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**F/YR24/0085/O**

**Applicant: Mr V Salisbury**

**Agent : Mr R Papworth  
Morton & Hall Consulting Ltd**

**Land South Of 19, Blackmill Road, Chatteris, Cambridgeshire**

**Erect up to 5 x dwellings (outline application with matters committed in respect of access) with highway works**

**Officer recommendation: Refuse**

**Reason for Committee: Number of representations received contrary to officer recommendation**

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## **1 EXECUTIVE SUMMARY**

- 1.1 The site comprises 0.63Ha of agricultural land located at the southern end of Chatteris, south of Blackmill Road in an area of open countryside
- 1.2 The application seeks outline planning permission for the residential development of the site for up to 5 dwellings, with access committed.
- 1.3 The proposal would result in an unacceptable conflict between motor vehicle users and pedestrians along Blackmill Road, resulting in increased risk to the safety of pedestrians. This is contrary to policy LP15 of the Fenland Local Plan and paragraphs 108 and 110 of the NPPF
- 1.4 Furthermore, the site is located in a mineral safeguarding zone, without any identifiable overriding needs for the development that would justify the development within the safeguarding area. The proposal is therefore contrary to Policy 5 of the Minerals and Waste Local Plan.
- 1.5 The recommendation is to refuse the application.

## **2 SITE DESCRIPTION**

- 2.1 The application site is located to the south of Blackmill Road, an unmetalled public byway open to all traffic, in the town of Chatteris. The parcels of land immediately to the north and west of the application site comprise of 2 residential dwellings, albeit with planning permissions in place for 2no. further dwellings. The land to the east of the site has outline planning permission granted for up to 50 units to be accessed via Fairbarn Way to the east.
- 2.2 The site as existing is currently an undeveloped, agricultural field with no apparent boundary screening features.

### 3 PROPOSAL

- 3.1 The proposal seeks outline planning permission with all matters reserved, except for access, for the erection of up to 5no. dwellings with highway improvements.
- 3.2 The highway works proposed comprise the creation of 2no. passing places along Blackmill Road.
- 3.3 As the application is in outline form only, no detailed designs have been provided. However, the application is supported by an indicative layout showing a linear development on a cul-de-sac, set behind the existing frontage development.
- 3.4 Full plans and associated documents for this application can be found at: <https://www.publicaccess.fenland.gov.uk/publicaccess/>

### 4 SITE PLANNING HISTORY

F/YR21/0833/O	Erect up to 6 x dwellings (outline application with matters committed in respect of access)	Refused 02.12.2021
F/YR16/1000/F	Erection of a 2-storey, 4-bed workplace home and storage shed for office/horticultural use	Refused 25.05.2017 Appeal Dismissed 06.12.2017 (APP/D0515/W/17/3180740)
F/YR16/0469/F	Erection of a 2-storey, 4-bed dwelling and a workshop with B1, B2 or B8 use	Refused 03.08.2016

### 5 CONSULTATIONS (summarised)

#### 5.1 Chatteris Town Council (comments received; 07.02.2024, 01.08.2024, 25.09.2024)

Object on following grounds:

- Inadequate access arrangements
- Insufficient land to accommodate highway improvements
- Extra traffic impact on Blackmill Drove
- Overdevelopment in the countryside
- Potential flooding problems

#### 5.2 Councillor Hay (comments received; 05.02.2024, 10.09.2024)

Object on following grounds:

- Increase of 20 vehicles
- Increased risk for pedestrians and dog walkers
- The Drove is not wide enough for more than 1 vehicle
- It is believed that at least 1 of the houses will be in full sight from the drove

#### 5.3 Environmental Health Team (comments received; 16.02.2024, 12.09.2024)

No objection subject to conditions

#### 5.4 Definitive Map Team (comments received; 22.02.2024, 18.09.2024, 30.10.2024)

Object on following grounds:

- Increased traffic from development and narrowness of byway may cause safety issue and lead to significant erosion of byway surface.
- Although the application refers to the inclusion of passing places on Byway 22, Chatteris, as a Public Byway, the public have the right to pass and repass along the whole route on foot, bicycle, horse, horse-drawn carriage and motorised vehicles, including agricultural vehicles.
- There is no legally defined and recorded width for this byway, and we are not able to advise what it would be. As the dimensions are not known, we cannot guarantee that the applicant would be able to improve and widen the byway to secure a standard that may be required by the Local Planning Authority. The applicant therefore would proceed with any development that might affect the highway at their own risk.
- Any change to surface of any part of the byway would need to be authorised by The County Council. Further details and request form can be found at: Rights of way - Cambridgeshire County Council
- Any changes to the surface of the byway would require a legal width to be established, this is done via a Definitive Map Modification Order, information for which can be found here: <https://www.cambridgeshire.gov.uk/asset-library/DMMO-Guidance-Notes-September-2021.pdf>
- Maintains concerns raised under previous application (F/YR21/0833/O)

