

---

F/YR22/1416/O

**Applicant: Mrs P McCarter**

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

**Land To The East Of 114, Main Road, Parson Drove, Cambridgeshire**

**Erect up to 4 x dwellings involving the formation of a new access (outline application with matters committed in respect of access)**

**Officer recommendation: REFUSE**

**Reason for Committee: Referral back to Committee further to non-completion of Section 106 legal agreement**

---

## **1 EXECUTIVE SUMMARY**

- 1.1 This application was recommended for approval by the planning committee, contrary to officer recommendation on 15<sup>th</sup> November 2023. This recommendation was subject to the signing of a Section 106 Agreement to secure third party land to secure the visibility splays deemed necessary to overcome highway safety concerns.
- 1.2 The LPA have no power nor authority to enforce a s106 agreement against anyone other than the developer, therefore the original decision to grant the application subject to the completion of a S106 agreement cannot work unless all the properties to be affected were to join in the agreement.
- 1.3 Despite regular communication with the applicant's agent and solicitor, there has been no evidence that they have entered into any discussions with the third party and, as a consequence, no draft S106 agreement has been submitted to the LPA.
- 1.4 Officers consider that the applicant has been given reasonable time for this to have been processed and, therefore, the application is referred back to the Planning Committee with a recommendation that the application is refused for the reasons as set out in the original officer report.

## **2 UPDATE AND ASSESSMENT**

- 2.1 The application was originally reported to Committee in August 2023 (Appendix 1 contains the original report and Appendix 2 the update report presented) with Members resolving to defer the application for further clarification of highway matters. The application was further reported and resolved to be approved by the Planning Committee, contrary to officer recommendation on 15<sup>th</sup> November 2023 (Planning committee minutes at Appendix 3). This resolution was subject to a S106 being entered into by the applicant to secure third party land in order to provide the visibility splays necessary to address the highway safety concerns raised.
- 2.2 The Local Planning Authority has no power nor authority to enforce a S106 agreement against anyone other than the developer, therefore the original decision to grant the application subject to the completion of a S106 agreement cannot work unless all the properties/ third parties to be affected were to join in the agreement.
- 2.3 Despite regular communication with the applicant's agent and solicitor, there has been no evidence submitted that demonstrates that they have entered into any discussions

with the third party to move this forward and therefore no S106 agreement has been produced.

- 2.4 The agent, however has advised they are considering another option which is to apply for a reduction in the speed limit through this part of the village. In turn, this would reduce the visibility splays required and that they would ensure these would then either fall within the applicants or highways ownership.
- 2.5 An indicative plan demonstrating the reduced visibility splays was submitted for comment. In communication with Cambridgeshire County Council's Highways Engineer, concern was raised as the visibility is still insufficient with a 30mph speed as it would still cross third-party land. If the visibility splay was contained fully to the highway, the achievable visibility would still be substantially below the requirement for a 30mph speed limit. Notwithstanding this, there is no guarantee that the TRO would be approved.
- 2.6 In order for this to happen, a TRO would have to be applied for which falls within a different legislative process but one which requires public consultation with no certainty that it would be approved. A Grampian style condition has been suggested by the agent, however, as there is a possibility this would not be deliverable, a planning condition would be unreasonable at this time.
- 2.6 The question surrounding third party land prompted the agent to submit a land registry extract for which it was purported that the applicant owned a large proportion of land surrounding the site. The plan is merely hatched in a block colour with no reference as to who owns the land hatched. As such, officers cannot be certain that this is sufficient to address highways concerns.
- 2.7 Given this, the application is referred back to the Committee with a recommendation that, the application is refused as per the original grounds set out in the committee report (Appendix 1).

### **3 CONSULTATIONS**

#### **3.1 County Solicitor**

*The problem we have is that we have no power nor authority to enforce a s.106 agreement against anyone other than the developer.*

*Thus, the original decision to grant the application subject to the completion of a s.106 agreement cannot work unless all the properties to be affected were to join in the agreement. In practice this will most likely be impossible.*

*As a consequence the application should be referred back to the Committee with a recommendation that, in the event that they do not wish to follow officer recommendation to refuse on policy grounds (presumably), a requirement for a s.106 agreement be omitted from the decision on the basis that the applicant would have no means of enforcing others who might have an interest in the property, to join in the agreement.*

### **4. CONCLUSION**

- 4.1 Despite regular requests, the LPA have not received any evidence from the applicant/agent to demonstrate that they have communicated with the third party and therefore no draft s106 has been entered into or completed within a reasonable period of time.
- 4.2 As it does not alter or overcome the previously asserted failure to comply with the relevant policies in relation to refusal reasons 1, 2 & 3, and as such the conclusions and recommendations in Appendix 1 remain unchanged in this regard and, notwithstanding

the view expressed by Members previously, the Officer recommendation for refusal on these grounds remains.

## 5. RECOMMENDATION

- 5.1 Whilst noting that Planning Committee did not accept refusal reasons 1 & 3, these are included in order to be consistent with the previous recommendation.

**Refuse;** for the following reasons:

1	Policy LP12 of the Fenland Local Plan (2014) details a range of criteria against which development within the villages will be assessed and Policy LP16 seeks to ensure that proposed development responds to and improves the character of the local built environment. The application site proposes the construction of up to four dwellings located on land to the rear of frontage residential development along Main Road. By virtue of its backland nature, the proposed development - 5 - would be discordant with the existing linear built form of the development along Main Road to the detriment of the character and appearance of the area and would create a precedent for further backland development at sites with similar geometry. Thus, the proposal would therefore fail to comply with the requirements of Policy LP12 and Policy LP16 (d) of the Fenland Local Plan (2014
2	Insufficient information is provided to demonstrate that suitable visibility splays can be provided for the required access to Main Road. The application materials have therefore not demonstrated that suitable and safe access will be available to the proposed development, contrary to Policy LP15 of the Fenland Local Plan (2014) which aims to provide safe transport networks.
3	Policy LP16(f) states that a development should 'provide adequate, well designed facilities for the storage, sorting and collection of waste that are user friendly and appropriate to the amount and type of development proposed (including taking account of any district or county Supplementary Planning Documents which are in force at the time of the proposal)'. County RECAP Guidance states that 'any designated storage area within the boundaries of the property should not be more than 25m distance from the collection point'. The access road would be a private road and therefore unadopted with the refuse bins and waste having to be moved to the adopted highway for collection. In this instance, the development would be contrary to policy LP16 (f) and guidance contained in the County RECAP Waste Management Design Guide Supplementary Planning Document, 2012

