
F/YR18/0888/O

Applicant: Mr & Mrs C Burton

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

Land North Of Tewinbury House, Mill Lane, Newton-In-The-Isle, Cambridgeshire

Erection of up to 4 x dwellings involving the formation of 3 x accesses (outline application with matters committed in respect of access)

Reason for Committee: 6 or more representations have been received contrary to officer recommendation.

1 EXECUTIVE SUMMARY

This application seeks outline planning permission for the erection of four detached houses each with a detached garage and the formation of three accesses directly off Mill Lane. Policy LP3 of the Fenland Local Plan 2014 sets out a settlement hierarchy which seeks to steer new development to those larger places that offer the best range of services and facilities. Newton is identified 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.

Newton has a particularly limited range of services comprising a post office service one day a week between the times of 10.30 – 12.30 and a village hall. There are no shops in Newton or any other community facilities and a very limited bus service. Therefore Newton is considered to be a particularly unsustainable location.

The erection of four detached houses with detached garages, the formation of new accesses off Mill Lane and the enclosure of the land will result in the loss of a particularly open area of land along Mill Lane. The application site together with the adjoining fields, provides a contribution to the visual quality and the openness of this part of Mill Lane and makes a positive contribution to the character and appearance of the area which would largely be lost by the development and would urbanise the open and undeveloped nature of the site.

The development site would be particularly prominent in this location and visible from a number of vantage points and it is therefore considered that the introduction of these four dwellings and other domestic paraphernalia would adversely harm the undeveloped and open character of the site which contributes to the open rural character of the area.

The site is not served by any safe access provision i.e. a pedestrian footpath, and the dwellings will be located directly off a single track road where the national speed limit applies. There are very few street lights along this road and therefore pedestrian access will be compromised.

It is concluded that the development would result in a harmful effect on the character and appearance of the area contrary to the overall design aims of Policy LP12 which

seeks to ensure that development will not have an adverse impact on the character and appearance of the area and surrounding countryside.

Newton has exceeded its threshold numbers with 33 committed/built since April 2011 and this, coupled with the site located within Flood Zone 3, demonstrates that there is no additional need in Newton and the Local Planning Authority can currently show it has a 5 year land supply.

2 SITE DESCRIPTION

- 2.1 The site is grade 3 agricultural land located on the western side of Mill Lane, Newton. It forms a gap between Woodlands and Tewinbury House. As Mill Lane leaves the village it heads south and is characterised by sporadic development of single houses and farm buildings. Mill Lane (a single track road) relates more to the open countryside than the settlement and is particularly rural in its character and nature with grass verges meeting agricultural land on each side.

The site is bounded to the north and south by fencing/ hedging associated with the two neighbouring dwellings. The site is of a rectangular shape with a site area of approximately 0.3 ha. To the east and west of the site is further agricultural land. The site lies within Flood Zone 3.

3 PROPOSAL

- 3.1 The proposal is in outline with all matters reserved except access, for four detached 2 storey dwellings each with detached garages and the formation of three new accesses to be formed off Mill Lane. A Flood Risk Assessment has been submitted but a sequential test and exception test has not been included.

Full plans and associated documents for this application can be found at:

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

4 SITE PLANNING HISTORY

F/YR18/0085/O	Erection of up to 4 dwellings involving the formation of 3 accesses	Refused 19.4.18
F/YR04/4097/O	Erection of a dwelling	Withdrawn 2.2.05

5 CONSULTATIONS

- 5.1 **Newton Parish Council:** *At our Parish Council meeting on Monday 22 October the comments put forward by the majority of the Councillors was that the building of the four dwellings on land north of Tewinbury House, Mill Lane, would set a precedence for future development in Mill Lane, Newton in the Isle, it was also considered to be outside the village envelope.*

- 5.2 **Cambridgeshire County Council Highways Authority:** *A 4 dwelling development will cumulatively generate enough pedestrian trips to justify having access to a footway that connects to the existing footways within Newton. Mill lane is single track, and subject to national speed limit. In the absence of any footway provision I question whether the development can be considered as sustainable and policy compliant. Should the applicant be willing to deliver a footway, I am not sure if one could be accommodated within the existing highway reserve. Without a footway linking the site with village amenities, it's likely the occupants will be solely reliant upon private motor vehicle, which from a policy viewpoint is unacceptable.*

The accesses proposed should have sealed and drained accesses for the first 5m to prevent gravel and private surface water from discharging onto the highway.