#### 5.5 Minerals and Waste Team 9 comments received 29.02.2024,

Object on following grounds:

- The site lies within a Sand and Gravel Mineral Safeguarding Area relevant to Policy 5 of the MWLP 2021. This policy seeks to prevent mineral resources of local and/or national importance being needlessly sterilised.
- Policy 5. criterion (I), states that:  
*“development will only be permitted where it has been demonstrated that there is an overriding need for the development (where prior extraction is not feasible)..”*
- It is not considered that any criteria for compliance with Policy 5 have been met.

#### 5.6 Cambridgeshire CC Highways (comments received 13.03.2024, 29.10.2024, 04.11.2024)

*[Latest comments 04.11.2024]*

*Following a review of the documents provided to the Highway Authority as part of the above planning application, the Highway Authority requests that the application be refused on grounds of deliverability.*

*To reiterate, and whilst there is no submitted forecast of vehicle movements from the proposed dwellings and it is clearly accepted that the byway is currently utilised by a number of pedestrians throughout the day, the modest increase in peak hour vehicle trips arising from the development would not result in a detrimental impact on safety grounds such that an objection from the highway authority could not be substantiated solely on the grounds of highway safety.*

*It should be clearly understood however that the acceptance of the proposed development on highway grounds is contingent upon the provision of the widening works (the ‘mitigation works’) to the public byway in the form of 2 no. passing*

*places which are necessary to enable vehicles to pass other users of the byway and make the development acceptable in highway safety terms.*

*As noted by the Definitive Map officer, the necessary highway mitigation works are reliant upon the alteration and widening works to Byway 22. In this respect, the width of byway has not been legally defined or recorded (by means of a Definitive Map Modification Order (DMMO)), and therefore the Local Highway Authority cannot confirm that the works are deliverable within the highway extent.*

*Notwithstanding the above, the proposed mitigation works are unlikely to be achievable solely within the defined by width of the byway (to be determined by DMMO) with due regard to the existing ditches/ drains either side of the carriageway. These drainage features unlikely to form part of the public highway but will lie within the riparian ownership of the adjacent frontage properties.*

*Accordingly, to construct the mitigation works the riparian ditches at those locations would be required to be piped/ infilled, such land being under the ownership of the adjacent properties. Construction of the mitigation works would therefore be reliant upon third party land, and in this respect, it is considered that the scheme is undeliverable on the basis of the information currently available.*

*In summary therefore, whilst the proposed development is acceptable in safety terms in conjunction with the proposed off-site mitigation works, it is unclear if the necessary mitigation work can be delivered within land under the applicant's control and the adjoining public highway.*

*Accordingly, the Local Highway Authority objects to the proposed development until such time as this width of the byway has been appropriately determined via a Definitive Map Modification Order and the ownership boundaries are clearly understood to ensure that access the mitigation works are deliverable.*

## **5.7 Local Residents/Interested Parties**

### **Objectors**

7 letters of objection were received from residents of Chatteris, raising the following points:

- Danger to pedestrians, horses and horse riders (including those with carriages)
- Loss of wildlife and green space
- Loss of privacy to existing dwellings
- Road not wide enough to accommodate two-way traffic

### **Supporters**

10 letters of support were received from residents of Chatteris, raising the following points:

- Evidence of need for such properties
- Not experienced congestion
- Highway Improvements required
- Houses will be sympathetic to existing surroundings
- Development would enhance the area
- Planning permission granted on surrounding parcels of land

## **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) the Cambridgeshire and Peterborough Minerals and Waste Local Plan (2021).