**APPENDIX 1 ORIGINAL OFFICER'S REPORT AND UPDATE TO COMMITTEE, 23<sup>RD</sup>  
AUGUST 2023**

---

**F/YR22/1416/O**

**Applicant: Mrs P McCarter**

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

**Land To The East Of 114, Main Road, Parson Drove, Cambridgeshire**

**Erect up to 4 x dwellings involving the formation of a new access (outline application with matters committed in respect of access)**

**Officer recommendation: Refuse**

**Reason for committee: Parish Council comments contrary to Officer recommendation**

---

## **1 EXECUTIVE SUMMARY**

- 1.1. The application seeks outline planning permission for up to 4no dwellings with all matters reserved save for access, which is indicated as being from a private drive connecting to Main Road.
- 1.2. Parson Drove is identified within the Fenland Local Plan as a Limited Growth Village, and policy LP3 notes that for such settlements, "a small amount of development and new service provision will be encouraged and permitted in order to support their continued sustainability, but less than would be appropriate in a Growth Village. Such development may be appropriate as a small village extension". The site lies adjacent to the built form of the settlement and is therefore deemed to be classed as a small village extension with the proposal therefore in compliance with Local Plan Policy LP3.
- 1.3. The proposed development would be constructed to the rear of an existing frontage development and accessed by a long vehicular access to the west of the site. The development would represent a tandem or backland form of development which would conflict with and undermine the prevailing form of linear frontage development along Main Road.
- 1.4. As the application proposes a level of development that is consistent with that envisaged for Parson Drove within the settlement hierarchy of the Local Plan, it is considered that the area of search for the Sequential Test can be restricted to the limited growth village of Parson Drove. A Flood Risk Assessment including Sequential Test and Exceptions Test has been submitted. This demonstrates that there are no other sequential preferable sites within the village with the exceptions test having been met. The proposal therefore complies with the Cambridgeshire Flood and Water SPD 2016, Policies LP12A(j); LP14 of the Fenland Local Plan 2014 and paragraphs 159-167 of the NPPF'
- 1.5. County RECAP Guidance states that 'any designated storage area within the boundaries of the property should not be more than 25m distance from the collection point'. The access road would be a private road and therefore unadopted with the refuse bins and waste having to be moved to the adopted highway for collection. In this instance, the development would be contrary to policy LP16 (f) and guidance contained in the County RECAP Waste Management Design Guide Supplementary Planning Document, 2012.

1.6. Consequently, the recommendation is to refuse the application.

## 2 SITE DESCRIPTION

- 2.1 The application site comprises 5090 sq m of open grade 1/2 agricultural land to the south of Main Road and sitting to the west of Silver's Lane, Parson Drove.
- 2.2 The land directly to the north of the site has planning permission for up to five dwellings (ref: F/YR19/0971/O), however four dwellings have gained reserved matters approval on the land and are currently being built out. (ref: F/YR21/0820/RM, F/YR21/1026/RM, F/YR21/1250/RM, F/YR21/1516/RM).
- 2.3 The site is flat throughout and is within flood zones 2/3 of the Environment Agency Flood Maps for Planning.

## 3 PROPOSAL

- 3.1 The application is seeking outline permission for the erection of up to 4no. dwellings and confirmed on the application form as being for market housing. The application is in outline form with all matters reserved save for access. Matters of layout, appearance, scale and landscaping will be reserved for future consideration should the application be approved.
- 3.2 An indicative plan shows that each of the four plots would have their own access points from an elongated private road, which runs along the west of the site and bends round to the southern edge of the site.
- 3.3 Full plans and associated documents for this application can be found at:

<https://www.publicaccess.fenland.gov.uk/publicaccess/applicationDetails.do?activeTab=documents&keyVal=RLJHTZHE06P00>

## 4 SITE PLANNING HISTORY

- 4.1 There is no planning history for the application site itself.

## 5 CONSULTATIONS

### 5.1 Parson Drove Parish Council

*The Council considered application F/YR22/1416/O Erect up to 4 x dwellings involving the formation of a new access (outline application with matters committed in respect of access) Land To The East Of 114 Main Road Parson Drove Cambridgeshire and a discussion ensued. It was noted that there were no comments on the application from members of the public, nor did any make personal representations to any councillors, as well as being within the local plan. The Council agreed to recommend for approval.*

### 5.2 Environment Agency

*Thank you for your consultation dated 05 January 2023 for the above application. We have no objection to this planning application, providing that you have taken into account the Flood Risk considerations which are your responsibility. We have provided additional information below.*

#### *Flood Risk*

*The site is located within flood zone 3 as defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. We have no objection to this application, but strongly recommend that the mitigation measures proposed in the submitted Flood Risk Assessment (FRA) undertaken by Geoff Beel*

Consultancy (dated: July 2022 ref: GCB/Swann Edwards) and the following mitigation measures it details:

- Finished floor levels set at a minimum of 2.0m ODN.
- Flood resilient construction to a height of 300mm above the finished floor level are fully implemented and retained for the life of the development.

### 5.3 Environmental Health

I refer to the above planning application and make the following observations.

The Environmental Health Team note and accept the submitted information and have 'No Objections' to the proposed scheme as it is unlikely to have a detrimental effect on local air quality and the noise climate or be affected by ground contamination.

### 5.4 North Level District Internal Drainage Board

Please note that North Level District Internal Drainage Board have no comment with regard to the above application.

### 5.5 Highways

Please add visibility splay for 40mph for the access to the proposed development. Also, can you please indicate the width of the private access to the development. The width will need to be suitable to enable 2-way traffic and emergency vehicular access.

