

<b>Parish:</b>	<b>Marshland St James</b>	
<b>Proposal:</b>	<b>Proposed agriculturally tied dwelling and agricultural building</b>	
<b>Location:</b>	<b>Plot of Land Apprx 200M S of Willowdale Farm E Side of The Street Moyses Bank Marshland St James Norfolk</b>	
<b>Applicant:</b>	<b>Mr &amp; Mrs Askew</b>	
<b>Case No:</b>	<b>18/01999/F (Full Application)</b>	
<b>Case Officer:</b>	<b>Clare Harpham</b>	<b>Date for Determination: 7 January 2019 Extension of Time Expiry Date: 9 September 2019</b>

**Reason for Referral to Planning Committee** – Councillor Brian Long has requested that the application be determined by Planning Committee

**Neighbourhood Plan:** No

**Case Summary**

The application relates to full planning permission for an agriculturally tied dwelling and agricultural building. The proposal is considered to be contrary to para 79 of the NPPF and Policy DM6 of the Site Allocations and Development Management Policies plan as it represents development within the countryside without adequately fulfilling the functional need to live on-site. In addition the road which served the application site is not considered adequate to cater for the proposed development.

**Key Issues**

Principle of Development  
 Design and Scale  
 Neighbour Amenity  
 Flood Risk  
 Highways Issues  
 Other material considerations

**Recommendation**

**REFUSE**

## **THE APPLICATION**

The application site is located to the eastern side of Moyses Bank approximately 520m to the south of its junction with School Road. On site is currently some hardstanding which was associated with its historic use and agricultural land which is open to the surrounding fields.

The closest residential dwellings are approximately 200m to the north on the western side of Moyses Bank and approximately 370m to the south on the same side of Moyses Bank (converted agricultural buildings).

The application is for full planning permission for an agriculturally tied dwelling which would be sited on the southern side of the site and which would be of a modern design with two monopitch roofs which meet at different levels in the middle of the dwelling. The agricultural building which also forms part of this application would be sited to the north of the site, adjacent to the existing hardstanding and Moyses Bank, and would have a footprint of 319m<sup>2</sup>.

## **SUPPORTING CASE**

The agent has stated that the supporting case will be submitted as late correspondence.

## **PLANNING HISTORY**

19/01317/AG: Pending Refusal: - Agricultural Prior Notification: construction of agricultural building - Land South of Willowdale Farm Moyses Bank Marshland St James

## **RESPONSE TO CONSULTATION**

**Parish Council: SUPPORT**

**Highways Authority: OBJECT**

Having examined the submitted plan it is apparent that the land farmed is predominately to the north of the application site and therefore as a base for the farming operation access over Moyses Bank would become heavily utilised by the associated traffic.

Moyses Bank is of single carriageway width only. It has no formal passing provisions and wide deep ditches to its sides. It is therefore not suitable to cater for passing traffic and is likely to result in vehicles undertaking long sections of reversing or attempts of passing on unsafe verges both creating conditions to the detriment of highway safety.

A review of the plan showing the land to be farmed would suggest that a more appropriate location, in highway terms, would be to locate a site off School Road where the highway is significantly wider and of better construction.

**Environment Agency: NO OBJECTION**

Strongly recommend that the mitigation measures proposed in the FRA are adhered to. It is the responsibility of the LPA to determine if the Sequential Test has to be applied and whether there are other sites available at lower flood risk.

**Environmental Health & Housing - Environmental Quality:** No comment to make regarding contaminated land or air quality.

**Emergency Planning:** Due to the location in an area at risk of flooding it's advised that the occupants' sign up to the EA FWD service and prepare a flood evacuation plan.

## **REPRESENTATIONS**

**TWO** letters of **SUPPORT** one of which is from the NFU:

- The road would benefit from more properties as there will be added security with more residents and a reduced police presence.
- The NFU supports the functional need to provide agricultural dwellings for businesses so that business operators and workers can live near their enterprise. We believe for the reasons stated in the agricultural report that the functional and financial tests required by the NPPF are met in this case.
- In this case its particularly important that a dwelling be provided to have someone on site to deal with security issues day or night.

