

Parish:	Marshland St James	
Proposal:	Outline Application: residential development	
Location:	Land NW of 47 School Road Marshland St James Norfolk	
Applicant:	Mr S Riddick	
Case No:	20/01256/O (Outline Application)	
Case Officer:	Mrs C Dorgan	Date for Determination: 9 October 2020 Extension of Time Expiry Date: 6 November 2020

Reason for Referral to Planning Committee – Application called in by Councillor Long

Neighbourhood Plan: No

Case Summary

This application involves an approximately 0.4ha parcel of agricultural land on the north-eastern side of School Road. The site wraps around the former pub ‘The Marshland Arms’ from School Road and also fronting on to Hope Lane. Outline permission is sought for residential development with all matters reserved bar access. An indicative plan has been submitted showing the provision of 4 dwellings.

The site lies outside the defined village development boundary and within Flood Zone 1 of the Council-adopted Strategic Flood Risk Assessment.

A similar application (19/01906/O) was considered at Planning Committee in June 2020 and was refused. This application seeks to address the reasons for refusal.

Key Issues

- Principle of development
- Highways and Access
- Other material considerations

Recommendation

REFUSE

THE APPLICATION

This application involves an approximately 0.4ha parcel of agricultural land on the north-eastern side of School Road. The site wraps around the former pub 'The Marshland Arms' (now a dwelling) from School Road and also fronting on to Hope Lane. Outline permission is sought for residential development with all matters reserved bar access. An indicative plan has been submitted showing the provision of 4 dwellings.

Outline permission is sought for residential development. All matters are reserved for further consideration with the exception of the means of access which is to be determined at this stage. An indicative site layout plan shows 4 individual plots from a single access onto School Road. One plot fronts onto School Road, and three plots front onto Hope Lane with access and parking to the rear of the dwellings. New footpath provision is also indicated across the front of the site, together with road widening to create a 5.5m wide carriageway.

The site lies outside the defined village development boundary and within Flood Zone 1 of the Council-adopted Strategic Flood Risk Assessment.

The application is accompanied by a Design & Access Statement and a Flood Risk Assessment.

Previously a similar planning application (ref- 19/01906/O) was considered by Planning Committee in June 2020 and was refused for the following reasons:

1. The proposal constitutes the development of a parcel of open countryside with road frontage development, which would consolidate the built form outside the defined development area of the village, to the detriment of the appearance and character of the countryside. There are no material considerations to outweigh this in principle policy objection and the proposal is therefore not considered to be sustainable development and contrary to the provisions of the NPPF (paragraphs 11, 78 & 170), Core Strategy Policies CS01, CS02, CS06 & CS08 of the LDF and Policies DM1 & DM2 of the SADMP.
2. The unclassified road, School Road, serving the site is considered to be inadequate to serve the development proposed, by reason of its restricted width / lack of passing provision and lack of footway provision. The proposal, if permitted, would be likely to give rise to conditions detrimental to highway safety. This is contrary to the NPPF and Policy CS11 of the adopted Core Strategy 2011 and Policy DM15 of the Site Allocations and Development Policies Plan 2016.

SUPPORTING CASE

This statement supports the outline planning application for residential development of up to 4 dwellings at land adjacent the former Marshland Arms Public House, School Road, Marshland St James. Only matters of access are committed for consideration at this stage.

There is continuous residential development located to the north of the site and the proposed housing allocation MSJ1 is immediately opposite the western aspect of the site.

The site cannot be considered as being within an isolated countryside location as per paragraph 79 of the NPPF. There is continuous residential development located on both sides of the highway to the north of the site and the proposed housing allocation MSJ1 is immediately opposite the site. This site is the preferred option currently.

Paragraph 11 of the NPPF states that there is a presumption in favour of sustainable development.

The site lies within Flood Zone 1 of the adopted Level 2 SFRA and is therefore in a Sequentially preferable location in terms of flood risk.

Marshland St James/St John's Fen End with Tilney Fen End is identified as a Key Rural Service Centre within the Draft Local Plan. As per policy LP02, Key Rural Service Centres 'help to sustain the wider rural community. It further states that the Council will seek to maintain and enhance facilities to support this function.

The proposal will also bring increased benefits to the area by means of CIL and Council Tax Income which will be paid in perpetuity.

In terms of social benefits, the proposal will integrate the existing housing to the South East of the site with the remainder of the village. This will help to support the community as a whole and will promote the social objective as set out in paragraph 8 of the NPPF.

The proposal will bring economic benefits by reason of local expenditure and creation of employment and purchasing of local materials during the course of construction, thereby meeting the economic objective as set out in paragraph 8 of the NPPF.

