

## AGENDA ITEM No 9/1(b)

<b>Parish:</b>	<b>Marshland St James</b>	
<b>Proposal:</b>	<b>SELF BUILD- Demolition of existing buildings and erection of x3 self- build semi-detached dwellings on class Q approved land.</b>	
<b>Location:</b>	<b>Nissan Hut And Farm Buildings N of Harston Black Drove Marshland St James Norfolk PE14 8JX</b>	
<b>Applicant:</b>	<b>Mr and Mrs D and L Cousins</b>	
<b>Case No:</b>	<b>26/00370/F (Full Application)</b>	
<b>Case Officer:</b>	<b>Helena Su</b>	<b>Date for Determination: 29 April 2026 Extension of Time Expiry Date: 15 May 2026</b>

**Reason for Referral to Planning Committee** – Called in by Cllr Long.

**Neighbourhood Plan:** Yes

### **Case Summary**

This application is for the erection of three self-build and custom dwellings at land to the east of Black Drove in the parish of Marshland St James.

Marshland St James is classified as a Tier 5 (Rural Village) settlement under the settlement hierarchy of policy LP01 of the Local Plan 2021-2040. The site falls outside the development boundary of Marshland St James by approximately 1.5km. The site is within the neighbourhood plan area of Marshland St James Neighbourhood Plan.

This decision will be balanced against the 'fallback' position established under planning permission 23/01765/PACU3, for conversion of an agricultural building on the site into three dwellings. This planning permission expires on 16 November 2026.

### **Key Issues**

- Planning History
- Principle of development
- