

F/YR17/1213/O

**Applicant: Mr P Davies  
Poors Allotments Charity**

**Agent : Mr Gareth Edwards  
Swann Edwards Architecture Limited**

**Land North West Of Cobble House, Gull Road, Guyhirn, Cambridgeshire**

**Erection of up to 4 dwellings (Outline application with all matters reserved)**

**Reason for Committee: Officer recommendation at variance to that of the Parish Council**

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## **1 EXECUTIVE SUMMARY**

The proposal is for up to 4 dwellings, (Outline with all matters reserved) on agricultural land on the edge of Guyhirn considered a Small Village in policy LP3 of the Fenland Local Plan. LP3 states that development in Small Villages will be considered on its merits but will normally be limited in scale to residential infilling. This proposal is for up to 4 dwellings in an area of open countryside part of a stretch of 320 metres to the east of Gull Road. It is not considered to be infill development or that of limited scale.

The applicant owns the remaining stretch of land and if approved is considered likely to lead to further development pressure. The principle of development of this site is therefore considered contrary to Policy LP3 the Council's Settlement Hierarchy and Spatial Strategy resulting in unsustainable development contrary to the golden thread that runs through the NPPF. The site has some value as open countryside. Due to the low level of the land and the raising of finished floor levels required by the Applicant's own Flood Risk Assessment, development of this land by 4 houses together with the precedent this would set for land to the north, is considered likely to result in an urbanising impact to the settlement form of the village of Guyhirn, and results in linear development leading to visual harm to the character of this part of Guyhirn and the open countryside and therefore considered contrary to Policy LP12(c d and e) and LP16(d).

The site is on land substantially lower than the existing road and is within Flood Zone 3, land at the highest risk of flooding. The applicant has submitted a sequential test however it is considered that planning permissions as yet undeveloped exist within the settlement of Guyhirn, indeed two such sites are highlighted in the sequential test submission. Therefore it is considered that the sequential test is failed and the proposal is therefore contrary to Policy LP14 of the Fenland Local Plan and the Cambridgeshire Flood and Water SPD and para 100 of the NPPF.

Whilst the lack of a 5-year land supply must be given weight it does not 'tilt the balance' to such an extent that the sustainability credentials of individual sites are no longer a consideration.

## 2 SITE DESCRIPTION

- 2.1 This application relates to a site on the eastern side of Gull Road and has an area of 0.3ha and is currently agricultural land. The site fronts Gull Road and is part of a 320 metre stretch of open countryside. The site is within flood Zone 3, an area considered to be at highest risk of flooding. The land sits down lower than the existing road. The applicants Flood Risk Assessment identifies the existing ground levels at the site are generally at minus 0.60m aOD whilst Gull Road fronting the development site varies between 1.24m and 1.50m aOD. There is therefore a significant drop in levels. The site abuts the side of Cobble House to the south. There are houses on the western side of Gull Road.

## 3 PROPOSAL

- 3.1 The application is in outline form with all matters reserved. However the applicant has included indicative details which refers to 4 bedroom properties and includes double garages with ample parking. The application includes the following supporting documents:

- o Design and Access Statement,
- o Flood Risk Assessment
- o Sequential and Exceptions Test

- 3.2 The Applicants Flood Risk Assessment refers to the following:

It is necessary to mitigate against this remote risk of flooding and floor levels have been raised 1.60m above land level to 1.00m aOD. Safe refuge will be available at first floor level.

- 3.3 Full plans and associated documents for this application are available at:

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

## 4 SITE PLANNING HISTORY

F/YR16/1181/O	Erection of up to 4 dwellings (Outline Application with all matters reserved)	Refused 20/07/2017
F/YR13/0648/F	Erection of 4no 3 bed and 8no 2 bed 2 storey dwellings with associated external works and parking on Land South East Of 6 Gull Road Guyhirn (Land edged blue on the current application).	Refused 19/12/2013

## 5 CONSULTATIONS

- 5.1 **Parish Council** - Recommend Approval
- 5.2 **FDC Scientific Officer (Land Contamination)**: 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 or the noise climate. From the information provided contaminated land is not considered an issue