### Neighbour responses:

#### 5.6 One objection to the proposal from a resident of Parson Drove:

*Policy 3 of the Parson Drove Village Development Plan, which forms part of Fenland's planning regulations states that Proposals involving 4 or more dwellings will require clear justification of why the benefits of the proposal outweigh the impacts and should be accompanied by demonstrable evidence of clear local community support, through a proportionate preapplication community consultation that has been ratified by the Parish Council. There is no evidence that this has been carried out and until local support has been demonstrated this application should not proceed. At the very least it seems to me that the owners of the four properties fronting Main Road should be consulted and should show support for this application to be approved*

## 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

### National Planning Policy Framework (NPPF)

### National Planning Practice Guidance (NPPG)

### National Design Guide 2021

Context

Identity

Homes and Buildings

### 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

### **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:

Policy LP1: Settlement Hierarchy  
Policy LP2: Spatial Strategy for the Location of Residential Development  
Policy LP4: Securing Fenland's Future  
Policy LP5: Health and Wellbeing  
Policy LP7: Design  
Policy LP8: Amenity Provision  
Policy LP11: Community Safety  
Policy LP12: Meeting Housing Needs  
Policy LP20: Accessibility and Transport  
Policy LP22: Parking Provision  
Policy LP32: Flood and Water Management

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

Policy 1 – Housing Growth  
Policy 2 – Scale of Housing Development  
Policy 4 - Maintaining Separation Between Parson Drove and Church End  
Policy 5 – Road and Pedestrian Safety

## **8 KEY ISSUES**

- **Principle of Development**
- **Compliance with the Neighbourhood Plan**
- **Highways Safety**
- **Character of the area**
- **Flood Risk**
- **Residential Amenity**

## **9 BACKGROUND**

9.1 Whilst there is no site history for the application site itself, the site directly to the north is currently being built out. Application F/YR19/0971/O was granted to erect up to 5 dwellings (outline application with matters committed in respect of access). This site lies to the direct north of the application site and fronts Main Road itself. Separate reserved matters applications have been brought forward for four of the plots.

## **10 ASSESSMENT**

### **Principle of Development**

- 10.1 Policy LP3 of the Fenland Local Plan sets out the settlement hierarchy for development within the district, grouping settlements into categories based on the level of services available, their sustainability and their capacity to accept further development.
- 10.2 Parson Drove is identified within the Fenland Local Plan as a Limited Growth Village, and policy LP3 notes that for such settlements, "a small amount of development and new service provision will be encouraged and permitted in order to support their continued

sustainability, but less than would be appropriate in a Growth Village. Such development may be appropriate as a small village extension”.

- 10.3 There is no defined settlement boundary for Parson Drove within the Local Plan with the application site lying behind the existing residential linear form of development that fronts the southern side of Main Road. Notwithstanding this, and, whilst there is no specific definition surrounding what is classed as a small village extension, the site immediately adjoins the built form of the settlement and, on this basis, it is concluded that this would be considered as a small village extension and would therefore accord with the provisions of the policy.
- 10.4 With regard to the consultation draft of the emerging Local Plan, which carries extremely limited weight as this time, given that consultation has only recently commenced, the site is outside of the defined settlement boundary of Parson Drove. The agent has contested this and referenced the site allocation, LP57.01, which lies beyond the west of the site with LP57.03 directly to the north of the application site which is currently being built out.
- 10.5 The proposed development is considered to be a small village extension of Parson Drove and, therefore, in terms of policy LP3 is considered acceptable in principle. Application of policy LP12 will be assessed in ‘character and appearance’

### **Agricultural Land**

- 10.6 Policy LP12 ((i) states that development should not result in the loss of high grade agricultural land or if so comprehensive evidence is provided to justify the loss.
- 10.7 Paragraph 174 of the NPPF states that decisions should recognise the intrinsic character and beauty of the countryside...including the economic benefits of the best and most versatile agricultural land. Grades 1, 2 and 3a agricultural land fall within this category.
- 10.8 A large proportion of agricultural land in Fenland District is best and most versatile land. There is insufficient information upon which to assess whether the loss the land might mean loss of best and most versatile agricultural land. However, the Council has rarely refused applications for this reason, given the quantity of such land within the District, and it is not considered that this issue could therefore be used as a reason for refusal in this instance.

### **Compliance with the Neighbourhood Plan**

- 10.9 Paragraph 12 of the NPPF states that ‘Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted’.
- 10.10 Paragraph 14 of the National Planning Policy Framework (2021) makes it clear that the adverse impact of allowing a development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh its benefits, provided that neighbourhood plan is up to date, contains policies to allow the settlement to meet its identified housing requirement, has a 3-year supply of deliverable sites and housing delivery is at least 45% of that required over a 3-year period.
- 10.11 With regard to the scale of development noted above, the Parson Drove Neighbourhood Plan (2019) states at Policy 2: Scale of Housing Development, that “sites proposing 5 or more dwellings may be considered appropriate where: the proposal is accompanied by clear demonstrable evidence of positive community support for the scheme generated via a thorough and proportionate pre-application community consultation exercise; and it is supported by the Parish Council”.
- 10.12 The Parish Council have reviewed the application and have given a recommendation in support of the development. In relation to the neighbourhood plan, the application is in



line with the policies 1, 2, 4 and 5. Policy 4 of the Neighbourhood plan states that there should be no development other than permitted development between Parsons Drove and Church End from the east side of Sealeys Lane and Silvers Lane up to the existing dwellings at the end of Church End to allow for an appropriate separation of the villages. As this development is on the western side of Silvers Lane, it is considered appropriate and complies with the policies within the Neighbourhood Plan. It is to be noted that a neighbour objection was received that stated the proposal is contrary to Policy 3 of the Parson Drove Neighbourhood Plan. As referenced above, Policy 3 refers to site proposing 5 or more dwellings. In this instance, the proposal is for 4 dwellings and therefore no evidence is required.

- 10.13 On the basis of the above, the principle of the proposal is not opposed by the relevant policies of the Development Plan, and consideration must be given to the specific impacts as detailed below.

### **Character of area**

- 10.14 Local Plan Policy LP16 identifies that proposals for new development will only be permitted if it can be demonstrated that the proposal, *inter alia makes a positive contribution to the local distinctiveness and character of the area, enhances its local setting, responds to and improves the character of the local built environment, provides resilience to climate change, reinforces local identity and does not adversely impact, either in design or scale terms, on the street scene, settlement pattern or the landscape character of the surrounding area.*
- 10.15 Whilst acknowledging that the site is considered to be a small village extension and therefore is acceptable in principle, it must also comply with the requirements of Part A of policy LP12. This states that development can be supported where it does not harm the wide open character of the countryside and provides further guidance as to the restriction of such development to ensure that it has an acceptable impact on the settlement and its character. The Policy requires development to meet certain criteria in order to be supported. The site must be in or adjacent to the existing developed footprint of the village, it must not result in coalescence with any neighbouring village, and must not have an adverse impact on the character and appearance of the surrounding countryside and farmland. Similarly, the proposal must be in keeping with the core shape and form of the settlement, without resulting in the extension of linear features or create ribbon development, and must retain natural boundaries, respect ecological features, important spaces, etc. Finally, the proposal must be served by sustainable infrastructure, and must not put people or property in danger from identified risks.
- 10.16 Further to the above-mentioned policies, Policy DM3(d) of the 'Making a Positive Contribution to Local Distinctiveness and Character of the Area' SPD sets out that the character of the landscape, local built environment and settlement pattern should inform the layout, density, proportions, scale, orientation, materials and features of the proposed development, which should aim to improve and reinforce positive features of local identity.
- 10.17 Details of appearance, landscaping, layout and scale are to be submitted at Reserved Matters stage, however the Council must be satisfied that an appropriate design can be brought forward through any subsequent reserved matters application before granting planning permission. An indicative proposed block plan has been provided showing four plots set to the rear of the built form under construction that front Main Road. Each plot is to have a separate access from a private drive to the west of the site.
- 10.18 Parson Drove is of a distinctive linear character. There are only limited exceptions to this character. The development to the north of the site is arranged in a linear form fronting Main Road with the southern boundary creating a strong boundary with the countryside for the present extent of the village. The proposed development would be conflicting with the existing core shape and built form of the development fronting Main Road which is primarily linear in form. The encroachment of the built form of the village into the