## **LDF CORE STRATEGY POLICIES**

**CS06** - Development in Rural Areas

**CS08** - Sustainable Development

**CS10** - The Economy

**CS11** - Transport

## **SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016**

**DM2** – Development Boundaries

**DM6** - Housing Needs of Rural Workers

**DM15** – Environment, Design and Amenity

**DM17** - Parking Provision in New Development

## **NATIONAL GUIDANCE**

National Planning Policy Framework (NPPF)  
Planning Practice Guidance (PPG)

National Planning Policy Framework – sets out the Government's planning policies for England and how these are expected to be applied.

National Planning Practice Guidance - Provides National Planning Practice Guidance, in support of and in addition to the NPPF

## **PLANNING CONSIDERATIONS**

The application site is located within the countryside as defined within Inset Map G57 of the Site Allocations and Development Management Policies Plan (SADMP) 2016. The documents submitted with the planning application state that the site is previously developed brownfield land, however the land, which historically consisted of agricultural buildings and a dwelling, does not meet the definition of previously developed land as defined within Annex 2 (Glossary) of the NPPF 2018 which excludes land which was last occupied by agricultural buildings as well as land where the remains of the permanent structure have blended into the landscape. All that remains of the previous use is some hardstanding which would have been associated with the agricultural use and consequently the site is currently classed as agricultural land within the countryside.

The main issues to consider when determining this application are as follows:

Principle of Development  
Design and Scale  
Neighbour Amenity  
Flood Risk  
Highways Issues  
Other material considerations  
Crime and Disorder

### **Principle of Development**

The National Planning Policy Framework (NPPF) 2018, specifically paragraphs 78 and 79 states that 'housing should be located where it will enhance or maintain the vitality of rural communities,' and that Local Planning Authorities 'should avoid isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside.'

Policy DM6 (Housing needs of rural workers) of the SADMP states that development proposals for new occupational dwellings must demonstrate the stated intentions to engage in farming, forestry or any other rural-based enterprise are genuine, are reasonably likely to materialise and are capable of being sustained. Proposals should show that the needs of the intended enterprise require one or more of the people engaged in it to live nearby. The policy goes on to state that permanent occupational dwellings should only be allowed to support existing rural based activities on well-established rural based enterprises, providing:

- a) There is a clearly established existing functional need, requiring occupants to be adjacent to their enterprise in the day and night,
- b) The need could not be met by existing dwellings within the locality,
- c) The application meets the requirements of a financial test demonstrating that:
- d) The enterprise and the rural based activity concerned have been established for at least three years, have been profitable for at least one of them and;
  - i Are currently financially sound, and have a clear prospect of remaining so and;
  - ii. The rural based enterprise can sustain the size of the proposed dwelling;
  - iii. Acceptable in all other respects.

The application was accompanied by a Design and Access Statement, Agricultural Report, and financial details as well as additional information requested by the planning officer.

a) There is a clearly established existing functional need, requiring occupants to be adjacent to their enterprise day and night.

The agricultural enterprise is well established and is currently served by a dwelling on Moyses Bank approximately 500m south of the application site. It is the intention of the applicant to retire and for one of his sons to take over the agricultural business (which is who the proposed dwelling is for). Notwithstanding that fact we must still look at the functional need of the business which should require that the occupants be adjacent to their enterprise day and night.

The existing business is arable farming, alongside an agricultural contracting business, with predominant crops being wheat, barley, beans and sugar beet. Once harvested the crops are stored in farm buildings located on Middle Drove and these have to be monitored regularly whilst drying to ensure that humidity levels etc are acceptable and thereafter they have to be cooled to ensure the grain is below 10 degrees. Crops can be stored from harvest (August) through to the following June and this whole process of dehumidification and cooling can involve up to eight visits a day between 6am and 11pm between harvest time and the following spring.

Whilst there is an argument that this process does involve regular visits to the existing farmyard, at the current time the agricultural business is adequately served by the dwelling on Moyses Bank, which is located approximately 3.6km by road from the farm buildings which have the possible functional requirement on Middle Drove. Therefore the existing farmhouse, which the proposed dwelling is essentially expected to replace, is not adjacent to the farmyard for which the current functional argument is made.

The proposed dwelling is also not sited adjacent to the existing farm buildings for which the functional requirement is argued. The proposed dwelling is located approximately 3km by road from the existing farm buildings and therefore it does not meet the policy requirement that the occupants need to be adjacent to the part of the enterprise which has the functional need.

