

**Applicant: Mr Goy**

**Agent : Helen Monk  
Swann Edwards Architecture Limited**

**Land East Of, Mill Road, Murrow, Cambridgeshire**

**Erect 1 dwelling (outline application with matters committed in respect of access)**

**Officer recommendation: Refuse**

**Reason for Committee: Referred by the Head of Planning on advice of Committee Chairman**

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## **1 EXECUTIVE SUMMARY**

- 1.1 The application seeks outline permission for the erection of a single dwelling on agricultural land adjacent to 16 Mill Road.
- 1.2 The principle of the development at this location is not considered acceptable. Murrow is designated as a small village under policy LP3 of the Fenland Local Plan and normally only infill development at such locations is acceptable. In addition, the development of this site is not in keeping with the character of development at this side of Mill Road where there is a strong linear character and properties have a direct road facing frontage. The proposal is therefore contrary to policies LP3, LP12 and LP16 of the Fenland Local Plan
- 1.3 There is insufficient information to enable the local planning authority to assess the potential impacts of the development upon protected species and habitats contrary to the NERC Act, Policy LP19 of the Fenland Local Plan and Section 180 of the NPPF.
- 1.4 No information has been submitted with regard to the sequential test that must be applied to this proposed development located in flood zone 3. The application fails the sequential test and is therefore contrary to policy LP14 B of the Fenland Local Plan and paragraphs 162 to 167 of the NPPF and guidance within the NPPG.
- 1.4 The application is therefore recommended for refusal

## **2 SITE DESCRIPTION**

- 2.1 The site is currently part of a large agricultural field and bordered by this field to its north and east boundaries. To the west is No. 16 Mill Road, a two-storey detached dwelling, one of five dwellings which are relatively recent and referred to in the planning history set out below. No's 16 and 18 Mill Road are served by a private access which comes off Mill Road and over the drainage ditch which runs parallel to the road and continues on to form the southern boundary of the proposed development site. No. 20 is served by a further access off Mill Road. All three

existing properties have a gravelled drive to the front which runs across the frontage to each property.

- 2.2 At the east side boundary to No. 16 (and what would be the boundary to the proposed plot), the drainage ditch turns to run in a northeast direction and thereby turns away from Mill Road frontage. Between the drainage ditch and Mill Road lies Conway, an established bungalow which sits within a triangular shaped plot formed by the path of Mill Road and the drainage ditch to the rear which is running at the northeast angle. The majority of the private amenity space associated with Conway is located to the west side of the bungalow. The proposed development site lies beyond this area and the drainage ditch.
- 2.3 The properties along Mill Road to the west of No. 16 comprise linear frontage development. The properties which run along Murrow Bank in a north/south direction along the eastern boundary of the agricultural field also comprise linear frontage development. North Level Drain is approximately 310 metres to the north of the site and borders the northern edge of the agricultural field in which the site is located.
- 2.4 The site lies in flood zone 3 which is the area at highest risk of flooding.

### **3 PROPOSAL**

- 3.1 This is an outline application for a single dwelling with all matters reserved except for access which is to be considered as part of this application. An indicative site layout and elevation has been submitted which depicts a four-bedroom detached two-storey dwelling sited centrally within the plot and at an angle facing slightly towards the south-west. However, this plan is indicative only and none of this detail is being considered as part of this application as all matters except access are reserved for subsequent consideration.
- 3.2 The proposed access is via the existing access which serves 20 Mill Road and then turns east at a 90-degree angle and runs along the frontage of 16 and 18 Mill Road in the form of a gravelled drive. Access at the site boundary would be at the southwest corner of the plot just to the rear of the drainage ditch.
- 3.3 Full plans and associated documents for this application can be found at: [F/YR22/0370/O | Erect 1 dwelling \(outline application with matters committed in respect of access\) | Land East Of Mill Road Murrow Cambridgeshire \(fenland.gov.uk\)](#)

### **4 SITE PLANNING HISTORY**

- 4.1 Adjacent site;

F/YR12/0111/F – 6 dwellings refused

F/YR13/0031/F – 5 dwellings approved

F/YR15/0845/F – 5 dwellings approved

F/YR18/0188/VOC – 5 dwellings approved

- 4.2 The decision to approve 5 dwellings in relation to F/YR13/0031/F was taken on balance and based upon policy CS.2 which at the time was policy within the emerging Core Strategy. The thrust of the criteria sought to ensure that development in villages appears as a natural extension, would not harm the character or appearance of the countryside and would not be isolated. Despite the officer report acknowledging that the site was outside the established settlement of Murrow, the application was supported on the basis that the site complied with the general principles of the emerging Core Strategy policy CS.2.