## **7 POLICY FRAMEWORK**

### **7.1 National Planning Policy Framework (NPPF)**

Chapter 2 - Achieving sustainable development  
Chapter 4 – Decision-making  
Chapter 5 – Delivering a sufficient supply of homes  
Chapter 9 – Promoting sustainable transport  
Chapter 11 – Making effective use of land  
Chapter 12 – Achieving well-designed and beautiful places

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

Determining a Planning Application

### **7.3 National Design Guide 2021**

Context  
Identity  
Built Form  
Movement  
Homes and Buildings

### **7.4 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  
LP10 – Chatteris  
LP13 – Supporting and Managing the Impact of a Growing District  
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

### **7.5 Cambridgeshire and Peterborough Minerals and Waste Local Plan 2021**

Policy 5 - Mineral Safeguarding Areas  
Policy 10 - Waste Management Areas (WMAs)  
Policy 14 - Waste management needs arising from residential and commercial Development  
Policy 16: -Consultation Areas (CAS)

### **7.6 Delivering and Protecting High Quality Environments in Fenland SPD 2014**

DM3 – Making a Positive Contribution to Local Distinctiveness and character of the Area

## 7.7 **Emerging Local Plan**

The Draft Fenland Local Plan (2022) was published for consultation between 25th August 2022 and 19 October 2022, all comments received will be reviewed and any changes arising from the consultation will be made to the draft Local Plan. Given the very early stage which the Plan is therefore at, it is considered, in accordance with Paragraph 48 of the NPPF, that the policies of this should carry extremely limited weight in decision making. Of relevance to this application are policies:

LP1: Settlement Hierarchy

LP2: Spatial Strategy for the Location of Residential Development

LP5: Health and Wellbeing

LP7: Design

LP8: Amenity Provision

LP12: Meeting Housing Needs

LP13: Custom and Self Build

LP20: Accessibility and Transport

LP22: Parking Provision

LP27: Trees and Planting

LP28: Landscape

LP32: Flood and Water Management

LP46: Residential site allocations in Chatteris

## 8 **KEY ISSUES**

- **Principle of Development**
- **Access and Highways**
- **Character and appearance impact**
- **Residential amenity**
- **Biodiversity and ecology**
- **Drainage and flood risk**
- **Minerals and Waste**
- **Biodiversity Net Gain (BNG)**

## 9 **BACKGROUND**

- 9.1 The application site has previously been subject to a total of three applications, all seeking residential development. Two applications were submitted in 2016 for the erection of a residential dwelling along with an outbuilding, the second of which was appealed and subsequently dismissed by the Inspectorate.
- 9.2 In 2021, a new application was submitted which sought outline planning permission for the erection of 6 dwellings, which was also refused.
- 9.3 The current application seeks permission for a smaller residential development consisting of 5 dwellings.

## 10 ASSESSMENT

### Principle of Development

- 10.1 The proposal seeks outline planning permission, with only access committed, for the erection of up to 5no. residential dwellings on land south of Blackmill Road in Chatteris.
- 10.2 Previous planning application refusals and subsequent appeals have considered the site to lie within open countryside rather than within the built settlement. On the basis of this conclusion, the site would be identified as an 'Elsewhere' location by Policy LP3, whereby development is generally sought to be restricted to that which is essential, most commonly related to a rural-based enterprise.
- 10.3 However, application F/YR21/0833/O was considered by the planning committee in 2021, whereby the officer recommendation was for refusal on the following grounds;
- 1. The application site would rely on access via a Public Byway Open to All Traffic, No. 22 ('BOAT') which is unmetalled, unlit and restricted in width. The development would therefore result in an increase in unmitigated conflicts between vehicles and pedestrians, cyclists and equestrian users. Furthermore, due to the nature of the road, this would restrict the occupancy of the development to those more mobile and/ or would place a greater reliance on private motor vehicle to access the most basic services of the settlement.*
- The proposal therefore conflicts with policy LP15 of the Fenland Local Plan and paragraphs 108 and 110 of the NPPF which seeks to achieve safe and effective access and encourage sustainable modes of travel.*
- 2. The application site constitutes an area of open countryside and the development would result in a small pocket of piecemeal development which extends incongruously into the open countryside, resulting in the loss of open character and the urbanisation of the area, thereby causing unwarranted harm to the character and appearance of the area.*
- The proposal is therefore considered to be contrary to Policies LP3 and LP16(d) of the adopted Fenland Local Plan (2014), Policy DM3 of the Fenland District Council Supplementary Planning Document: Delivering and Protecting High Quality Environments in Fenland (2014) and paragraph 130 of the NPPF.*
- 10.4 The application was ultimately refused only the grounds only of access issues (refusal reason 1, above), with the Planning Committee expressing the view that the site fell within the settlement of Chatteris.
- 10.5 Given this, it would not be reasonable to revisit the point of principle in respect of the spatial location of the site and it is therefore recommended to conclude that the site lies within the settlement of Chatteris and therefore that the principle of the development is acceptable having regard to Local Plan policy LP3.