Whilst the proposed development includes a new agricultural barn, which is going to be a grain store, the main site as used currently is still approximately 3km from this new proposed dwelling. The agent has confirmed (email dated 4th March) that the current site will still be used for grain and machinery storage until such a time as the farm can afford to move the existing farm buildings away to the new grain store site (subject of this proposal). The current application only includes the provision of one agricultural building and it would not be possible to guarantee that the farmyard was moved to this location as there are currently no agricultural buildings on the application site, nor any other consents to place further agricultural buildings on site (for which there would be an objection from Highways as stated later in this report). During the course of this application an application for an agricultural building under Class A, Part 6, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015, as amended was applied for adjacent to the application site to demonstrate that they could move the existing farmyard without objection from highways, but this application does not meet the regulations and therefore will be refused as an application cannot be made under Class A, Part 6 anywhere on the established agricultural unit at the current time due to the fact that development has been carried out under Class Q of Part 3 of this same Schedule within the last ten years (i.e. to the south permission was granted on 7th March 2016 under Class Q for the conversion of an agricultural building to a dwellinghouse under prior approval reference number 16/00104/PACU3, and this has been implemented). An application for the prior approval of the erection of an agricultural building under Class A, Part 6, Schedule 2 of the GPDO cannot therefore be made until after March 2026, or such a date thereafter when Class Q

was 'carried out' for a period of 10 years from when development under Class A, Part 6 begins.

Security reasons have also been stated as a reason for requiring an on-site presence. The agent has confirmed that the existing site is fully alarmed and linked to applicant's phone as well as security cameras with signs clearly displaying their presence. Whilst the initial agricultural report states that there have been break-ins and thefts of equipment no details have been given or police crime reports. No information has been provided as to what other security methods may have been considered or discounted. No details have been given regarding potential security for the proposed new agricultural building which forms part of this application, other than the presence of the proposed dwelling.

The agent has stated that the site where the existing farm buildings are located is not suitable for a dwelling or additional farm buildings, due to site constraints such as high pressure gas mains, high voltage power lines and amenity issues with the neighbouring dwellings. Information was submitted regarding complaints to CSNN from the dwelling adjacent to the existing farmyard and whilst this is true, CSNN has confirmed that their investigations did not conclude that the existing farmyard was the cause of any nuisance. There was low level noise which could also have resulted from the power lines or gas mains as well as the farmyard (no further action was taken by CSNN). Whilst it is stated that the future intention of the farm enterprise is to relocate the farm buildings (yard) to the application site, subject to finances, as has been stated there are currently no agricultural buildings in this proposed location, nor any planning permissions in place for further buildings on this part of Moyes Bank. Therefore to approve a new dwelling in this new location may result in a dwelling which cannot fulfil a functional need as it is away from any approved / existing agricultural buildings.

At the current time the existing functional need is being met by a dwelling located over 3.5 km from the barns, and it is not considered that the location of the proposed dwelling would fulfil any functional requirement that would require the applicant to be located on site day and night. Additionally the application site has no farm buildings located in proximity to it, other than the agricultural building which is subject of this application, nor does it have any prospect of having so due to the constraints of accessing the proposed farmyard off Moyes Bank. It is not considered that this policy requirement has been met.

b) The need could not be met by an existing dwelling in the locality.

It has been stated that the current farm owner who lives on Moyes Bank wishes to retire and pass on the farm to one of his sons, or a farm manager in the interim, and there is provision in para 79 of the NPPF to allow for the provision of a dwelling for those taking majority control of a farm business.

It has been stated that the current farmers and farm labourers live at some distance and that there has been no suitable housing within 'sight and sound' of the existing farm buildings. However it is of note that the applicant did have prior approval granted on a farm building to the north of the existing farm house in March 2016 (between the existing farmhouse and the current application site on Moyes Bank) for a change of use from an agricultural building to a residential dwelling approved under Class Q, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015, as amended (reference 16/00104/PACU3). This building has since been converted into a residential dwelling but is no longer in the ownership of the applicant. The agent has confirmed (email dated 4th March) that at the time the barn with residential approval was sold to raise funds the family had not thought about retirement planning. This dwelling would have been only 400m to the south of this application site and could have been utilised by the agricultural business as a residential dwelling.

Notwithstanding the above if we consider the location of the existing farm buildings, which are over 3km from the application site, the distance to the village of Marshland St James is a similar distance as between the existing farm buildings and existing farm house and no information has been submitted as to whether any dwellings within the village of Marshland St James were considered. There are currently a number of dwellings for sale in Marshland St James, some building plots and a large number of newly built dwellings. Rightmove shows 26 dwellings for sale at the time of writing this report, although an analysis has not been carried out regarding size of property, price etc. It is of note that one dwelling is located on Middle Drove (albeit for a price of £635,000) and there is also a barn conversion on the market on Moyses Bank for £380,000 (which looks like the barn which was approved under permission 16/00104/PACU3 and is to the south of the application site).