agricultural landscape to the south of the settlement in this location would have a detrimental impact on the appearance and character of the settlement in this regard, introducing a domestic appearance and features into what is currently a comparatively open aspect dominated by agricultural land.

- 10.19 The topography is relatively flat with limited visual screening with the site and surroundings to the south, west and east open in nature with any additional built form considered to create a substantial degree of prominence in the wider landscape. Cumulatively, the extension beyond the established pattern of development in conjunction with a substantial degree of prominence within the landscape would cause harmful erosion to the character and appearance of the open countryside. To approve such a scheme would see the countryside, incrementally, being eroded to the detriment of the wider area, and would set a precedent for additional in depth piecemeal development; urbanisation and loss of openness with even more significant cumulative impacts.
- 10.20 In character terms, the proposal is located on a backland site, which is located beyond a recent development that fronts Main Road itself. Whilst the policies of the Local Plan do not preclude backland development *per-se*, Parson Drove is particularly distinctive within the immediate vicinity and within the wider setting of the district as a settlement with extremely limited backland development and a very strong character of linear, frontage development along Main Road, for which the site to the north forms part.
- 10.21 The indicative site location plan shows the construction of up to four dwellings located on land to the rear of frontage residential development along Main Road. By virtue of its tandem nature, the proposed development would be discordant with the existing linear built form of the development along the frontage, exacerbated by it also presenting a 'side-on' aspect to the rural Silvers Lane, to the detriment of the character and appearance of the area and would create a precedent for further backland development at sites with similar geometry.
- 10.22 Whilst it cannot be contested that up to 4no dwellings could be reasonably accommodated within the plot without causing a cramped appearance and with little detrimental impact upon the street scene, these do not outweigh the fact that the open character of the area at this point would be disrupted by the mere physical presence of additional dwellings and would set an undesirable precedent. Thus, the proposal would therefore fail to comply with the requirements of Policy LP12 and Policy LP16 (d) of the Fenland Local Plan (2014).

### **Residential Amenity**

- 10.23 Policy LP2 states that development proposals should contribute to the Council's goal of Fenland's residents, including promoting high levels of residential amenity whilst Policy LP16 states that development should not adversely impact on the amenity of neighbouring users such as noise, light pollution, loss of privacy and loss of light. It also identifies that proposals should identify, manage and mitigate against any existing or proposed risks from sources of noise, emissions, pollution, contamination, odour and dust, vibration, landfill gas and protects from water body deterioration.
- 10.24 With regards to impacts of the proposed development on neighbouring properties, it is considered that the dwellings could be designed, with the appropriate orientation, window layout and landscaping to limit any adverse overlooking and could also be designed to limit any overbearing and shadowing.
- 10.25 If this application is supported, the impact on residential amenity in terms of overlooking and loss of privacy would be re-visited at the reserved matters stage once the scale and appearance of the dwellings can be fully assessed and, upon which, neighbours would have further opportunity to comment.

### **Highway Safety**

- 10.26 As access is being considered within this application, County Highways were consulted on the application. Comments were received requesting *visibility splay for 40mph for the access to the proposed development along with requesting details of the width of the private access to the development.*
- 10.27 The agent has been made aware of the requirements, however, to date, no plans have been received. Insufficient information has therefore been provided to demonstrate that suitable visibility splays for the required access to Main Road can be provided along with a suitable width for the access road. Although this application is for outline planning permission, this is to include access with the information regarding visibility splays required to demonstrate the proposed development could be accessed safely. This information has not been provided despite the agent being made aware of the requirements. It has not therefore been demonstrated that suitable and safe access will be available to the proposed development, contrary to Policy LP15 which aim to provide safe transport networks.

### **Refuse collection**

- 10.28 Policy LP16(f) states that a development should 'provide adequate, well-designed facilities for the storage, sorting and collection of waste that are user friendly and appropriate to the amount and type of development proposed (including taking account of any district or county Supplementary Planning Documents which are in force at the time of the proposal)'.
- 10.29 County RECAP Guidance also states that 'any designated storage area within the boundaries of the property should not be more than 25m distance from the collection point'. The access road would be a private road and therefore unadopted with the refuse bins and waste having to be moved to the adopted highway for collection. In this instance, the development would be contrary to policy requirements and guidance contained in the RECAP Waste Management Design Guide Supplementary Planning Document, 2012.

### **Flood Risk**

- 10.30 Paragraph 162 of the NPPF states that 'The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.'
- 10.31 The site lies within Flood Zones 2 & 3 and therefore at moderate to high risk of flooding. National and Local planning policies set out strict tests to the approach to flood risk, aiming to locate development in the first instance to areas at lowest risk of flooding, Flood Zone 1.
- 10.32 Policy LP14 of the Fenland Local Plan and the NPPF seeks to steer developments to areas of lowest risk of flooding and requires developments, such as this application, to pass the Sequential Test and the Exceptions Test, should the Sequential Test be passed. In order to justify the development in Flood Zone 3, the sequential test would be expected to demonstrate that there are no reasonably available sites in Flood Zones 1 and then in Zone 2 which could accommodate the development.
- 10.33 A Flood Risk Assessment was submitted with the application. This indicated that in light of the flood risk considerations, floor levels of the proposed dwellings will be at 2.00m AOD with a further 300mm of flood resilient construction above finished floor level. Neither the Environment Agency or North Level District Internal Drainage Board have any objections to the scheme, with the Environment Agency stating that they strongly

recommend that the mitigation measures proposed in the submitted Flood Risk Assessment (FRA) undertaken by Geoff Beel Consultancy (dated: July 2022 ref: GCB/Swann Edwards) and the following mitigation measures it details:

- Finished floor levels set at a minimum of 2.0m ODN.
- Flood resilient construction to a height of 300mm above the finished floor level.