## **Access and Highways**

- 10.6 At the time of the previous application, the site was to be served via a 5m wide access, which was considered to be acceptable in principle, subject to delivery. Notwithstanding this, there is ongoing concern regarding the quality and uncertainty over the legal width of Blackmill Road and its ability to accommodate any increase in traffic movements, particularly its ability to accommodate two-way traffic.
- 10.7 In light of this, the current proposals include off-site works along Blackmill Road through the creation of passing places. The highway authority has confirmed that the proposed scheme of works would be necessary and sufficient to alleviate concerns in highway safety terms. Notwithstanding this, the definitive maps team have advised, as per the previous application, that there is no defined legal width for Chatteris Byway no.22.
- 10.8 As such, it remains unknown whether there is sufficient width to carry out the scheme of works. On this basis, it has not been sufficiently demonstrated that the highway improvement scheme is deliverable and subsequently the scheme cannot be considered acceptable in highway safety terms on this basis. The proposal has received objections from both the Local Highway Authority and the Definitive Mapping Team in this regard.
- 10.9 The proposals are therefore considered to be in conflict with Policy LP15 of the Fenland Local Plan – particularly criterion B) and C) which seeks to prioritise pedestrian and other non-car modes of travel – and paragraph 114-116 of the NPPF (2023). This conclusion is consistent with those of the previously refused application and there are no material considerations to indicate an alternative view can be formed.

## **Character and appearance impact**

- 10.10 The site is set back from the highway and is set behind existing properties that front onto Blackmill Road. When viewed aerially, the treatments along the rear boundary of these existing properties present a clear distinction between the urban development and open countryside. As such, development further south beyond this point will result in a degree of encroachment into what is currently undeveloped countryside.
- 10.11 However, it is considered that the visual impact and degree of encroachment will be greatly reduced by virtue of the development approved on the adjacent site to the west for 50no. units.
- 10.12 It is further of note that the character and landscape impacts could be mitigated and reduced through sensitive boundary treatments and landscaping schemes to ensure that the wider landscape is not unduly harmed.
- 10.13 Therefore, it is considered on balance that the character and appearance impact of the development is acceptable in principle, subject to a suitably designed scheme being submitted at Reserved Matters stage.

## **Residential Amenity**

- 10.14 With matters of scale, layout and appearance not committed, it is not possible to assess whether the scheme would likely cause harm to residential amenity e.g. through overlooking, loss of outlook or overbearing impacts. However, when



considering the submitted indicative layout submitted, it is considered that the site is capable of accommodating the proposed development whilst retaining sufficient separation distances to limit the risk of undue amenity impacts on existing properties.

### **Biodiversity and Ecology**

- 10.15 The site itself comprises solely agricultural land, set on the fringe of a large field. Within the site, there are few features which would indicate the presence of protected habitats. There are, however, mature trees and hedgerow along the northern boundary and the indicative layout indicates that new shrubs are proposed, behind a 1.8m high fence. It is possible that a number of trees and shrubs along the northern boundary will need to be removed to accommodate the development and the impacts on biodiversity of doing so are unknown.
- 10.16 As such, it would be necessary for the full biodiversity implications of the detailed design at Reserved Matters stage. It does appear likely that less intrusive options are possible through the reconfiguration of the site at Reserved Matters stage, and with the possibilities of incorporating enhancement measures across the development.
- 10.17 In this regard, at this stage it would be unreasonable to refuse the application on grounds of biodiversity harm, although a better understanding of constraints and opportunities would need to be addressed through future reserved matters submission in accordance with FLP policies LP16(b) and LP19, should the Outline application be approved.

### **Flood Risk and Drainage**

- 10.18 Concerns have been raised over potential flooding as a result of the development. The site and existing properties in the vicinity lie in flood zone 1, but the EA surface water flooding maps indicates that there may be low to medium risk of surface water flood risk on parts of the site.
- 10.19 Whilst no specific detail has been provided at this stage, matters of drainage method could be appropriate secured via planning condition. In respect of drainage, the development would also fall under Building Regulations control, whereby a satisfactory means of foul and surface water drainage would need to be demonstrated and delivered before the development could be occupied.
- 10.20 It is overall not considered that the proposal would give rise to any concerns that could not be sufficiently addressed at Reserved Matters stage in respect of flood risk and drainage, having regard to the aims and objectives of policies LP14 and LP16(m) of the Fenland Local Plan.