Whilst I do not consider this site to be in a sustainable location, I am unable to demonstrate any unacceptable harm caused to highway safety. Therefore if FDC are minded to grant permission, I recommend highway conditions are imposed.

- 5.3 **Environment Agency:** *We have no objection to the proposed development but wish to make the following comments:-*

National Planning Policy Framework Flood Risk Sequential Test

In accordance with the National Planning Policy Framework (NPPF) paragraph 101, development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. It is for the Local Planning Authority to determine if the Sequential Test has to be applied and whether or not there are other sites available at lower flood risk as required by the Sequential Test in the NPPF.

By consulting us on this planning application we assume that your Authority has applied and deemed the site to have passed the NPPF Sequential Test. Please be aware that although we have raised no objection to this planning application on flood risk grounds this should not be taken to mean that we consider the proposal to have passed the Sequential Test.

Review of Flood Risk Assessment

We have no objection to this application however we strongly recommend that the mitigation measures proposed in the submitted Flood Risk Assessment (FRA) for residential development at Mill Lane, Newton, Wisbech by Geoff Beel Consultancy dated January 2018 ref: GCB/Swann Edwards are adhered to. The FRA states that:

Finished floor levels of the proposed development will be set no lower than 300mm above Mill Lane carriageway at 2.3mAOD.

Flood resilient and resistance measures will be incorporated into the development.

The development will be two storeys.

The site is located in an area which is not served by the public foul sewer. Accordingly, the proposal will need to be served by a non-mains drainage system.

- 5.4 **Local Residents/Interested Parties:** *7 letter of support has been received stating that planning permission has already been granted for two houses on land opposite Woodlands and they can see no reason why this application for four houses should not be approved.*

6 STATUTORY DUTY

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The Development Plan for the purposes of this application comprises the adopted Fenland Local Plan (2014).

7 POLICY FRAMEWORK

7.1 National Planning Policy Framework (NPPF) July 2018

Paragraph 2: Planning law requires that applications for planning permission must be determined in accordance with the development plan.

Paragraph 11: Presumption in favour of sustainable development.

Paragraph 47: Determine applications in accordance with the development plan
Section 5: Delivering a sufficient supply of homes.

Paragraph 109: Development should only be prevented or refused on highway grounds if there would be any unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Paragraph 157: Inappropriate development in areas at risk of flooding.

7.2 National Planning Practice Guidance (NPPG)

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: 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 (December 2016)

7.5 Draft Flood Risk Sequential Test Methodology (February 2018).

8 KEY ISSUES

- **Principle of Development**
- **Flood Risk**
- **Highway safety**
- **Impact on the character and appearance of the area**

9 BACKGROUND

- 9.1 In January 2018 an outline planning application was submitted for the erection of four dwellings on this site and subsequently was refused for two reasons, namely, flood risk and the absence of a sequential test being undertaken and secondly the incursion of the development into the open countryside.

- 9.2 The applicant had 6 months to appeal the decision however no appeal has been submitted and the applicant has submitted the same application, including letters of support, which now requires the application to be determined by the Planning Committee in line with the Council's Scheme of Delegation.
- 9.3 There is a relatively new dwelling to the south of the site which was approved in 2005 and has a restrictive condition limiting it to agricultural occupation only which was the justification for its approval. There is no similar justification offered for these four open market dwellings.
- 9.4 In 2012 permission was granted for two new dwellings on land north of The Mount, Mill Lane, which was assessed during the transition from the Fenland District Wide Local Plan 1993 and the then emerging Fenland Local Plan 2014. Consideration was given to its proximity to the village and the less than harmful impact on the character of the area.