10.34 In communication with the agent, they were made aware that the submitted FRA failed to include a sequential test and exceptions test. A 'Sequential and Exception test' was subsequently received. Within this, the agent states that the sequential test area 'is to be restricted to the village of Parsons Drove'. It further states that 'this approach is consistent with the NPPF and the NPPG which states that the sequential test should be applied to the catchment area'. As the application proposes a level of development that is consistent with that envisaged for Parson Drove within the settlement hierarchy of the Local Plan, it is considered that the area of search for the Sequential Test can be restricted to the limited growth village of Parson Drove. A Flood Risk Assessment including Sequential Test and Exceptions Test has been submitted. This demonstrates that there are no other sequential preferable sites within the village with the exceptions test having been met. The proposal is therefore considered to comply with the Cambridgeshire Flood and Water SPD 2016, Policies LP12A(j); LP14 of the Fenland Local Plan 2014 and paragraphs 159-167 of the NPPF'

## 11 CONCLUSIONS

- 11.1 Parson Drove is identified within the Fenland Local Plan as a Limited Growth Village, and policy LP3 notes that for such settlements, "a small amount of development and new service provision will be encouraged and permitted in order to support their continued sustainability, but less than would be appropriate in a Growth Village. Such development may be appropriate as a small village extension". The site lies adjacent to the built form of the settlement and is therefore deemed to be classed as a small village exception with the proposal therefore in compliance with Local Plan Policy LP3
- 11.2 The proposed development would be constructed to the rear of an existing frontage development and accessed by a long vehicular access to the west of the site. The development would represent a tandem or backland form of development which would conflict with and undermine the prevailing form of linear frontage development along Main Road.
- 11.3 As the application proposes a level of development that is consistent with that envisaged for Parson Drove within the settlement hierarchy of the Local Plan, it is considered that the area of search for the Sequential Test can be restricted to the limited growth village of Parson Drove. A Flood Risk Assessment including Sequential Test and Exceptions Test has been submitted. This demonstrates that there are no other sequential preferable sites within the village with the exceptions test having been met. The proposal therefore complies with the Cambridgeshire Flood and Water SPD 2016, Policies LP12A(j); LP14 of the Fenland Local Plan 2014 and paragraphs 159-167 of the NPPF'
- 11.4 County RECAP Guidance states that 'any designated storage area within the boundaries of the property should not be more than 25m distance from the collection point'. The access road would be a private road and therefore unadopted with the refuse bins and waste having to be moved to the adopted highway for collection. In this instance, the development would be contrary to policy LP16 (f) and guidance contained in the County RECAP Waste Management Design Guide Supplementary Planning Document, 2012.

## 12 RECOMMENDATION:

**Refuse;** for the following reasons:

1	<p>Policy LP12 of the Fenland Local Plan (2014) details a range of criteria against which development within the villages will be assessed and Policy LP16 seeks to ensure that proposed development responds to and improves the character of the local built environment. The application site proposes the construction of up to four dwellings located on land to the rear of frontage residential development along Main Road. By virtue of its backland nature, the proposed development would be discordant with the existing linear built form of the development along Main Road to the detriment of the character and appearance of the area and would create a precedent for further backland development at sites with similar geometry. Thus, the proposal would therefore fail to comply with the requirements of Policy LP12 and Policy LP16 (d) of the Fenland Local Plan (2014).</p>
2	<p>Insufficient information is provided to demonstrate that suitable visibility splays can be provided for the required access to Main Road. The application materials have therefore not demonstrated that suitable and safe access will be available to the proposed development, contrary to Policy LP15 of the Fenland Local Plan (2014) which aims to provide safe transport networks.</p>
3	<p>Policy LP16(f) states that a development should 'provide adequate, well designed facilities for the storage, sorting and collection of waste that are user friendly and appropriate to the amount and type of development proposed (including taking account of any district or county Supplementary Planning Documents which are in force at the time of the proposal)'. County RECAP Guidance states that 'any designated storage area within the boundaries of the property should not be more than 25m distance from the collection point'. The access road would be a private road and therefore unadopted with the refuse bins and waste having to be moved to the adopted highway for collection. In this instance, the development would be contrary to policy LP16 (f) and guidance contained in the County RECAP Waste Management Design Guide Supplementary Planning Document, 2012.</p>

**PLANNING COMMITTEE DATE: 23<sup>rd</sup> August 2023**

**APPLICATION NO: F/YR22/1416/O**

**SITE LOCATION: Land East of 114 Main Road, Parson Drove**

**UPDATE**

**Email received from Agent dated 16<sup>th</sup> August**

An email was received from the agent in respect of the concerns raised by the Highways Authority;

*Further to your email I attach the revised drawing which is showing the 2.4 x 120m vision splay as requested by highways, also as you will see on the drawing the access road is 5.5m wide which is the standard width for an estate road so allows for two vehicles to pass.*

**Highway safety**

The agent submitted a plan demonstrating the visibility splays and indicated the width of the access road to address the concerns raised by the Highways Authority.

*(18/8/23) County Highways commented that the 2.4m x 120m inter-vehicular visibility splay has been shown, which is commensurate with the stopping sight distance for a 40mph road. This visibility, however, does not appear to be fully contained within the application boundary and / or the highway boundary and is thus reliant upon land outside of the applicant's control. However, this is based on ordnance survey mapping without the highway boundary overlaid, so it is difficult to say with any certainty as the portion of the splay which may overspill into third-party land is very minor.*

*For the avoidance of doubt, while there are many single driveways onto Main Road, a shared access for four dwellings will be more intensely used and therefore requires greater conspicuity.*

*The application seems to be reliant upon the permission F/YR19/0971/O which is to provide a 1.8m footway (Condition 6 of F/YR19/00971/O, later varied under F/YR21/1348/VOC). While this footway is shown on the submission drawings, the application is also reliant upon it so provision of a footway which connects to the existing footway to the west should also be conditioned in a similar manner.*

Given the 'in-principle' and fundamental locational issues forming other reasons for refusal, it is considered that this plan should be disregarded at this stage of determination as mentioned above, it cannot be confirmed at this late stage that the access changes would address the additional highways reason for refusal.