The proposal also provides a significant benefit by means of the installation of a public footpath across the site frontage which links up to the existing footpath network. This will link the Marshland Arms (which is now a dwelling) with the remainder of the village. One of the reasons for the refusal of the previous application was that the Highways Officer felt there was not enough room for the road widening and footpath. We now have the land owner of the adjacent plot of land in agreement and a separate application is submitted for that site which overcomes this reason for refusal.

The site is located within 150m of the primary school giving even more weight on this being an ideal location for residential development.

The proposal also includes the relocation of the 40mph speed sign so that all existing and future occupiers along School Road, including the new housing allocations, will benefit from reduced traffic speeds which promotes good levels of residential amenity and highway safety. The development therefore complies with policy 17 of the SADMPP.

The development will allow for enhanced landscaping within the site, promoting ecology and biodiversity within the area as well as improving visual amenities in general. The proposal therefore meets the environmental objective as set out in paragraph 8 of the NPPF.

PLANNING HISTORY

19/01906/O: Application Refused at Planning Committee: 29/06/20 - OUTLINE APPLICATION SOME MATTERS RESERVED: Proposed residential development - Land W of 47 School Road Marshland St James

18/00084/PREAPP: INFORMAL - Likely to refuse: 27/07/18 - PRE- APPLICATION OUTLINE (WITH CONSULTATIONS AND NO MEETING): Proposed new dwellings - Land And Buildings On The North East Side of School Road

RESPONSE TO CONSULTATION

Parish Council: OBJECTION

The Parish Council considered the above application at a meeting on 14 September and made a decision to OBJECT to the application for the following reasons:

- the site is outside the development boundary for the village
- School Road is a narrow unclassified road which is inadequate to serve this development.
- If this application is approved against the decision of the Parish Council we would like the following conditions to be placed on any approval:
 - a footpath along the front of the site
 - a full ecological survey to be done on the site
 - 40mph speed limit on School Road to be extended to beyond the development.

Highways Authority: NO OBJECTION

The location plan now includes the lands needed to achieve highway mitigation within the land edged red. The red line now, in theory, extends to the rear of the ditch and fence line for the neighbouring sites so the highway mitigation works should be acceptable.

However, I would have strong concerns that should an approval be granted without a legal agreement being in place the highway mitigation works, required to deliver an acceptable development, could not be secured.

Internal Drainage Board: NO OBJECTION

The site is within the Internal Drainage District (IDD) of the King's Lynn Internal Drainage Board (IDB) and therefore the Board's Byelaws apply. A copy of the Board's Byelaws can be accessed on our website (https://www.wlma.org.uk/uploads/KLIDB_Byelaws.pdf), along with maps of the IDD (https://www.wlma.org.uk/uploads/128-KLIDB_index.pdf). These maps also show which watercourses have been designated as 'Adopted Watercourses' by the Board. The adoption of a watercourse is an acknowledgement by the Board that the watercourse is of arterial importance to the IDD and as such will normally receive maintenance from the IDB.

In order to avoid conflict between the planning process and the Board's regulatory regime and consenting process please be aware of the following:

- We note that the applicant has indicated that they intend to dispose of surface water via infiltration, however we cannot see that the viability of the proposed drainage strategy has been evidenced. We would recommend that the proposed strategy is supported by ground investigation to determine the infiltration potential of the site and the depth to groundwater. If on-site material were to be considered favourable then we would advise infiltration testing in line with BRE Digest 365 (or equivalent) to be undertaken to determine its efficiency. If (following testing) a strategy wholly reliant on infiltration is not viable and a surface water discharge is proposed to a watercourse, then the proposed development will require land drainage consent in line with the Board's byelaws (specifically byelaw 3). Any consent granted will likely be conditional, pending the payment of a Surface Water Development Contribution fee, calculated in line with the Board's charging policy (https://www.wlma.org.uk/uploads/WMA_Table_of_Charges_and_Fees.pdf).
- We note the presence of a watercourse which has not been adopted by the Board (a riparian watercourse) adjacent to the site's eastern boundary. Whilst not currently

proposed, should the applicant's proposals change to include works to alter the riparian watercourse, consent will be required under the Land Drainage Act 1991 (and byelaw 4).

Whilst the consenting process as set out under the Land Drainage Act 1991 and the aforementioned Byelaws are separate from planning, the ability to implement a planning permission may be dependent on the granting of these consents. As such we strongly recommend that the required consent is sought prior to determination of the planning application.

Environmental Quality: NO OBJECTION

The site is adjacent to the former Marshland Arms public house and the current use is paddock land. The applicant has submitted a contaminated land screening form. Based on the information supplied there are no sources of land contamination identified. Therefore we have no objections regarding contaminated land.