10 ASSESSMENT

10.1 Principle of Development

- 10.2 The main policy documents which are relevant to the consideration of this application are the Fenland Local Plan 2014 (FLP), and the NPPF. The weight that should be attributed to these policies and documents are considered below.
- 10.3 With regard to the FLP the scheme would not accord with Policy LP3 which shows Newton as a small village where development will be considered on its merits but will be of a very limited nature and normally be limited in scale to residential infilling or a small business opportunity. It is not considered that the proposed development does not represent small scale infilling.
- 10.4 Policy LP3, together with other policies, steers most new development to those larger places that offer the best access to services and facilities (both now and for the foreseeable future). This can help reduce the need to travel, as well as making best use of existing infrastructure and previously developed land in built-up areas.
- 10.5 It is considered that this part of Newton is very rural in character and relates mainly to the open countryside, with sporadic dwellings only along Mill Lane. As such, the introduction of four dwellings in this location would erode the existing rural character of this part of Newton.
- 10.6 Policy LP12 Part A, highlights that new development will be supported where it contributes to the sustainability of the settlement, and does not harm the wide open character of the countryside. To ensure this there are a number of criteria expressed in this policy, namely (a) - (k). These criteria, in summary, seek to achieve compliance with the settlement hierarchy in terms of amount of development whilst also ensuring that developments respond to the existing built form and settlement character, retain and respect existing features of the site and the locality, respect biodiversity and ecology and provide appropriate servicing etc. Policy LP16 also seeks to ensure that development makes a positive contribution to the local distinctiveness and character of the area.
- 10.7 The National Planning Policy Framework 2018 seeks to achieve well designed places (para. 124) that are sympathetic to the local character and landscaping setting (para. 127) and recognise the intrinsic character of the countryside. In

particular para.127 seeks to create places that are safe, inclusive and accessible. Given the unsustainable nature of the location of the development together with the identified harm to the countryside, it is concluded that the development does not accord with the aim of the Framework.

10.8 The proposed development for four dwellings on agricultural land, creating three new accesses onto the highway, is considered to conflict with LP12 Part A as it would compromise the existing settlement character, street scene and core shape. The proposal is therefore also considered to conflict with LP12 A parts a), c), d) and e).

10.9 **Flood Risk**

10.10 The site is located within Flood Zone 3 which is a high risk flood zone. The NPPF and Policy LP14 of the Local Plan aims to steer development to areas at the lowest risk of flooding (Flood Zone 1) and as such the development of this site fails to comply with the Local Plan in flood risk terms. Development will only be permitted in Flood Zone 3 where it can be demonstrated that there are no other sites available in lower risk flood areas (Sequential Test), and if this can be demonstrated the Exceptions test would then need to be passed as detailed in Paragraph 157 of the NPPF.

10.11 The applicant has submitted information to support the acceptability of the site by way of a FRA. The FRA concludes that the residential development on the site is acceptable subject to the finished floor levels being set at a minimum of 300mm above existing Mill Lane carriageway level with a further 300mm of flood resilient construction above finished floor level. There will be no sleeping accommodation on the ground floor.

10.12 However the Environmental Agency puts the onus on the local planning authority to ensure the development would be in accordance with the NPPF paragraph 158, which states that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.

10.13 It is for the local planning authority (LPA) to determine if the Sequential Test has to be applied and whether or not there are other sites available at lower flood risk as required by the Sequential Test in the NPPF. The District Council has adopted the Cambridgeshire Flood and Water SPD (December 2016) which in Section 4.4 sets out the required initial methodology for the Sequential Test such as:

- The geographical area over which the test is to be applied;
- Identification of reasonably available sites

The geographical area of search is to be agreed with the LPA. The District Council has set out in the Draft Flood Risk Sequential Test Methodology (February 2018) that the area of search for residential development in this location would be the settlement of Newton.

10.14 The application is therefore considered to be deficient as a Sequential Test has not been completed. Similarly no exception test has been submitted. Accordingly the proposal fails the Sequential Test and Exception Test so is contrary to Policy LP14 and the Cambridgeshire Flood and Water SPD and paras 157-160 of the NPPF.

10.15 In summary, the principle of development is unacceptable and contrary to Policy LP14 of the Fenland Local Plan 2014 and the National Planning Policy Framework 2018.

10.16 **Highway Safety**

10.17 The site is to be served off Mill Lane which is a single track road subject to the national speed limit. The Local Highway Authority has been consulted and concludes that although the proposal does not include a public footpath, to which no evidence has been supplied as to if a footpath could actually be delivered, the LHA is unable to demonstrate any unacceptable harm to highway safety.