**Recommendation: REFUSAL** – The above update does not alter the original recommendation as set out on page 136 of the agenda.

## APPENDIX 2 (PREVIOUS UPDATE TO COMMITTEE ON 15<sup>th</sup> NOVEMBER 2023)

---

F/YR22/1416/O

**Applicant:** Mrs P McCarter

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

**Land To The East Of 114, Main Road, Parson Drove, Cambridgeshire**

**Erect up to 4 x dwellings involving the formation of a new access (outline application with matters committed in respect of access)**

**Officer recommendation: REFUSE**

**Reason for Committee: Deferred by Committee at its meeting in August 2023 in order to obtain clarification regarding highway matters.**

---

### 2 EXECUTIVE SUMMARY

- 3.1 This application has previously been referred to the Planning Committee for determination on 23<sup>rd</sup> August 2023 where it was agreed that the determination of the application be deferred to address the highway concerns in relation to visibility splays and provision of a footpath.
- 3.2 Following deferral, the case officer has been in correspondence with the agent to secure an amended site edged red to include the visibility splays along with the correct Certificate and notice to owners served on the owner of the land. Given the alterations required, a period of 21 days had to be observed.
- 3.3 The additional information submitted is not considered to overcome refusal reason 2 in relation to highway safety. Further to this, it does not alter or overcome the previously asserted recommended refusal reason 1 (backland development at odds with the local character).
- 3.4 Consequently, the recommendation is to refuse the application, consistent with the previous recommendation.

### 4 UPDATE

- 2.1 This application has previously been referred to the Planning Committee for determination on 23<sup>rd</sup> August 2023 where it was agreed that the determination of the application be deferred, to obtain updated plans and information surrounding the provision of visibility splays; land ownership and the width of the access road.
- 2.2 The Government provides advice on validity requirements in the Planning Practice Guidance (PPG). The PPG stipulates that: "The application site should be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (e.g. land required for access to the site from a public highway, visibility splays, landscaping, car parking and open areas around buildings). A blue line

should be drawn around any other land owned by the applicant, close to or adjoining the application site.” Since deferral, an amended site edged red plan, SE-1565-PP1000E was received which includes the land that would be required to provide the adequate visibility splays albeit that these would involve land not in ownership of the applicant. Subsequent to this, the correct certificate was duly completed with the requisite ‘Notice to Owners’ served and a copy submitted to the LPA. Given the changes, County Highways were further consulted and comments received are quoted below.

2.3 Contained within Appendix A is the original Officer’s committee report along with the ‘Update Report’

## 5 CONSULTATIONS

### 3.1 County Highways (10/10/23)

*Further to correspondence dated 27th September 2023, I note that additional information has been provided, but not published on the planning website which indicates that there is a covenant on the land to the east requiring adjacent footway to remain free of obstruction. Providing the Local Planning Authority is satisfied that this is sufficient to maintain the visibility splay shown on plan PP1000 F, then I would have no objections in this regard.*

*I had previously indicated that a section of footway linking the proposed shared access to the existing footway network to the west be included as part of this application. Whilst I still consider this to be essential, on reflection I note that the section of private footway to the west of the access shown on plan PP1000 F is located in land outside of the redline boundary, which may prohibit delivered by the applicant. It appears likely however that a suitable 2m wide footway link could be provided within the public highway. This would however require construction of kerbing at the road edge which would obstructing the existing overedge drainage. The applicant will therefore need to provide an appropriate drainage solution. While ideally the applicant should be invited to provide additional plans to resolve this matter prior to determination of this application, I recognise that with ongoing construction of the adjacent site an appropriate footway may exist before commencement of this site and to prevent any unnecessary construction work, it would be acceptable on this occasion to manage this by inclusion of an appropriate condition.*

*Overcoming the drainage issues may not however be straight forward and I would therefore recommend that the applicant be required to obtain approval of detailed design of the footway link prior to commencement of any works, which must then be implemented prior to occupation of any dwelling on site.*

*Please append the following conditions and informative to any permission granted:*

**Access Road Details:** *Prior to the commencement of the use hereby approved the access road shall be constructed to a minimum width of 5m metres for a minimum distance of 10 metres measured from the near edge of the highway carriageway and thereafter maintained in perpetuity.*

*Reason: In the interests of highway safety and in accordance with Policy LP15 of the Fenland Local Plan 2014.*

**Construction Facilities:** *Prior to the commencement of the development hereby approved adequate temporary facilities area (details of which shall have previously been submitted to and agreed in writing with the Local Planning Authority) shall be provided clear of the public highway for the parking, turning, loading and unloading of all vehicles visiting the site during the period of construction.*

*Reason: To minimise interference with the free flow and safety of traffic on the*



adjoining public highway in accordance with Policy LP15 of the Fenland Local Plan 2014.

**Highway Drainage:** The approved access and all hardstanding within the site shall be constructed with adequate drainage measures to prevent surface water run-off onto the adjacent public highway and retained in perpetuity.

*Reason: To prevent surface water discharging to the highway in accordance with policy LP15 of the Fenland Local Plan, adopted May 2014*

**Gates/Enclosure/Access Restriction:** Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any order revoking, amending or re-enacting that order) no gates or other means of enclosure shall be erected across the vehicular access hereby approved;

*Reason: In the interests of highway safety and to ensure compliance with Policies LP15 and LP16 of the Fenland Local Plan, adopted May 2014.*

**Visibility Splays:** Prior to commencement of the use/or first occupation of the development hereby approved, visibility splays shall be provided on both sides of the new vehicular access and shall be maintained free from any obstruction over a height of 600 mm within an area of 2.4 metres x 120 metres measured along respectively the edge of the carriageway.

*Reason: In the interests of highway safety in accordance with Policy LP15 of the Fenland Local Plan 2014.*

**Visibility Splays:** Prior to commencement of the use/or first occupation of the development hereby approved, visibility splays shall be provided on both sides of the new vehicular access and shall be maintained free from any obstruction over a height of 600 mm within an area of 2.0 metres x 2.0 metres measured along respectively the edge of the access and the back of the footway.

*Reason: In the interests of highway safety in accordance with Policy LP15 of the Fenland Local Plan 2014.*

**Off-Site Highway Works:** No development shall take place until details of works to construct a 2m wide footway linking the new access to the existing public footway to the west has been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied/brought into use until all of the works have been completed in accordance with the approved details.