Therefore it is not considered that the current functional need could not be met by an existing dwelling in the locality when all the above is taken into account.

c) The enterprise is financially profitable.

A financial statement was submitted by Cruso & Wilkin as well as certified profit and loss accounts which shows good profits for three of the four years shown. In one of the years shown the profit was lower, however the reason given was it was due to exceptional weather conditions and poor yields.

This statement shows that the enterprise was profitable for all four years albeit one year was significantly lower than the other three, that the business is financially sound and has a prospect of remaining so.

It is considered that the application would meet the financial test and that the farm has been in business for over 40 years.

The proposed three bed dwelling is not excessive in size and it is considered that the enterprise would be capable of supporting the dwelling. Therefore the application passes this part of the policy test.

### **Design and Scale**

The proposed dwelling is modern in style and emulates an agricultural building with regard to roof pitch and materials. The proposed dwelling would have three double bedrooms and would include spacious living accommodation which would include a study, kitchen/diner/family room, and separate lounge etc. Overall the design of the proposal is considered acceptable.

The proposed agricultural building would measure 24.75m x 12.9m and would be just over 9m in height once the finished floor levels are taken into consideration. The scale, design and proposed materials (to be agreed) are not out of character for an agricultural building within the countryside.

No information is included within the application with regard to proposed security of the proposed farm building and whether any security fencing would be required which may require planning permission.

The size of the proposed dwelling and agricultural building in an area which is currently flat and open would undoubtedly result in some visual impact, but given the agricultural 'style' of the proposed dwelling, it is considered that it would not have a detrimental impact on the surrounding countryside to the degree that would warrant a refusal on this basis.

## **Neighbour Amenity**

The proposed dwelling would have no impact on any neighbouring residential dwellings given the distance between the site and the nearest neighbours.

The agent has confirmed that the barn would be used for the drying of grain and that in the first instance internal drying fans would be used and the system upgraded over time. There is the potential for noise and disturbance to arise from any external fans but this could be dealt with by condition and there are no objections from CSNN.

## **Flood Risk**

The application site is located within both Flood Zone 2 (close to the road) and flood zone 3 of the SFRA 2018. The premise that the proposed dwelling has to be sited in this location to serve the needs of the business could give the argument that the sequential test is not required as it would not be possible to move the proposed dwelling to a different location. In practical terms as there are no existing agricultural buildings on site it would be possible to relocate the proposed development to a different location.

Looking at the plan showing the land holding of the applicant it does not look like there are any other sites which are in their ownership that would be in a lower flood risk zone and therefore if we look purely at the farm holdings the proposal would pass the sequential test.

If we look at relocating the proposal to a lower flood zone within the Parish as a whole, whilst there is a large part of Marshland St James which is located within Flood Zone 1 if the application is taken as a whole, which includes the agricultural building as well as the dwelling, then there are no currently available sites which are within a lower flood zone within the Parish and the proposal passes the sequential test.

As part of the site is located within flood zone 3 and relates to more vulnerable development (dwellinghouse) as well as less vulnerable (agricultural building) the exception test is required to be passed.

The Exception test requires development to:-

- provide wider sustainability benefits to the community that outweigh flood risk, and
- That the development will be safe in its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

There are no objections from the Environment Agency with regard to the fact that the development could be made safe for its lifetime without increasing flood risk elsewhere. However both elements need to be passed in order for the exception test to be passed.

Whilst there may be benefits to the rural enterprise with regard to the provision of a new agricultural building and tied agricultural dwelling, those benefits do not outweigh the requirement to strictly control new residential development in the countryside or ensure that if possible it is not located in an area at a higher risk of flooding. In this case, it is considered that there is no requirement for a full time worker to be living on the application site given that is considered that the application does not fulfil the functional requirement required for a restricted dwelling. As a result, the development is considered to fail the exception test.



## **Highways Issues**

The proposal would intensify the use of the existing access (currently serving some old hardstanding and an agricultural field) and proposes a new residential access.