Natural England: NO OBJECTION

Environment Agency: NO OBJECTION

We have no objection to the proposed development.

REPRESENTATIONS TWO letters of **SUPPORT** have been received, **ONE** letter of **OBJECTION** and **ONE NEUTRAL** letter.

Support letters raise points such as-

- Land is not utilised currently, would be preferable to have executive style homes
- The addition of a footpath and extending the 30mph speed limit will benefit the school
- Good location within walking distance of the school and new village hall
- The scheme will include enhanced landscaping which will improve biodiversity and visual amenities.
- Site is perfect location for balanced expansion of the village.

Objection letter raises the following issues-

- Contrary to Local Plan policies
- Outside village boundary
- Development to the detriment of the appearance and character of the countryside.
- Contrary to NPPF
- Council has an inconsistent approach to the use of policies and the determination of applications
- Disagrees that the land, only recently used as a paddock, should be considered a brownfield site.
- Traffic generation
- Queries how refuse / delivery trucks will be able to use shared access without reversing onto School Road.
- Design allows for further growth beyond existing site. This design should be amended.
- Not a sustainable location- poor public transport links, lack of local employment or services, overcrowded school.
- Need to address limited facilities and services before additional residential growth.
- Dangerous to create more traffic given proximity to school

- The Neutral representation received states-
- Road not adequate for new houses and sewer would need extending, as well as the street lighting and footpath.
- School traffic is manic in this location.
- Wrong location in the village for amenities, the school is full and has little parking facilities.

LDF CORE STRATEGY POLICIES

CS01 - Spatial Strategy

CS02 - The Settlement Hierarchy

CS06 - Development in Rural Areas

CS08 - Sustainable Development

CS09 - Housing Distribution

CS11 - Transport

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM2 – Development Boundaries

DM15 – Environment, Design and Amenity

DM17 - Parking Provision in New Development

NATIONAL GUIDANCE

National Planning Policy Framework (NPPF)
 Planning Practice Guidance (PPG)
 National Design Guide 2019

PLANNING CONSIDERATIONS

The key issues in assessing this application are considered to be as follows:

Principle of development
 Highways and Access
 Other material considerations

Principle of development

The Borough Council Local Plan currently comprises the Core Strategy (CS) (2011) and the Site Allocations and Development Management Policies Plan (SADMPP) (2016). Marshland St. James is presently classed as a Rural Village in the Borough Council's adopted Local Plan. The site itself is located outside of the development boundary, as indicated by Inset G57 on page 289 of the SADMPP. This shows the village development area terminating at the SE side of 'Little Oaks' which is some 240m to the NW of the application site; however

during the period when the Council could not demonstrate a 5 year supply of housing land two pairs of semi-detached houses (Nos. 27-33 School Road) were built on the parcel of land to the immediate northwest of the application site extending the built up area. Whilst adjacent to the current built-up area on the NE frontage of School Road, it is nevertheless outside the development area of the village and part of the countryside.

Policy DM2 – Development Boundaries states inter alia:

“The areas outside development boundaries (excepting specific allocations for development) will be treated as countryside where new development will be more restricted and will be limited to that identified as suitable in rural areas by other policies of the local plan...”

This proposal does not fall into the categories which are listed as permitted, and the principal of developing the site is contrary to the provisions of the adopted Local Plan.

The most recent Annual Monitoring Report (AMR) and the Housing Delivery Test Action Plan illustrate that the Borough Council is able to show a land supply in excess of the required amount of five years, with the position currently being 6.97 years' worth of supply. Members will note that since the 5 year supply of housing land shortfall in 2015-16, there have been almost 100 dwellings approved in the village, which is significantly in excess of the 25 units on allocated sites in the SADMPP (Policies G57.1 & G57.2).

The Council is currently in the process of reviewing its Local Plan (both CS & SADMPP). This will look beyond the current plan period (2026) a further 10 years to 2036. A draft version of the Local Plan Review was published in 2019 for public consultation. Significance is drawn by the agent to the proposed allocation site on the opposite side of School Road (MSJ1) in the draft Local Plan Review. However a second draft of the Plan is currently being drawn up and the decision has been taken that based on housing targets, delivery and existing allocations that there is not a need to allocate any additional sites within the village. The only allocations will be those currently in the adopted Local Plan. It should be noted however that this is an ongoing process and given it is at an early stage any draft proposals should currently carry minimal weight in the decision making process.

It could also be argued that the intended 4no. substantial open market plots would not make a significant contribution towards local housing demands for smaller, more affordable units. There is also no affordable housing to be provided as part of the scheme, and so there would not be any such benefit there either.