## 5 CONSULTATIONS

- 5.1 **Parson Drove Parish Council** – Object due to lack of road frontage and extension of development into the open countryside
- 5.2 **FDC Environmental Health** – No objections
- 5.3 **PCC Wildlife Officer** – Recommends a preliminary ecological survey as there is potential habitat in the near vicinity of the site which may be suitable for water voles and possibly otters.
- 5.4 **North Level Drainage Board** – *Mill Road drain forms the southern boundary of the site and therefore the Board's byelaws apply. The Board will require access to the watercourse and therefore no planting of shrubs or trees within the 9-metre corridor and any boundary fence must provide a minimum of a 12 foot gated access to the drain*
- 5.5 **Local Residents/Interested Parties**

Three letters of objection have been received from neighbouring/nearby residents (all from Mill Road) and summarised as follows:

- 5.7 The proposed development does not satisfy the conditions of LP12 Rural Areas Development Policy
- LP12A – any development in Murrow (small village) should be infill only. This site is not infill
- LP12D – As such the proposal is not in keeping with the core shape of the settlement, introducing a second layer beyond the linear features of the settlement
- The only access to the site is via the shared access from Mill Road as per the site plan provided. This will result in a 95-metre bin to collection distance across a gravelled drive which is not suitable for certain groups of people
- The proposed plans refers to a hedge facing the ditch, but this would impede the drainage board access to the ditch
- The western side of the dwelling will overlook my patio and garden (No.16)
- The access details are conflicting. The private access is for 16 and 18 and not 14 and 16 as stated
- There is conflicting information about drainage i.e., whether mains or package treatment. 16 and 18 are not connected to sewer mains
- Conflicting information about whether there is a garage or not
- The Design and Access Statement refers to policy LP2 in the context of creating the opportunity for accessible employment. There don't seem to be employment opportunities in Murrow.
- The proposal will result in the loss of valuable agricultural land.
- The proposal should be seen as the second stage of the 5 dwellings already built and thus should attract affordable housing at 20%.

- The proposal would overlook my existing bungalow (Conway) and would allow easy visibility into two bedrooms and the end patio door resulting in loss of privacy
- The proposal would overlook my garden and cast a shadow in the evening resulting in loss of privacy and light to my garden (Conway)
- The access point into the site is very close to the drainage ditch which has previously collapsed on numerous occasions
- There are discrepancies on the drawings in relation to my bungalow (Conway)
- There is extremely poor public transport in Murrow which limits access to essential services
- The proposed dwelling will overlook our master bedroom window and part of our garden which will lead to loss of privacy (No. 18)

## 5.6 Representations

The Rt Hon Stephen Barclay MP has made the following representation:  
Forwarded an objection made by a constituent (objections set out above)

Parish Councillor Fryett has raised objections on the grounds of loss of privacy to the occupier of Conway, poor access and not in keeping with the countryside

## 6 STATUTORY DUTY

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. 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 60. – Delivering a sufficient supply of homes where needed

Para 64 – Delivery of affordable homes – only for major development except in rural areas where a lower threshold of 5 dwellings might be set

Para 130 – Good design

Paragraph 130 specifically states that amongst other things, developments will function well and add to the overall quality of the area, are sympathetic to the local character and history including the surrounding built environment and landscape setting and establish or maintain a strong sense of place.

Para 174 – decisions should recognise the intrinsic character and beauty of the countryside

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

Determining a Planning Application

## **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

LP4 – Housing

LP5 – Meeting Housing Need

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

LP19 – The Natural Environment

## **7.4 FDC Delivering and Protecting High quality Environments in Fenland SPD (2014)**

## **7.5 Cambridgeshire Flood and Water SPD 2016**

## **7.6 Parson Drove Neighbourhood Plan 2020**

# **8 KEY ISSUES**

- **Principle of Development**
- **Character and Appearance**
- **Access**
- **Neighbour Amenity**
- **Biodiversity/Ecology**
- **Flood Risk**
- **Any other issues**

# **9 ASSESSMENT**

## **Principle of Development**

- 9.1 Policy LP3 of the Fenland Local Plan 2014 (the Local Plan) sets out the spatial strategy for development within the district. The majority of new development will be located at the market towns, then growth villages, limited growth villages, small villages, other villages and finally elsewhere (generally the countryside). Murrow is designated as a “small village” where development will be considered on its merits but will normally be of a very limited nature and normally limited in scale to residential infilling or a small business opportunity. Although this proposal is limited in scale, it does not constitute residential infilling but is an extension of a linear pattern of development into the countryside. As such the principle of the development at this location is contrary to policy LP3.

## **Character and Appearance**

- 9.2 Policy LP12 sets out that new development in villages will be supported where it contributes to the sustainability of that settlement and does not harm the wide-open character of the countryside. Any proposal will need to satisfy the

applicable policies of the local plan as well as criteria listed in policy LP12. Criterial (a) states that with regards to “small” or “other “villages only infill sites will normally be considered favourably. Criterial (c) states that the proposal shall not have an adverse impact upon the character and appearance of the surrounding countryside or farmland and that (d) the proposal is of a scale and in a location that is in keeping with the core shape and form of the settlement and will not adversely harm its character and appearance. Criteria (i) requires the development to not result in a loss of high-grade agricultural land unless comprehensive evidence is provided to justify the loss.

- 9.3 Policy LP 16 requires that a development makes a positive contribution towards local distinctiveness and character of an area.
- 9.4 The proposed site does not constitute an infill plot. It is set to the rear of Conway and does not have a direct frontage to Mill Road as have Nos. 16 – 22A Mill Road which are the relatively recently built dwellings adjacent. As stated above, these plots were originally approved under F/YR13/0031/F as a result of a finely balanced judgement which tipped in favour of permitting the development due to its frontage nature and linear form which was considered in keeping with the character of this part of the village. The proposed plot does not have a direct road frontage and is not positioned between developed plots but moreover to the side of No. 16 and to the rear of Conway. It would, if approved, result in development which extends out into the countryside and, as representations point out, would result in a second layer behind the existing linear pattern of development at this location. In simple terms it would result in a dwelling being placed where it does not belong as it is not in keeping with the form and pattern of development along this side of Mill Road and encroaches into the open farmland/countryside rather than being an infill plot. Although the submitted site plan is indicative, it is clear that a two-storey dwelling will have to be positioned to the rear of the IDB drainage ditch access buffer and that it will need to be sited at an angle. This would be necessary to deal with the buffer constraint and to attempt to reduce overlooking into Conway. Although siting and design are not being considered, the indicative site plan indicates that a dwelling will not likely be front facing and parallel with Mill Road, as are the adjacent properties to the west. This form of development is not acceptable in this location for these reasons and is contrary to policies LP3, LP12 and LP16 of the local plan.

### **Access**

- 9.5 Access is the only detailed matter being considered as part of this application. The vehicular access would be via that already in place to serve 20 Mill Road. There is a vehicular access that is nearer to the proposed site but is apparently not available for use as it serves No.s 16 and 18 and presumably is not deliverable to serve the proposed dwelling. As the access is already in place and the additional traffic associated with one additional dwelling will be minimal, it is considered that the proposed vehicular access would comply with policy LP 15 of the local plan.
- 9.6 The spatial strategy and hierarchy for development set out in policy LP 3 does not place Murrow as being in a particularly sustainable location as it is a small village located away from the range of facilities present in larger settlements. However, the location of the village in sustainability terms has not precluded small scale infill development from being potentially acceptable and therefore sustainable. It would therefore be difficult to argue general sustainability in terms of village location as a reason to refuse the application.

- 9.7 It is therefore considered that the proposed access to the site is acceptable and if permission were to be recommended would be subject to conditions.

### **Neighbour Amenity**

- 9.8 There are two neighbours who could potentially be affected by a dwelling in this location – the neighbouring property to the west, 16 Mill Road and Conway, the bungalow to the south. The neighbours have naturally based their comments on the indicative layout and design of a four-bedroom dwelling which has been submitted with the application. However, matters of the layout, scale and appearance of the development are not being considered as part of this proposal.
- 9.9 It is noted that the rear boundary to Conway is partially open i.e. unfenced and that there are windows and patio doors to the rear and side of this property. The side gable to No. 16 which faces the site is a blank elevation. It is also noted that the IDB has a 9-metre easement along the north bank of the drain where planting and fencing will be restricted.
- 9.10 There is potential for an adverse impact on neighbour amenity which could result in overlooking but a dwelling could be carefully designed to avoid this, however, this is not to suggest that a four-bedroom dwelling can be accommodated on the site without adversely impacting the neighbours. Had the principle of the development been considered acceptable then layout and design would have been considered in regard to neighbour amenity at the submission of reserved matters stage where it is possible that such an impact could be avoided through careful design and scale. As such, the proposal for outline planning permission is not contrary to policy LP16 of the local plan.

### **Biodiversity/Ecology**

- 9.11 The application form states that the site is not within 20 metres of a watercourse, however, this is not the case as the IDB drainage ditch runs along the southern boundary. The Council's Wildlife Officer has advised that the Fens has one of the largest water vole populations in the UK mostly due to the heavily vegetative man-made drainage ditches which are perfect habitat for them. Otters might be present too, although they prefer streams that are a little wider, however, the North Level Drain (which is wider) is only approximately 310 metres to the north.
- 9.12 The Wildlife Officer recommends that a whole preliminary ecology survey should be submitted to assess what the site might be suitable for.
- 9.13 Ecological surveys and if necessary, species surveys, are required to be carried out pre-determination. Section 40 of the Natural Environment and Rural Communities Act 2006 places a public sector duty upon local planning authorities to conserve biodiversity. Section 180 of the NPPF states that when determining planning applications local planning authorities should refuse planning permission if significant harm to biodiversity resulting from development cannot be avoided (through locating on an alternative site with less impact), adequately mitigated or as a last resort, compensated for. Such consideration requires sufficient ecological investigation to assess if there are any particular protected species present so that they can be taken into account in the consideration of the proposals.

- 9.14 Policy LP 19 of the local plan states that planning permission should be refused for development that would cause a demonstrable harm to a protected species or habitat unless the need for and public benefits of the development clearly outweigh the harm and mitigation, or compensation measures can be secured to offset the harm.
- 9.15 No ecological surveys have been undertaken and submitted with the application. It is therefore not possible, for the local planning authority to undertake its duty to conserve biodiversity due to a lack of information. The application should be refused for this reason.

### **Flood Risk**

- 9.16 The application site lies within flood zone 3 which is the area at highest risk of flooding. A Flood Risk Assessment has been submitted (on 16.06.2022) and it states that the sequential and exceptions tests will need to be applied but the development may be permitted because the site is protected against the 1 in 200 year return period tidal event and the 1 in 100 year return fluvial event and meets the requirements of the NPPF.
- 9.17 Policy LP14 Part B of the Local Plan states that the granting or refusing of planning permission will be informed by local and regional flood risk studies and guidance which are set out in the policy and any national advice in force at the time. All development proposals should adopt a sequential approach to flood risk from all forms of flooding. Development in areas known to be at risk of flooding will only be permitted following the successful completion of a sequential test where necessary and an except test if necessary; through suitable demonstration of meeting an identified need and through the submission of a site-specific flood risk assessment.
- 9.18 Paragraph 167 of the NPPF states that development should only be allowed in areas at higher risk of flooding where, if necessary, the sequential test and exceptions test have been met and then only where the proposal meets site specific criteria/standards.
- 9.19 The National Planning Practice Guidance sets out when the sequential test should be applied and by who. It states "It is for local planning authorities, taking advice from the Environment Agency as appropriate, to consider the extent to which Sequential Test considerations have been satisfied, taking into account the particular circumstances in any given case. The developer should justify with evidence to the local planning authority what area of search has been used when making the application. Ultimately the local planning authority needs to be satisfied in all cases that the proposed development would be safe and not lead to increased flood risk elsewhere."
- 9.20 The site lies within flood zone 3 which is an area at greatest risk of flooding. The proposal is not minor development in terms of applying the sequential test, therefore it must be applied to assess if the development could be directed to areas at lower risk of flooding. The applicant has provided no evidence to demonstrate that any search for areas at lower risk of flooding was made prior to making the application. The NPPF does not state that defended areas within areas at highest risk of flooding will meet the sequential test if the development can be made safe for its lifetime. Paragraph 159 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. Where development is



necessary (officer underlining) in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

- 9.21 Paragraph 163 of the NPPF sets out that the exceptions test need only be applied if the development passes the sequential test and no areas at less risk of flooding can be found. The exceptions test has two parts which are (a) that the development would provide wider sustainability benefits to the community that outweigh the flood risk: and (b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible will reduce flood risk overall. Paragraph 165 states that both elements of the exception test should be satisfied for development to be permitted.
- 9.22 In this instance the development has not passed the sequential test. The submitted FRA does not address the sequential test nor part (a) of the exceptions test but goes straight to addressing part (b) of the exceptions test. This is not in accordance with the NPPF or the National Planning Practice Guidance. As the proposal has not passed the sequential test, there is no requirement to apply the exceptions test. However, for information, it is considered that the proposal would not have passed the exceptions test as the development does not bring wider community benefits. It proposes one market dwelling which does not constitute a wider community benefit, and the local authority can demonstrate a 6.69-year housing land supply (report September 2021) and a Housing Delivery Target of 95% as of January 2022. Therefore, the proposed development is not meeting an identified need as that need is being met elsewhere.
- 9.23 The application is therefore contrary to policy LP14 Part B, paragraphs 162 to 167 of the NPPF and guidance on the sequential approach to flood risk which seek to direct development away from areas at highest risk of flooding and permit such development where both the sequential and as would be necessary in this instance, the exceptions test are met.

### **Other Issues**

- 9.24 Concerns have been raised about the distance that would be required to drag the bins to the roadside collection point. This is in the region of at least 75 metres and across a gravel drive. Whilst this is not ideal, it is not considered that in itself this is a strong enough reason to refuse the development. In other respects, the amenity that could be afforded to the occupiers of the new dwelling could be designed so as to be acceptable. Whilst it might preclude some people from wishing to buy the property, if it were permitted, it would not deter others.
- 9.25 With regards to drainage, this would have been subject to a condition requiring submission of a detailed drainage scheme with the reserved matters, had this application been recommended for approval.

## **10 CONCLUSIONS**

- 10.1 The principle of the development at this location is not acceptable. Murrow is designated as a small village under policy LP 3 of the Fenland Local Plan and normally only infill development at such locations is acceptable. In addition, the development of this site is not in keeping with the character of development at this side of Mill Road where there is a strong linear character and properties have

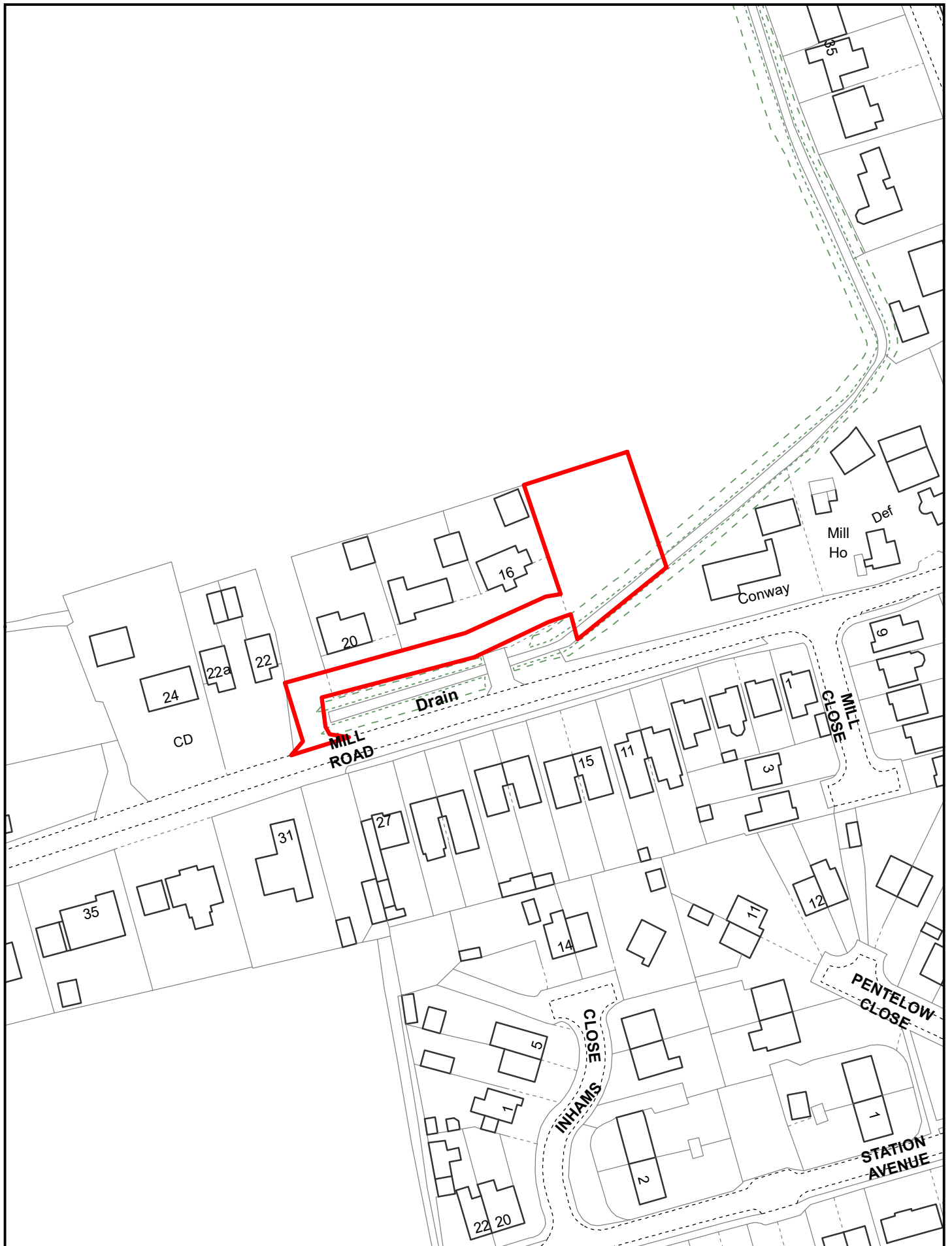
a direct road facing frontage. The proposal is therefore contrary to policies LP 3, LP 12 and LP 16 of the Fenland Local Plan

- 10.2 There is insufficient information to enable the local planning authority to assess the potential impacts of the development upon protected species and habitats contrary to the NERC Act, policy LP 19 of the Fenland Local Plan and Section 180 of the NPPF.
- 10.3 The application is contrary to policy LP14 Part B, paragraphs 162 to 167 of the NPPF and guidance on the sequential approach to flood risk which seek to direct development away from areas at highest risk of flooding and permit such development where both the sequential and as would be necessary in this instance, the exceptions test are met.
- 10.4 With regard to the planning balance, the local authority can demonstrate a 6.69 year housing land supply (report September 2021) and a Housing Delivery Target of 95% as of January 2022. Therefore, there is no applicable tilted balance in favour of the application which must be determined in accordance with the development plan and any other material considerations.

## 11 RECOMMENDATION

**Refuse;** for the following reasons:

1.	Murrow is designated as a small village within the settlement hierarchy in policy LP3 of Fenland Local Plan where normally only infill development will be permitted. The site does not constitute an infill plot and additionally development of this plot for a single dwelling would encroach into the countryside and would be out of keeping with the linear pattern of frontage development to this side of Mill Road thereby adversely harming its character and appearance. The development would fail to make a positive contribution towards the local distinctiveness and character of the area. As such the proposal is contrary to policies LP3, LP12 and LP16 of the Fenland Local Plan 2014.
2.	The site lies in close proximity to a watercourse and is not accompanied by any preliminary ecological survey and any subsequent species surveys as may be necessary. As such the local planning authority is unable to assess the impact of the proposal upon protected species and habitats as is its public duty. The application is therefore contrary to the provisions of Section 40 of the Natural Environment and Rural Communities Act 2006, Policy LP19 of the Fenland Local Plan and paragraph 180 of the NPPF.
.	The site lies within flood zone 3 which is land as the greatest risk of flooding. No evidence has been submitted as to why this site should be developed as sequentially no other more suitable land at less risk of flooding is available. As such the proposal fails the sequential test and is in conflict with Policy LP14 Part B of the Fenland Local Plan, paragraphs 162 to 167 of the NPPF and guidance on the Sequential approach to flood risk set out in the NPPG, as well as the Cambridgeshire Flood and Water SPD 2016 which seek to direct development first to areas at lowest risk of flooding.



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**F/YR22/0370/O**

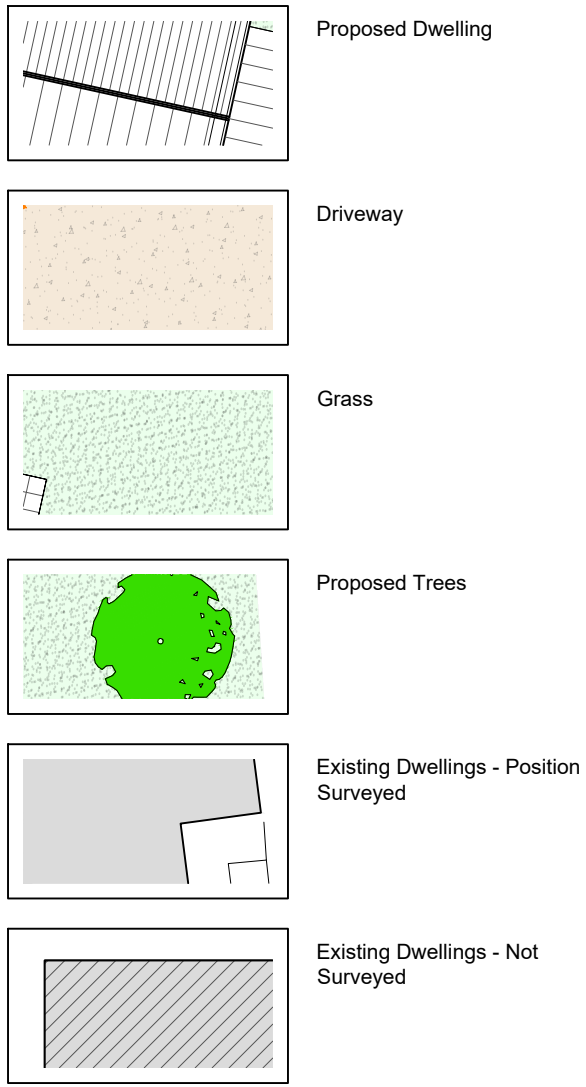
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General Notes  
1. All dimensions are shown in 'mm' unless otherwise stated.  
2. The contractor, sub-contractors and suppliers must verify all dimensions on site prior to the commencement of any work.  
3. This drawing is to be read in conjunction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

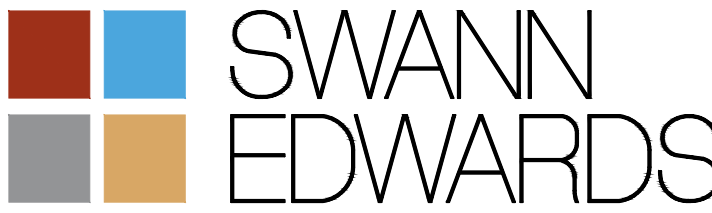
SITE PLAN KEY



Revisions		
C	Apr 2022	Note to neighbouring driveway corrected

Status

FOR COMMENT



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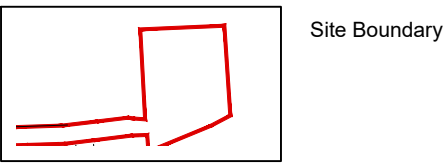
Job Title Proposed New Dwelling Land North of 11 Mill Road Murren Wisbech, Cambs	Date October 2021	Drawn by HM
	Checked by GE	
Drawing Title Planning Drawing Indicative Site Plan & Street Scene	Job No. SE1725	Sheet Size A1
	Dwg No. PP1000	Revision C



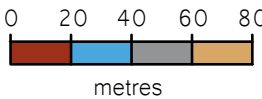


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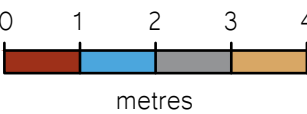
LOCATION PLAN KEY



Location Plan  
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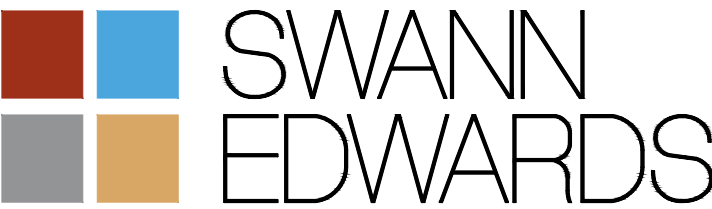


Indicative Front Elevation (S)  
Scale: 1:100



Revisions			"Conway" house shown at correct size
A	2 Apr 2022		

Status  
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Job Title Proposed New Dwelling Land North of 11 Mill Road Murrow Wisbech, Cambs	Date March 2022	Drawn by HM
		Checked by GE
Drawing Title Planning Drawing Location Plan & Indicative Front Elevation	Job No. SE1725	Sheet Size A1
	Dwg No. PP1001	Revision A