### **Minerals and Waste**

- 10.21 Comments have been received on the application from Cambridgeshire County Council Planning, Minerals and Waste Team. It has been highlighted that the site is located within a Mineral Safeguarding Area (MSA), which means that Policy 5 of the Minerals and Waste Local Plan are a material consideration.
- 10.22 Criterion (a)-(h) offers a list of exceptions to the application of this policy, none of which are considered to apply in this instance. As such, developments within MSA's will only be permitted where it can be demonstrated that:

- The mineral can be extracted where practicable prior to development taking place; or
- The mineral concerned is demonstrated to not be of current or future value; or
- The development will not prejudice future extraction of the mineral; or
- There is an overriding need for the development (where prior extraction is not feasible).

10.23 In this instance, and given the Council's ability to demonstrate a sufficient supply of housing delivery, it is not considered that there are any identifiable overriding needs for the development that would justify support of the scheme having regard to Policy 5 of the Mineral and Waste Local Plan. Therefore, the proposal is in conflict with this policy and not supported on this basis.

### **Biodiversity Net Gain (BNG)**

10.24 The Environment Act 2021 requires development proposals to deliver a net gain in biodiversity following a mitigation hierarchy which is focused on avoiding ecological harm over minimising, rectifying, reducing and then off-setting. This approach accords with Local Plan policies LP16 and LP19 which outlines a primary objective for biodiversity to be conserved or enhanced and provides for the protection of Protected Species, Priority Species and Priority Habitat.

10.25 There are statutory exemptions, transitional arrangements and requirements relating to irreplaceable habitat which mean that the biodiversity gain condition does not always apply. In this instance, one or more of the exemptions / transitional arrangements are considered to apply and a Biodiversity Gain Condition is not required to be approved before development is begun because the application was submitted prior to the requirement for statutory net gain coming into force.

## **11 CONCLUSIONS**

- 11.1 It is acknowledged that the proposal would make a modest contribution towards economic growth, both during the construction phase and in the longer term through assisting the local economy e.g. local services/facilities, thereby helping to sustain the town of Chatteris and the wider district and would make a modest contribution towards the district's housing stock. This also has social benefits.
- 11.2 It is however considered that the proposal would result in harm due to an increased conflict between users of motor vehicles and pedestrians using the byway, with inadequate passing provision – notwithstanding the proposed off-site highway improvements – to enable to safe and free flow of traffic.
- 11.3 It is additionally noted that the proposals conflict with the Cambridgeshire and Peterborough Waste and Minerals Local Plan by virtue of its location in an MSA, with no applicable exception or justification to depart from this. As such, the proposal also conflicts with the Waste and Minerals Local Plan.
- 11.4 The proposal fails to accord with relevant policies of the development plan and is considered to comprise unsustainable development. The Local Planning Authority is required in law to determine planning applications in accordance with the Development Plan unless material planning considerations indicate otherwise. Officers consider that there are no material considerations that have been