The applicant points to case law and states that the land is classed as 'brownfield land' because it has been used for grazing and keeping horses. Case Law differs but generally if horses are kept on the land for substantial periods of time with supplementary feeding etc then this is likely to be classed as being used for the 'keeping of horses' and represents a material change of use. Whereas if the horses are let on the land occasionally solely for the purposes of grazing on the land then this is classed as agriculture. It is a matter of fact and degree but the presence of a field shelter or loose box reinforces the impression of a non-agricultural use.

The applicant argues that it is not agricultural land but a brownfield site, and that this should be given substantial weight in the determination of the application. They refer us to national policy which in paragraph 118c gives 'substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs', in preference to the development of greenfield land. The Council does not agree however that this is 'suitable' land for development for the reasons detailed above. The NPPF in paragraph 117 goes on to state that 'planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment'. The site reads as part of the wider countryside as there is no area of hardstanding and no permanent buildings on the site. Notwithstanding this, this does not outweigh the considerations above.

The proposal would be unjustified consolidated development and therefore be harmful to the character and appearance of the countryside, contrary to the provisions of the NPPF, Core Strategy Policies CS01, CS02, CS06 & CS08 of the LDF (2011) and Policies DM1 & DM2 of the SADMPP (2016).

Highway and Access

The proposal indicates the provision of a 1.8m wide footpath along the road frontage of the site at School Road which will link the former Marshland Arms pub with the remainder of the village, and importantly provide a link to the school. The applicant states that the 1.8m footpath is capable of being provided within the highway verge. The road width at School Road is proposed to increase from 5.0m to 5.5m and there is an intention to relocate the 40mph speed sign so all occupiers along School Road will benefit from reduced traffic speeds.

The previous planning application (ref- 19/01906/O) was partially refused on highway safety grounds (reason 2). However during this current application the applicant has sought to address these concerns and has shown that the applicant does have the ability to deliver the required visibility splay as well as the footpath provision and the road widening. The existing planning consent 19/01907/O (granted consent at Planning Committee in February 2020) and an application on the neighbouring land also brought to this Planning Committee (ref 20/01231/O), would provide a continuous footpath link from the School Rd/ Hope Lane junction to the school. On this basis the Local Highway Authority has withdrawn their objection to the scheme.

However the Local Highway Authority do raise concerns regarding landownership and the deliverability of these improvement works as they affect third party land. In planning terms, the improvement works could be secured via a 'Grampian' style condition. This would secure the details of implementation prior to any development commencing.

However, this is academic as the principle of the development fundamentally fails to accord with the development plan as stated above.

Other material considerations

Flood risk:

The site lies in Flood Zone 1 of the Council-adopted Strategic Flood Risk Assessment, which is compatible to accommodate dwellings. A site specific Flood Risk Assessment has been submitted as part of this application which receives no objection from the Environment Agency. The District Emergency Planner suggests certain measures, as reported in the Consultation section above, which would normally be dealt with via an informative note attached to any permission.

A representation received queries access to main sewers, however the drainage arrangements are yet to be provided and a condition is attached requiring details to be submitted. There are no known surface water drainage concerns relating to this specific site.

Form & character, layout and amenity:

This is an outline application seeking consent for the principle of developing the site. Whilst an indicative layout plan has been submitted as part of the application, all these matters (with the exception of access) are reserved for future consideration.

CONCLUSION

The proposal constitutes the development of a parcel of countryside with road frontage development, which would consolidate the built form outside the defined development area of the village, to the detriment of the appearance and character of the countryside. In principle this outweighs the use of brownfield land. The Borough Council is able to show a land supply in excess of the required five years, with the current position being 6.97 years' worth of supply. The proposal is therefore not considered to be sustainable development and contrary to the provisions of the NPPF (paragraphs 11, 78 & 170), Core Strategy Policies CS01, CS02, CS06 & CS08 of the LDF and Policies DM1 & DM2 of the SADMPP.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that an application must be determined in accordance with the development plan unless material considerations indicate otherwise. No material considerations have been proposed as part of this application to warrant a decision that is clearly contrary to the aforementioned policies contained within the Development Plan.

The application is therefore duly recommended for refusal.

RECOMMENDATION:

REFUSE for the following reason(s):

- 1 The proposal constitutes the development of a parcel of open countryside with road frontage development, which would consolidate the built form outside the defined development area of the village, to the detriment of the appearance and character of the countryside. There are no material considerations to outweigh this in principle policy objection and the proposal is therefore not considered to be sustainable development and contrary to the provisions of the NPPF (paragraphs 11, 78 & 170), Core Strategy Policies CS01, CS02, CS06 & CS08 of the LDF and Policies DM1 & DM2 of the SADMP.