans, temporary uses/ buildings and caravans on the plots over a wide area, would be detrimental to the appearance of the countryside. There is the need to control these developments in the interest of the protection of the countryside.

3 CONSULTATION

- 3.1 Consultation has not been undertaken and neither is it required. Consultation would have the potential to stimulate / accelerate development activity on the land.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The alternative that has been considered is to do nothing and simply respond to reports of unauthorised development. This is not considered to be a viable option given the remoteness of the location and the number of plots that there are on the land.

5 IMPLICATIONS

5.1 Legal Implications

The Council can be liable under section 108 of the Town and Country Planning Act 1990 (as amended) to pay compensation to those whose permitted development rights have been withdrawn but only if, within 12 months of the effective date of the Article 4 Direction, the Council 1) Refuses planning permission for development which would otherwise have been permitted development, or 2) Grants planning permission subject to more limiting conditions than the General Permitted Development Order (GPDO).

The grounds on which compensation may be claimed are limited to abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights. Abortive expenditure includes the preparation of plans for the purposes of work and other similar preparatory matters but no more. 'Other loss or damage directly attributed to the withdrawal of permitted development rights' includes the depreciation of the land. The onus is on the claimant to prove a financial loss resulting from the refusal to grant permission or from the grant subject to conditions formerly granted by the permitted development. There are various factors that are taken into account in a determination of whether or not compensation is payable

5.2 Financial Implications

See above legal implications above. There is also the cost of the surveying of the land. Prices for this work have not yet been obtained. The cost of the survey work will be funded from the Planning Reserve.

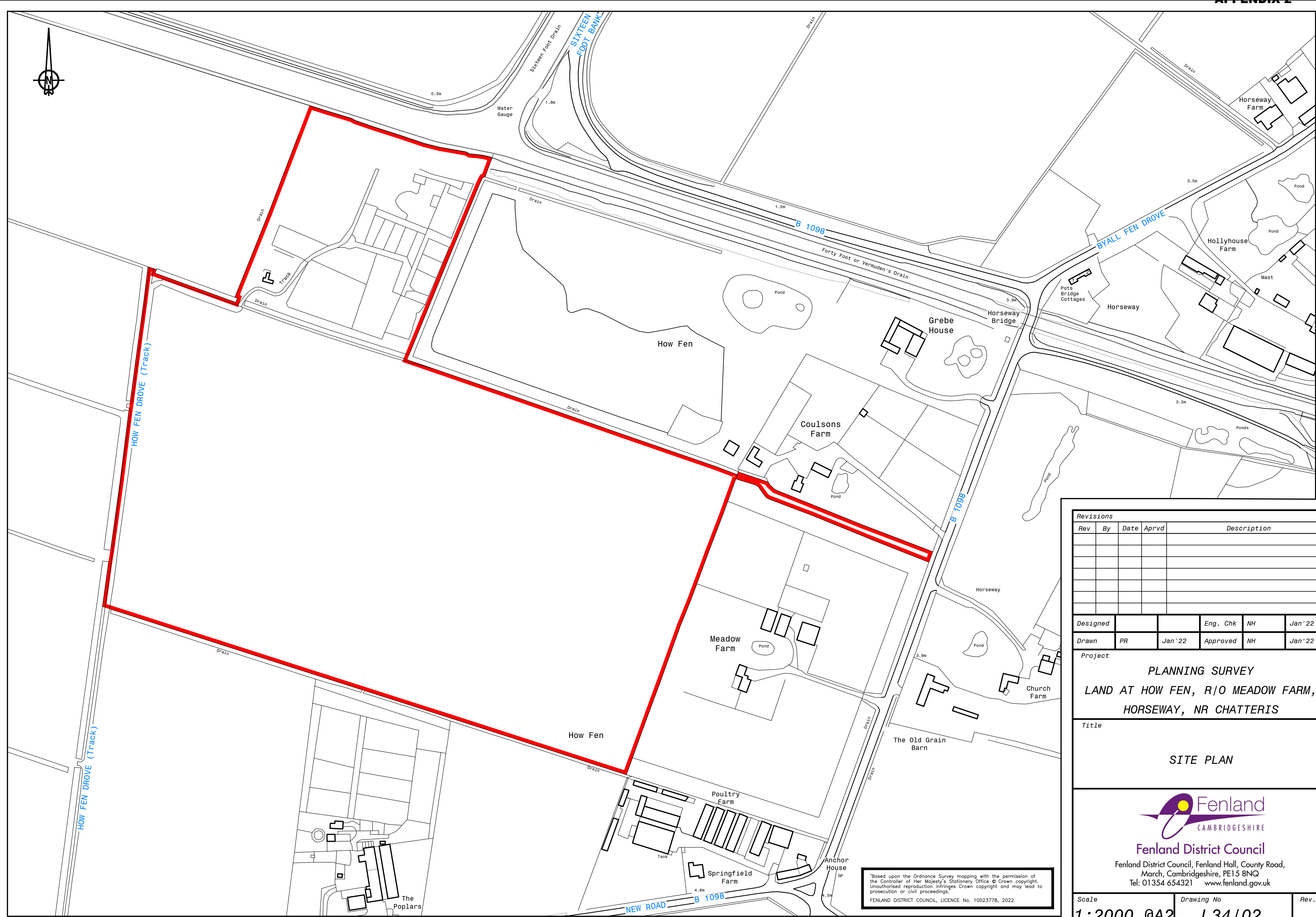
5.3 Equality Implications

There are no equality issues for consideration.

6 SCHEDULES

Appendix 1 – general site location plan

Appendix 2 – site location plan



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 FENLAND DISTRICT COUNCIL, LICENCE No. 10023778, 2022

Revisions					
Rev	By	Date	Aprvd	Description	

Designed			Eng. Chk	NH	Jan '22
Drawn	PR	Jan '22	Approved	NH	Jan '22

Project
**PLANNING SURVEY
 LAND AT HOW FEN, R/O MEADOW FARM,
 HORSEWAY, NR CHATTERIS**

Title
SITE PLAN



Fenland District Council
 Fenland District Council, Fenland Hall, County Road,
 March, Cambridgeshire, PE15 8NQ
 Tel: 01354 654321 www.fenland.gov.uk

Scale	Drawing No	Rev.
1:2000 @A2	L34/02	