*Reason: In the interests of highway safety and to ensure compliance with Policies LP15 and LP16 of the Fenland Local Plan, adopted May 2014. This is a pre-commencement condition because the off-site highway works are required to make the development acceptable and in addition to planning approval will require permission from the Highway Authority under the Highways Act.*

**Informative:**

*Works in the Public Highway*

*This development may involve work to the public highway that will require the approval of the County Council as Highway Authority. It is an OFFENCE to carry out any works within the public highway, which includes a public right of way, without the permission of the Highway Authority. Please note that it is the applicant's responsibility to ensure that, in addition to planning permission, any necessary consents or approvals under the Highways Act 1980 and the New Roads and Street Works Act 1991 are also obtained from the County Council.*

**Local Interested Parties/neighbours**

- 3.2 One received stating: *The revised site/access plan makes no difference to this application as it still ignores the requirements of the Parson Drove Local Development Plan to show local support for this application. It is important to note that just issuing consultation letters is not sufficient and positive support must be demonstrated to be compliant with these requirements.*

## 6 ASSESSMENT AND CONCLUSIONS

### Highway Safety:

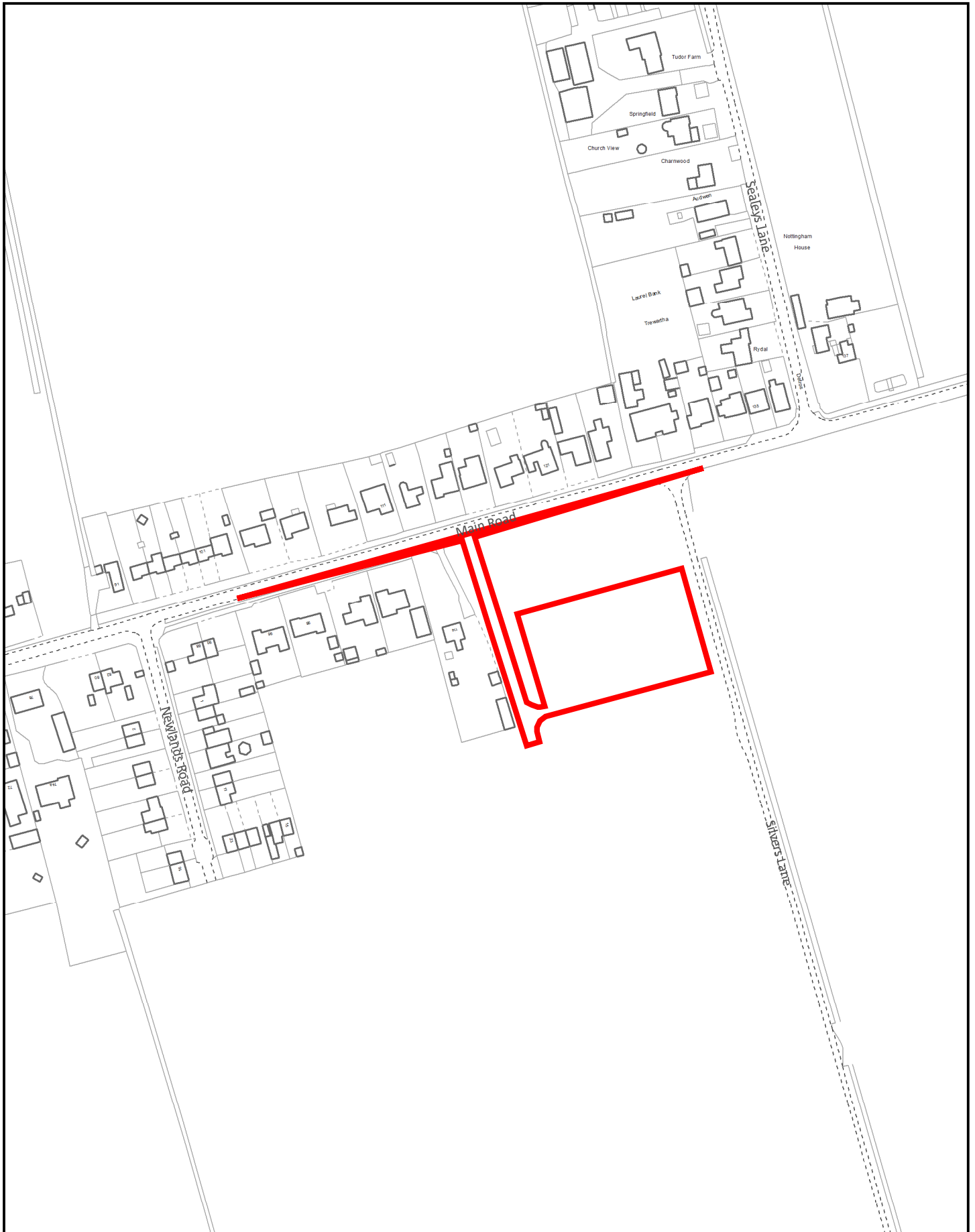
- 6.1 As access is being considered within this outline application, County Highways were consulted on the original submission. They requested the requisite visibility splays to be provided along with the width of the access road. This was conveyed to the agent on 28<sup>th</sup> July 2023 in an email. However, no information was immediately forthcoming.
- 6.2 Following publication of the agenda for 23<sup>rd</sup> August committee, and a few days before the committee meeting, the agent submitted a plan demonstrating the visibility splays and indicated the width of the access road. County Highways commented on 18<sup>th</sup> August 2023 and, in summary, confirmed that the splays provided were considered to be commensurate with the stopping sight distance, however, that these were reliant upon land outside of the applicant's control. Given the locational issues forming another reason for refusal, the plan was disregarded as it could not be confirmed that the details provided would categorically address the highways reason for refusal.
- 4.3 Following deferral of the application at committee, and as referenced above, the agent provided an updated site edged red plan including the visibility splays along with the requisite certificate and notice to owners. Further notification and consultation was carried out. County Highways reassessed the application with all up-to-date information provided and state that there is a covenant on the land to the east '*...requiring the adjacent footway to remain free of obstruction. Providing the Local Planning Authority is satisfied that this is sufficient to maintain the visibility splay shown on plan PP1000 F, then I would have no objections in this regard*'. The presence of a restrictive covenant is not a consideration material to the grant of planning permission and the two are entirely independent of one another. Nonetheless, the covenant requires the footway to be kept free from obstruction so wouldn't hinder the visibility splays. The LPA cannot therefore confirm if this would be a suitable arrangement as a covenant cannot be enforced through the planning process, as such, it cannot be considered there is no objection.

### Conclusion

The additional information submitted is not considered to overcome refusal reason 2 in relation to highway safety issues. As it does not alter or overcome the previously asserted failure to comply with the relevant policies in relation to refusal reasons 1 and 2 and as such the conclusions and recommendations in Appendix A remain unchanged in this regard and, notwithstanding the view expressed by Members previously, the Officer recommendation for refusal on these grounds remains.

### RECOMMENDATION

Whilst noting that Planning Committee did not accept refusal reasons 1, Officers have included them in order to be consistent with our previous recommendation.



Created on: 02/11/2023

© Crown Copyright and database rights 2023 Ordnance Survey 10023778

**F/YR22/1416/O**


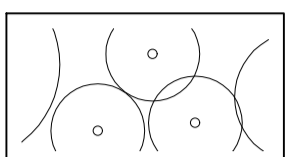
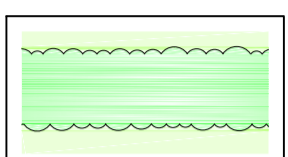
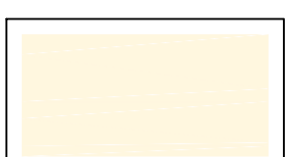
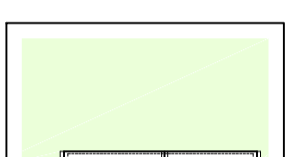
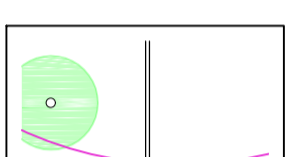
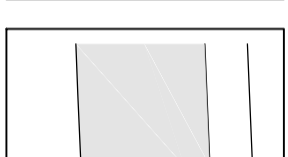
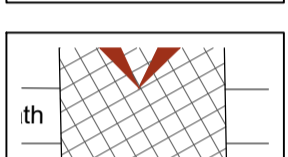
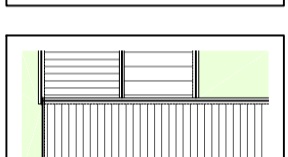
Scale = 1:2,500



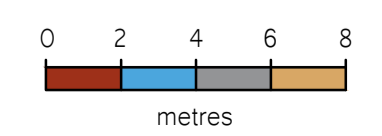


- General Notes
1. All dimensions are shown in "mm" unless otherwise stated.
  2. The contractor, sub-contractors and suppliers must verify all dimensions on site prior to the commencement of any work.
  3. This drawing is to be read in conjunction with all relevant engineers and specialist sub-contractors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

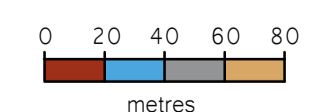
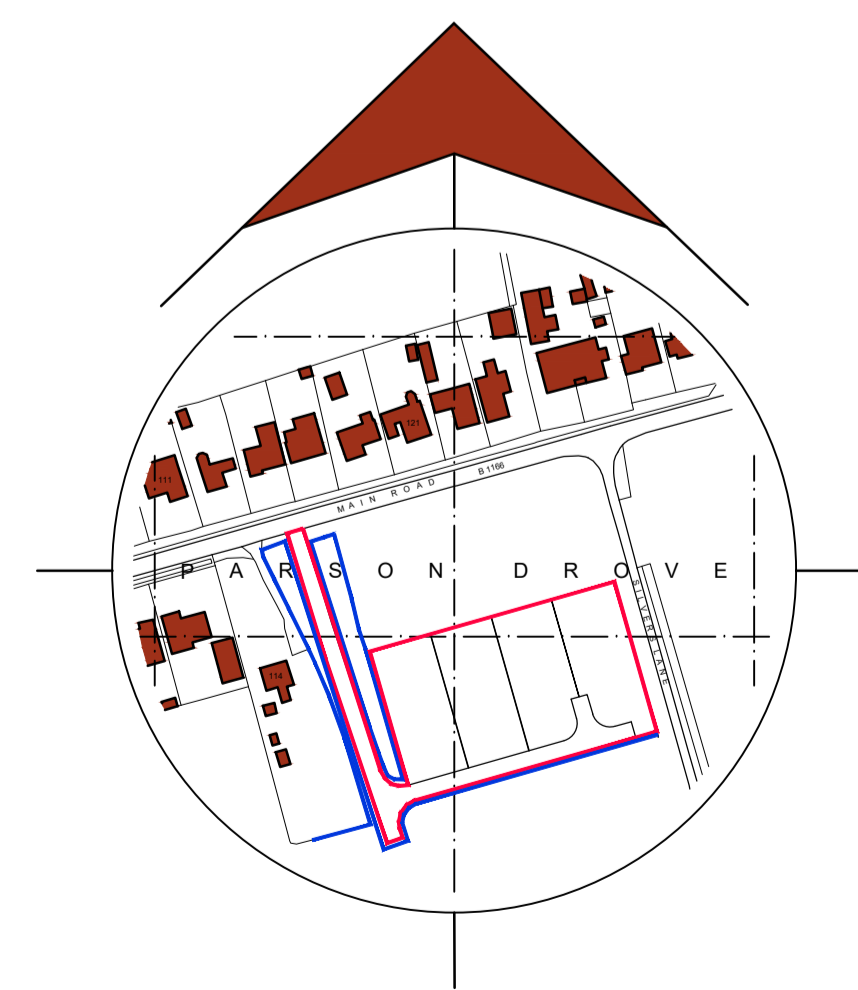
SITE PLAN KEY

-  Un-surveyed OS buildings
-  Existing vegetation
-  Proposed vegetation
-  Proposed gravelled areas
-  Proposed grassed areas
-  Proposed fencing
-  Proposed Private Drive to Adoptable Standard
-  5m of sealed & drained access to Cambs CC highways construction specification
-  Proposed indicative dwellings

Indicative Site Plan  
Scale: 1:200



Location Plan  
Scale: 1:2500



Status  
**FOR APPROVAL**



Swann Edwards Architecture Limited, Swann Edwards Architecture, Black Barn, Fen Road, Guyhirn, Wisbech, Cambs. PE13 4AA  
t 01945 450634 e info@swannedwards.co.uk w www.swannedwards.co.uk

Job Title Proposed Development Main Road, Parson Drive, Wisbech, Cambs For: Mrs McCarter	Date February 2022	Drawn by CW Checked by GE
Drawing Title Outline Planning Drawing Indicative Site Plan and Location Plan	Job No. SE-1565 Dwg No. PP1000	Sheet Size A1 Revision B