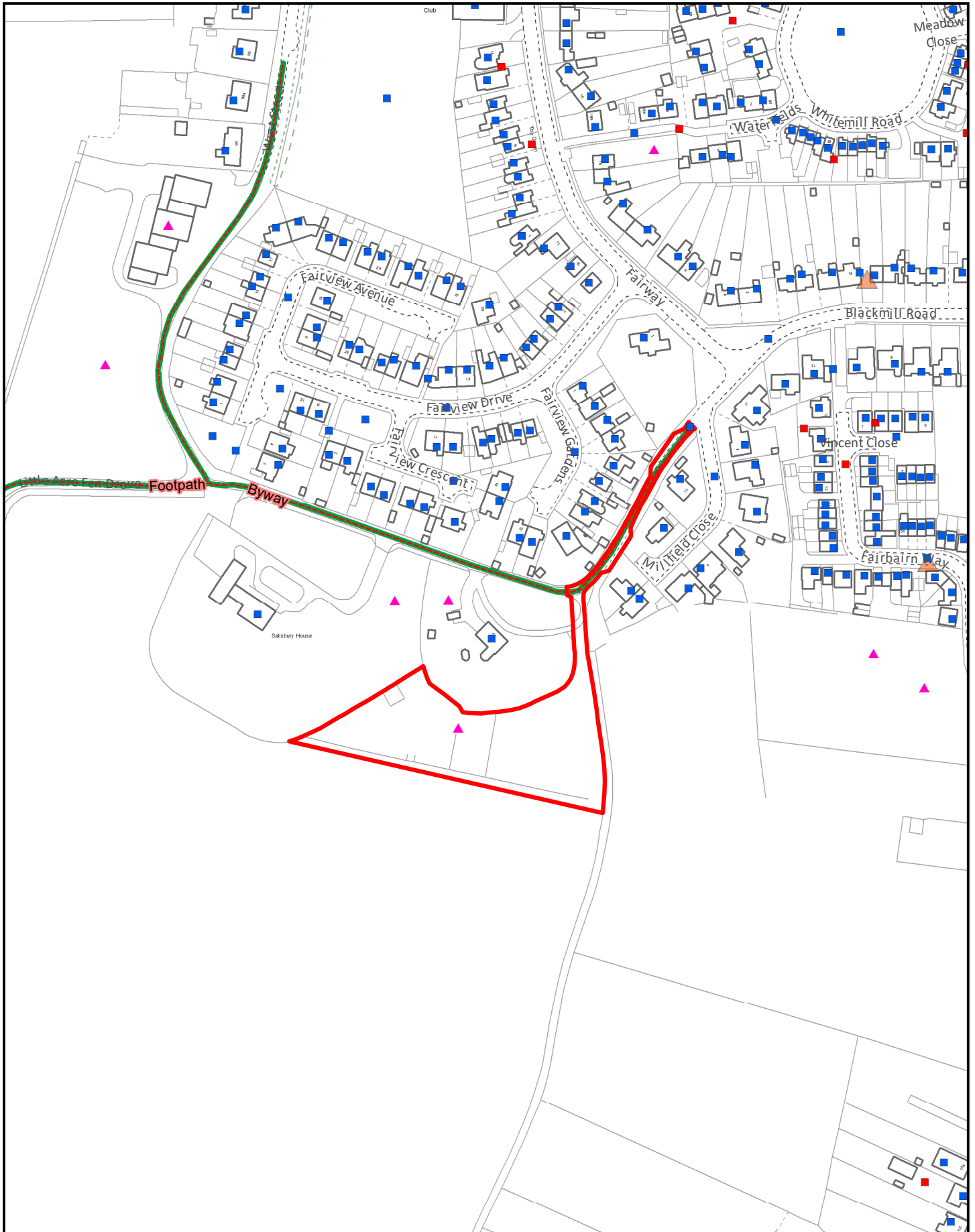
presented to indicate that an approval of the application would be justified in this instance.

11.5 Therefore, Officers recommend that the application is refused.

## **12 RECOMMENDATION**

12.1 **Refuse**; for the following reasons:

1. The application site would rely on access via a Public Byway Open to All Traffic, No. 22 ('BOAT') which is unmetalled, unlit and restricted in width. There is also no defined legal width of the byway, meaning that it cannot be confirmed that the scheme of off-site works is deliverable to render the scheme acceptable in highway terms. Furthermore, due to the nature of the road, this would restrict the occupancy of the development to those more mobile and/ or would place a greater reliance on private motor vehicle to access the most basic services of the settlement. The proposal therefore conflicts with policy LP15 of the Fenland Local Plan and paragraphs 108 and 110 of the NPPF which seeks to achieve safe and effective access and encourage sustainable modes of travel.
2. The application site is located within a mineral safeguarding area. It is not considered that there are any identifiable overriding needs for the development that would justify the development within the safeguarding area. The proposal is therefore contrary to Policy 5 of the Minerals and Waste Local Plan.



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**F/YR24/0085/O**

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 Contractor to check all dimensions on site before work starts or materials are ordered. Do not scale, if in doubt ask. All dimensions are in mm unless stated otherwise.  
 Where materials, products and workmanship are not fully specified they are to be of the standard appropriate to the work and suitable for the purpose stated in or reasonably to be inferred from the drawings and specification. All work to be in accordance with good building practice and BS 8000 to the extent that the recommendations define the quality of the finished work. Materials products and workmanship to comply with all British Standards and ECR standards with, where appropriate, BS or EC marks.  
 All products and materials to be handled, stored, prepared and used or fixed in accordance with the manufacturers current recommendations.  
 The contractor is to arrange inspections of the works by the BCU (or MHC) as required by the Building Regulations and is to obtain completion certificate and forward to the Engineer.

REVISIONS		DATE
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Proposed Block Plan With Indicative Layout		
Name: R.Pogworth	Date of Issue:	
Date: Dec 2023	Sheet Number:	
Scale: As Shown	H9186/102	