10.18 The LHA recommends the imposition of conditions should the application be approved relating to the provision of visibility splays, surface water drainage, access details, gates and turning areas.

10.19 In accordance with the LHA comments, the Local Planning Authority concur that the site is unsustainable and is not policy compliant.

10.20 **Impact on the character and appearance of the area**

10.21 The application is for outline consent with only access committed and the scale of the development is for consideration at Reserved Matters stage. However in accordance with the details of the FRA and the site being located within Flood Zone 3 it is clear that the development will be 2-storey in nature.

10.22 The site has a particularly rural outlook and whilst there is the presence of a dwelling known as Tewinbury immediately to the south of the site, this dwelling is an agricultural dwelling relating to surrounding land and cannot be considered as setting a precedent of new dwellings in this location.

10.23 The introduction of four dwellings off this rural lane will have a harmful effect on the character and appearance of the site by virtue of their scale and dominance on the landscape character of the area. The proposal is therefore contrary to Policy LP12 of the Local Plan.

11 **CONCLUSIONS**

11.1 This application is a re-submission of a previous refusal on this site for four dwellings which was refused in March 2018. The refusal was not appealed and the current application has resulted in seven letters of support and hence the referral to Planning Committee.

11.2 The site is located within Flood Zone 3 and also in a particularly rural area of Newton. The application has failed to undertake both a sequential and exception test and therefore the proposal fails to comply with Policy LP14 of the Fenland Local Plan and also the requirements of the National Planning Policy Framework.

11.3 Newton has exceeded its targeted growth and coupled with the fact that Fenland can now prove a 5 year land supply, there is no demonstrated need for the provision of four further dwellings located within Flood Zone 3 which will also have a harmful impact on the character of the area.

11.4 The site is considered to be in an unsustainable location due to the lack of any service provision within Newton, i.e. the lack of a shop, public house or any other

community facilities, albeit there is an active village hall where post office services can be used for two hours per week.

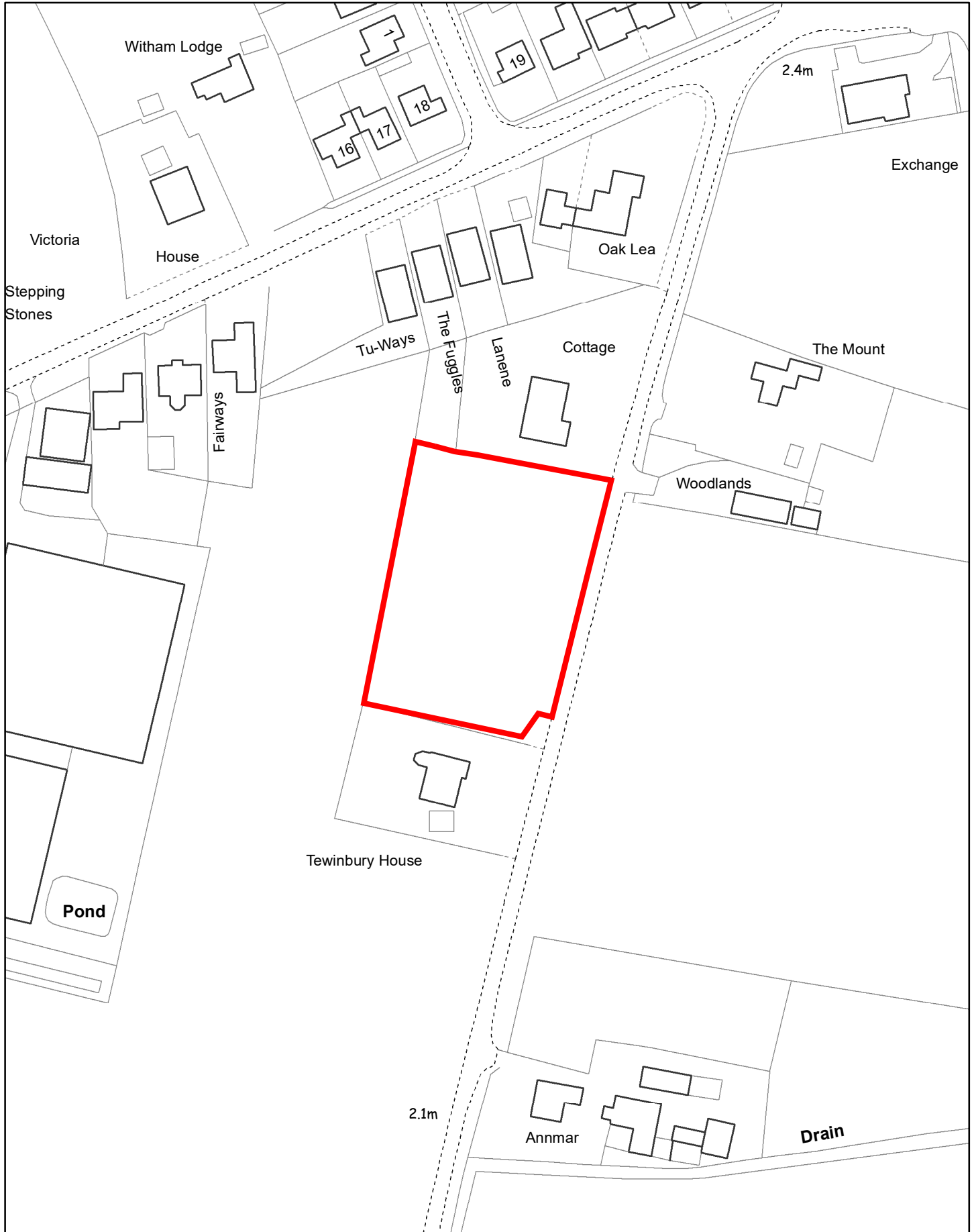
- 11.4 The proposal is therefore considered to be contrary to Policies LP3, LP14, LP15 and LP16 of the Fenland Local Plan 2014 and also guidance contained within the National Planning Policy Framework 2018.