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- 5.3 **Environment Agency** – Previously raised no objection to the application on flood risk grounds highlighted that this should not be taken to mean that they consider the proposal has passed the sequential test. Noted that the recommendations in terms of mitigation outlined in the FRA should be secured by condition
- 5.4 **CCC Highways** – not consulted on this scheme however previously commented that they had no highways objections to a 4 plot arrangement as detailed. They also acknowledged that a footway could be delivered within the Highway width and therefore a condition may be imposed to secure details and implementation. By constructing footways either side of the carriageway and development either side of the road it will increase the level of activity for both pedestrians and vehicular traffic within this area. Comments were also made regarding the extension of the 40 mph speed limit but following clarification of the existing speed limit in force this matter was resolved not to be an issue.
- 5.5 **North Level Drainage Board** – Previously raised no objection in principle noting that prior written consent would need to be granted by the Board for each individual plot access.
- 5.5 **Local Residents/Interested Parties:** 3 letters of objection have been received from 5 residents they may be summarised as follows:
- Agricultural land - area previously was farmed, but in the last 3 years has been left to grow wild, with occasional 'tidying' by a local farmer.
  - Density/Over development
  - Environmental and wildlife concerns, the site is a lovely wildlife area, with pairs of pheasant and ducks nesting there each year. Also, owls use the area to hunt at night.
  - Drainage and flooding - unsuitable due to the flood risk posed, Environment Agency have objected to earlier schemes on the grounds of flood risk,
  - New buildings will be raised above existing property level does this mean that flood risk will be increased to lower sited properties
  - Loss of view/Outlook/Visual Impact/Overlooking– smaller dwellings would be more appropriate and more in keeping with the area, or the same height as Cobble House
  - Raising the dwellings will result in overlooking
  - Devaluation
  - Noise and disruption during construction
  - Access, Traffic or Highways – site unsuitable due to road usage by heavy vehicles, high traffic and speeding vehicles. There have been two major crashes in the past three years on this part of Gull road. Suggestions of chicanes and other speed reducing features are only suggestions and unlikely to be introduced. The majority of properties are on the opposite side of the road and having four more access points, so near to the junction would be adding to the hazard.
  - Would set a precedent, previous and numerous attempts to obtain planning on this and adjacent land have been refused and nothing has changed.

## 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

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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 (NPPF)**

Paragraph 2: Applications must be determined in accordance with the development plan unless other material considerations indicate otherwise

Paragraph 14: Presumption in favour of sustainable development.

Paragraph 17: Seek to ensure high quality design and a good standard of amenity for all existing and future occupants.

Paragraph 47: Supply of housing

Paragraph 64: Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.

Paragraphs 100-104: Development and flood risk.

Paragraph 109: Minimising impacts on biodiversity

Paragraphs 203-206: Planning conditions and obligations.

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

Determining a planning application

Flood Risk and Coastal Change

### **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

LP14 - Managing the risk of Flooding in Fenland

LP15 - Facilitating a more Sustainable Transport Network in Fenland

LP16 - Delivering and Protecting High Quality Environments across the District

### **7.4 Cambridgeshire Flood and Water SPD**

This document gives guidance on the implementation of a Sequential and Exceptions test.

## **8 KEY ISSUES**

- **Principle of Development**
- **Five Year Housing Land Supply**
- **Character and Appearance**
- **Residential Amenity**
- **Flood risk and the sequential test**
- **Housing Need**
- **Contamination**
- **Highway Safety**
- **Health and wellbeing and residential amenity**
- **Economic Growth**
- **Sustainability**
- **Planning Balance**

**9 BACKGROUND**

- 9.1 Members considered an identical proposal at the July 2017 Planning Committee Meeting. They resolved to refuse planning permission on the grounds that the development was not small scale and failed the sequential test.
- 9.2 This resubmission highlights within the design and access statement the current deficit in 5-year housing land within the district and asserts that the proposal meets the three dimensions of sustainable development and as such should be approved.
- 9.3 The Design and Access statement also highlights that the proposal is Phase 1 of development and the income gained from the sale of the plots will facilitate Phase 2 coming forward, which the intention would be to provide smaller family houses as part of the subsequent scheme to allow for a mixed dwelling size and type.

**10 ASSESSMENT**

**Principle of Development**

- 10.1 The main policy documents which are relevant to the consideration of this application are Fenland Local Plan 2014, and the National Planning Policy Framework. The weight that should be attributed to these policies and documents are considered below. In terms of the FLP the scheme would not accord with Policy LP3 given that Guyhirn is 'small village' where development would be considered on its merits but would normally be limited in scale to residential infilling. The NPPF position would be similar as the locational disadvantages of the site in terms of the lack of facilities are such that the site could not be deemed a sustainable location. Paragraph 14 of the NPPF makes it clear that 'at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.'
- 10.2 Guyhirn as a small village had a threshold of 25 additional dwellings and has a commitment of 51 therefore far exceeding its threshold under Policy LP3 and LP12. However it is noted that the earlier scheme was supported by a Community Involvement exercise considered to accord with Policy LP12; this is absent from the current proposal. A recent appeal decision indicates that the threshold considerations and requirement for community support should not result in an otherwise acceptable scheme being refused and against this backdrop the absence of community support does not render the scheme unacceptable in planning terms.
- 10.3 This proposal is for up to 4 dwellings in a linear piece of open countryside 120 metres in length, part of a longer stretch 320 metres in total in the same ownership of the applicant; previous applications on this site and on land to the north have both been refused. The linear form of this site and its position in a large element of open countryside which is not an area of otherwise built up frontage, together with the possible likelihood of precedent of development alongside, renders this proposal in excess of that which could reasonably be considered small scale. The principle of development of this site is therefore considered contrary to the Council's Spatial Strategy, Policy LP3 and as such represents unsustainable development.

**Five Year Housing Land Supply**

- 10.4 Under the NPPF, Local Planning Authorities are required to have and to be able to demonstrate a five year supply of housing. The Council's five year land supply was recently tested on appeal in relation to a proposal for 6 dwellings on land south west of Syringa House, Upwell Road, Christchurch (reference No.F/YR16/0399/O). The Inspector in upholding this appeal and granting planning permission concluded, on the basis of the evidence presented to him, that the Council is currently unable to robustly demonstrate a five year land supply (the supply available is approximately 4.93 years).
- 10.5 The Inspector concluded that applications must be determined in accordance with the National Planning Policy Framework (NPPF). Paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of housing. Paragraph 14 states that for the purposes of determining planning applications, this means that applications for housing can only be resisted where the adverse impacts of approving a scheme would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. In considering which policies are 'relevant policies' for the supply of housing, regard needs to be had to the outcome of the decision in *Richborough Estates Partnership LLP v Cheshire East Council and Suffolk Coastal DC v Hopkins Homes Limited (2017)* which was considered in the Supreme Court.
- 10.6 In summary this decision concluded that only those local plan policies relating to housing distribution and numbers are out of date and all other local plan policies remain relevant.
- 10.7 Whilst initially in response to this appeal decision the LPA took the view that Policies LP3, LP4 and LP12 were policies that influenced the supply of housing, and as such were rendered out of date, this view has been revisited given the outcome of an appeal decision which comes after the Syringa House decision. This most recent decision in respect of 2 no dwellings at land north-east of Golden View, North Brink, Wisbech (reference No. F/YR16/1014/F) clearly highlights that whilst LP3 and LP12 may have an effect on the supply of housing they are primarily concerned with directing most forms of development, including housing, to the most sustainable locations and limited development in the countryside for its protection and on this basis neither is a policy for the supply of housing. Based on the above, there are no relevant policies which influence the supply of housing in this case

**Character and appearance**

- 10.8 LP12 includes criteria for development in villages and refers to Part A which sets development criteria for rural villages which includes the following:
- (c) It would not have an adverse impact on the character and appearance of the surrounding countryside and farmland,
  - (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 it would not harm its character and appearance.
  - (e) It would extend existing linear features of the settlement

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- 10.9 Policy LP16 (d) refers to development making a positive impact to local distinctiveness and the character of the area and amongst other things should not have an adverse impact on landscape character. It is also a core planning principle in the NPPF that recognises the intrinsic value of the countryside therefore consideration needs to be given to any harm caused.
- 10.10 The development of 4 large houses with elevated floor levels proposed (1 - 1.6 metres above ground level) in this part of open countryside is considered to harm the character and appearance of the open countryside and would result in an unacceptable urbanisation of the character of the area.
- 10.11 Whilst there are a small number of houses located on the eastern side of Gull Road there is no 'otherwise built up frontage'. The proposal would therefore extend a linear feature and would not be in keeping with the core shape and form of the settlement. The development would therefore harm the character and appearance of this part of the village.
- 10.12 The proposal is considered contrary to Policies LP12(c, d and e) and LP16(d) of the adopted Fenland Local Plan in that it results in harm to the open countryside, harms the core shape of the settlement, results in an extension of a linear feature and fails to contribute to local distinctiveness and the character of the area.

### **Health and wellbeing and residential amenity**

- 10.13 Policy LP2 and LP16(e) considers the impact of development on residential amenity. The application does not submit the details of scale or layout. However it does commit to finished floor levels of 1.0 - 1.6 metres above existing ground levels. The indicative drawing shows Plot 1 approximately 20 metres from the side of Cobble house. There is no evidence of how this would impact on external ground levels, however there must be some concern that if garden levels were raised the impact of overlooking on the garden areas of Cobble House set at a much lower level would impact on residential amenity. Whilst these would be considered at the detailed stage it may prove difficult to develop in a satisfactory form without harming the amenity of the occupiers of Cobble House.

### **Economic Growth**

- 10.14 The development is likely to result in some small economic benefit during the construction of the houses.

### **Highway Safety**

- 10.15 The Local Highway Authority raised no objection to the previous scheme and as such no highway issues are envisaged and the development of the site is considered capable of according with Policy LP15. Comments made regarding speeding are noted however there is a 40 mph speed restriction along the road frontage.

### **Flood Risk**

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- 10.16 The application is within Flood Zone 3 considered to be land at the greatest risk of flooding. The applicant has submitted a Sequential Test which notes that the only areas of land located in Guyhirn in Flood Zone 1, are already developed. The sites that are in these areas that have an approval are not of the size and number of plots that this development has especially given that this is phase 1 of a larger development. It is further highlighted that the applicant does not own any other land in the village. Details of recent approvals and the status of these sites has been provided and also an extract from a rightmove search of land within a 1 mile radius asserting that this demonstrates that there are no sequentially preferable sites.
- 10.17 The Cambridgeshire Flood and Water SPD highlights that reasonably available sites will include a site or combination of sites capable of accommodating the development; they can be larger, similarly sized or a combination of smaller sites that fall within the agreed area of search. In addition it highlights that 'reasonably available' includes sites with planning permission for the same or similar development, **but not yet developed**. The agent has highlighted a site at Gull Road that is awaiting a legal agreement for 4 dwellings and that a developer client will be constructing the dwellings, and a further planning permission for 2 no pairs of semi-detached dwellings gained by a developer who is looking to start works on site in 2018 is also listed. To this end these developments have not commenced and the sites must be considered reasonably available when applying the sequential test. Accordingly the proposal fails the sequential test and is contrary to Policy LP14 and the Cambridgeshire Flood and Water SPD and para 100 of the NPPF.
- 10.18 In terms of the exception test it is noted that a site specific flood risk assessment has been submitted to demonstrate that the site, with mitigation, is acceptable in flood risk terms. In addition the agent highlights that the development will enhance the streetscene, enhance community cohesion, sustain the existing primary school and village facilities, provide a footpath to the front of the properties and improve road safety (through dwellings being located on both sides of the road). It is also indicated that the applicant will enter into a unilateral undertaking to provide a commuted sum to the Parish towards a community project. This would accord with an earlier approval on the opposite side of the road (F/YR15/0189/F) which agreed such an approach and would satisfy the exception test.
- 10.19 Notwithstanding that the proposal addresses the exception test failure to comply with the sequential test renders the scheme contrary to both Local Plan policy LP14 and National Planning Policy.

### Sustainability

- 10.20 For the sake of completeness the scheme has also been assessed against Paragraph 7 of the NPPF. Paragraph 7 states:

*There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:*

- **an economic role** – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is



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*available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;*

● **a social role** – *supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and*

● **an environmental role** – *contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.*

10.21 In respect of this proposal the development of this site will further the sustainability objectives as follows:

**Economic:** The provision of housing, especially in light of the current deficiency in supply will contribute to the economic success of the District. It is recognised that the construction of the development would provide some employment for the duration of the work contributing to a strong responsive and competitive economy and it may also be argued that there may be some potential for increased expenditure with regard to local facilities

**Social Role:** There will be limited opportunities for community cohesion in the wider locality of the settlement given the relationship of the site to the main village. The proposal has a benefit of 4 houses towards the 5 year supply offering the opportunity for residents to settle in the locality however they will be at some distance from the main village core which in itself offers only limited services and facilities to support community cohesion. It is further acknowledged that the development of this site may serve to sustain some local facilities and bring with it community benefits in terms of additional pupils for the school, an enhanced footpath network and improvements to highway safety.

**Environmental:** It is considered that the proposal will result in an unacceptable incursion into the open countryside rather than small scale infilling. This will result in the loss of the open character of the site and the urbanisation of the area. In addition the site is within an area of high flood risk and as such there are environmental consequences of the development proposal.

### Planning Balance

10.22 As indicated above the scheme has no sustainability credentials over and above a limited economic benefit during the construction phase in terms of goods and services and in terms of sustaining village services and facilities. Its social credentials whilst positive are not so convincing as to overcome the significant concerns highlighted with regard to flood risk and the character of the area and to this end the tilted balance afforded by the lack of housing land supply whilst giving some further weight to the case for supporting this scheme does not tilt it to an extent where the balance renders the scheme acceptable.

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10.23 There is a direct correlation between the aims of the FLP and a clear planning argument to continue to resist this development as unsustainable. Whilst the scheme will deliver 4 additional dwellings and will therefore contribute in part to addressing the 5-year land supply deficit the weight which can be given to this is not so convincing as to override the environmental sustainability shortcomings of the proposal.

### **11 CONCLUSIONS:**

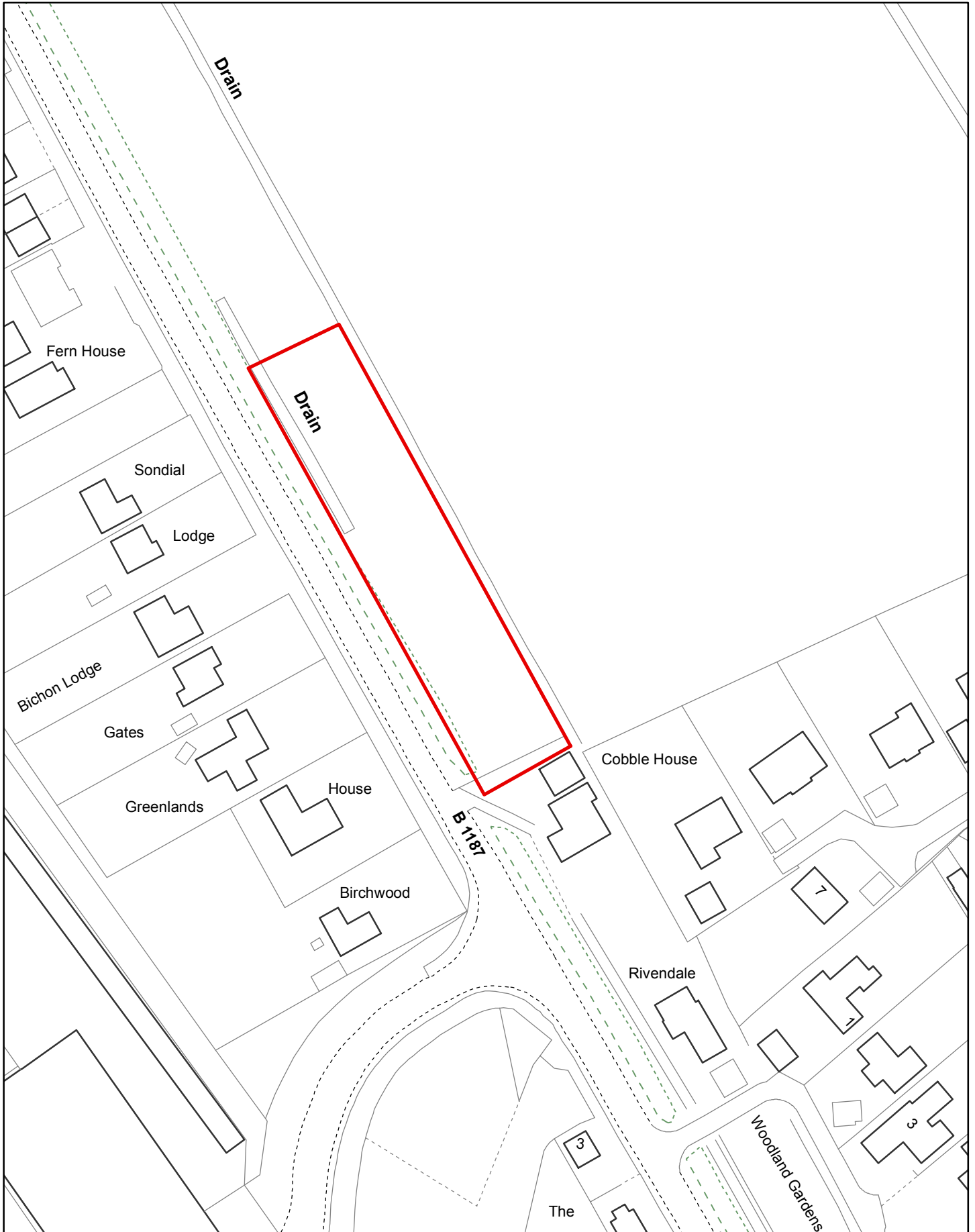
11.1 There are no objections in highway safety terms. The site is capable of accommodating a layout of 4 dwellings. However some concerns may exist regarding the ground levels. However the proposal is considered to be contrary to the Council's Spatial Strategy failing to be a small or infill site, and it also results in the development of the open countryside resulting in harm to the character of the village. The proposal is therefore contrary to the Council's Spatial Strategy, Policy LP3, LP12(c, d and e) and LP16(d) of the adopted Fenland Local Plan

11.2 The application is also considered to fail the sequential test as other sites exist that are reasonably available within the Settlement of Guyhirn that are sequentially preferable. The proposal is therefore considered contrary to Policy LP14 of the Fenland Local Plan (2014) and paragraph 100 of the National Planning Policy Framework.

### **12 RECOMMENDATION**

#### **Refuse**

- 1 The application site constitutes part of a considerable gap between built forms where the open countryside meets the village. The development proposal would result in an incursion into the open countryside rather than small scale infilling and would result in the loss of the open character of the site and the urbanization of the area. Therefore the proposal is considered to be contrary to Policies LP3 the Spatial Strategy and Settlement Hierarchy Policy LP3, LP12(c, d and e) and LP16(d) of the adopted Fenland Local Plan (Adopted May 2014) and as such represents unsustainable development contrary to the aims and objectives of the NPPF.
- 2 Policy LP14 of the Fenland Local Plan (2014) and paragraph 100 of the National Planning Policy Framework 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 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. The application has failed to demonstrate there are no reasonably available sites in sequentially preferable locations available to meet the need of the development. Therefore the sequential test is considered to be contrary to paragraph 100 of NPPF, and Policy LP14 of the Fenland Local Plan (2014) and guidance in the adopted Cambridgeshire Flood and Water Supplementary Planning Document.



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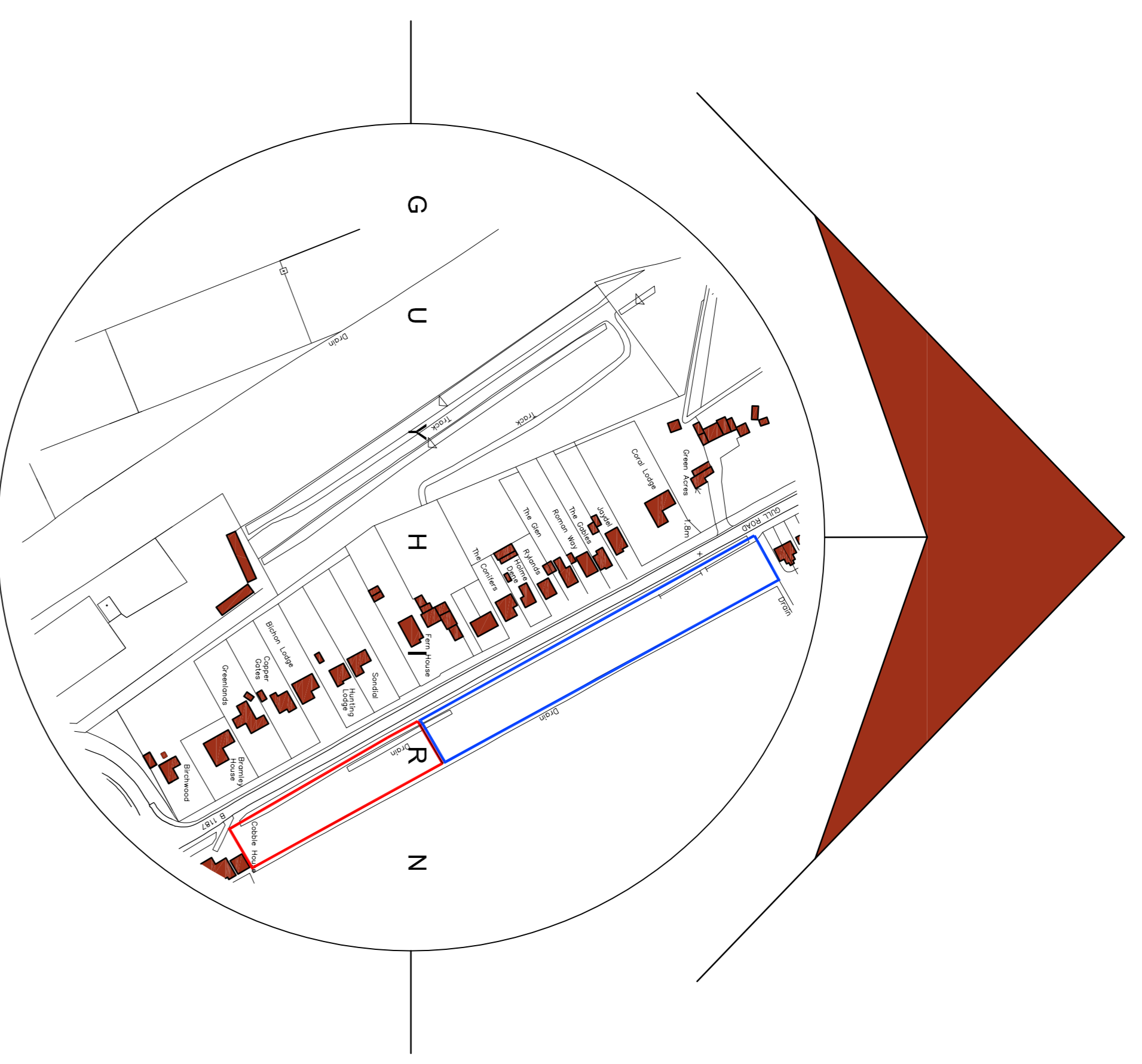
**F/YR17/1213/O**

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**General Notes**

1. This drawing shall not be scaled, figured dimensions only to be used.
2. All dimensions are shown in feet, unless otherwise stated.
3. Dimensions are shown in metres, unless otherwise stated.
4. This drawing is to be read in conjunction with all relevant engineers and specialist sub-contractors drawings and specifications.
5. Any discrepancies are to be brought to the designer's attention.

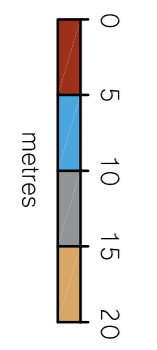


**Location Plan**  
Scale: 1:2500

**SITE PLAN KEY**

	Indicates 1.8m dashed boarded fencing
	Indicates existing structures taken from O.S. map
	Indicates site access points
	Indicates existing water courses
	Indicates proposed dwelling
	Indicates proposed trees to be a maple, mountain ash and whitebeam
	Indicates parking spaces and turning areas

**Indicative Site Plan**  
Scale: 1:500



**SWANN EDWARDS ARCHITECTURE**

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Job Title	Scale
Proposed Residential Development	As Shown
Land At Gill Road, Guyhirn	Sheet Size
Wisbech, Cambs	2017
for Poores Allotment Charity	Revision
	AT
Drawings Title	Job No.
Planning Drawing	SE-344
Site & Location Plan	Orig No.
	20