Moyses Bank is a narrow road of single carriageway width only with no formal passing provision and wide deep ditches to its sides which would preclude passing bays being introduced. The proposal would intensify the use of Moyses Bank in order to access the application site and this would intensify further should the farm business operations relocate to the application site as has been expressed within supporting documentation. There is an objection to the proposal from the Highways Officer who states that Moyses Bank is not suitable to cater for passing traffic and that it is likely to result in vehicles undertaking, long sections of reversing, or attempts of passing on unsafe verges both creating conditions which would be detrimental to highway safety.

It can be seen from the response from the Highways officer than any future applications for additional agricultural buildings in proximity to the application site (which would be necessary if operations were to relocate to this site) are likely to give rise to further objections from Highways for the reasons outline above.

## **Other material considerations**

There are no other material considerations which are pertinent to this application.

## **Crime and Disorder**

There are no additional crime and security issues raised by the submission of this application. Whilst it may be preferable to site a dwelling in close proximity to a barn, security in of itself is not a reason to justify a dwelling.

There is a letter of support which states that an increase in dwellings would increase the security of the area but this is not a reason to approve a dwelling in this countryside location.

## **CONCLUSION**

The site is within a countryside location where in principle a new dwelling would not usually be permitted. However this application seeks consent for an agriculturally tied dwelling and an associated agricultural building, which could potentially be acceptable subject to consideration against the relevant policy framework, particularly DM6 of the Site Allocations and Development Policies Plan 2016.

It is your officer's opinion that from this application the duties involved in the running of the agricultural enterprise do not demonstrate that there is a requirement for someone to live on site during the day and night, which has been established by the fact that the business is currently operated at some distance from the existing farm yard. This is also illustrated by the fact that the proposal is at some distance (3km) from the existing farm yard which has not yet been re-located, nor are there any planning consents in place with which they could do so. As such there is no essential need for a dwelling to be placed on the application site and therefore the proposal is considered contrary to the provisions of paragraph 79 of the National Planning Policy Framework, Policies CS02 and CS06 of the Core Strategy 2011 and Policies DM2 and DM06 of the Site Allocations and Development Management Policies Plan 2016.

Additionally there is an objection from the Highways Officer with regard to the suitability of the narrow road (Moyses Bank) which would serve this proposal and any possible future expansion which is stated is the intention of the farming enterprise. This would result in development which would result in conditions detrimental to highway safety and as such would be contrary to paras 108 and 109 of the NPPF, Policy CS11 of the Core Strategy 2011 and Policy DM15 of the Site Allocations and Development Management Policies Plan 2016.

It is the responsibility of the LPA to direct development, where possible, to areas with the lowest risk of flooding and whilst it has been determined that the application would pass the sequential test it is also necessary for it to pass both elements of the exception test. In this case, it is considered that there is no requirement for a full time worker to be living on the application site and as a result, the development is considered to fail the exception test as the benefit of providing the development in this location does not outweigh the flood risk. The proposal is therefore contrary to paras. 160 and 161 of the NPPF and Policy CS08 of the Core Strategy 2011.

In light of national guidance, development plan policies and other material considerations Members are requested to refuse the development as proposed.

#### **RECOMMENDATION:**

**REFUSE** for the following reason(s):

- 1 Para 79 of the NPPF seeks to restrict residential development outside towns and villages to those dwellings essential to agriculture and other rural enterprises where it can be demonstrated that the need for the proposed dwelling could not be met within by an existing dwelling or settlement. The proposal has failed to demonstrate that the proposed dwelling would meet the existing functional requirements of the agricultural business. The proposal is therefore contrary to Para 79 of the NPPF, Policy CS02 and CS06 of the Core Strategy 2011 and Policy DM2 and DM6 of the Site Allocations and Development Management Policies Plan 2016.
- 2 The unclassified road (Moyses Bank) which serves the site is considered to be inadequate to serve the development proposed, by reason of its restricted width / lack of passing provision / substandard construction. The proposal, if permitted, would be likely to give rise to conditions detrimental to highway safety and would be contrary to para 108 and 109 of the NPPF, Policy CS11 of the Core Strategy 2011 and Policy DM15 of the Site Allocations and Development Management Policies Plan 2016.
- 3 The application site falls within Flood Zones 2 and 3 of the SFRA 2018 and passes the sequential test; therefore the exception test is required. The proposal does not represent development where the sustainability benefits outweigh the flood risk. The proposed development is therefore contrary to paras. 160 and 161 of the NPPF and Policy CS08 of the King's Lynn and West Norfolk Core Strategy 2011.