12 RECOMMENDATION

Refuse for the following reasons:

- 1. Policy LP14 of the Fenland Local Plan (2014) and paragraphs 157-160 of the National Planning Policy Framework (2018) 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 has failed to pass a Sequential Test and Exceptions Test to demonstrate there are no sequentially preferable sites reasonably available. Therefore the proposal is considered to be contrary to paragraphs 157-160 of the NPPF (2018), and Policy LP14 of the Fenland Local Plan (2014) and guidance in the adopted Cambridgeshire Flood and Water Supplementary Planning Document (2016).**
- 2. Policy LP12 of the Fenland Local Plan (2014) seeks to ensure that development contributes to the sustainability of that settlement and does not harm the wide open character of the countryside. The application site is considered to be in an unsustainable location due to the limited nature of facilities available in Newton which renders Newton as an unsustainable village and the lack of safe pedestrian access contrary to Policy LP15 of the Fenland Local Plan 2014. The site also constitutes part of a considerable gap between the built form of the village and the where the open countryside meets the village. The development will result in an incursion into the open countryside and by reason of the scale of the development will result in adverse harm on the open undeveloped character of the site which contributes to the open rural character of the area. Therefore the proposal is considered to be contrary to Policies LP3, LP12, LP15 and LP16 of the Fenland Local Plan 2014 and the aims and objectives of the National Planning Policy Framework.**

Case Officer	Team Leader
Date:	Date:



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Scale = 1:1,250



- General Notes**
1. This drawing shall not be scaled, figured dimensions only to be used.
 2. The contractor shall be responsible for the construction of all structures.
 3. The contractor shall compare and reconcile the proposed site with all dimensions on site prior to the commencement of any work.
 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 sought to the designer's attention.



Revisions	
A	Jan 2018
B	Jan 2018
C	Feb 2018

Neighbouring Property

Indicative

Added

Scale Bar

revised

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Job Title	Drawn By	Scale
Proposed Development Land Adj. Woodlands Mill Lane, Newton, Wisbech For: Mr Burton	CHR	As Shown Sheet Size A1
Job No. SE-581	Revision C	
Drawn By	Scale	
CHR	As Shown	
Revision	Sheet Size	
C	A1	

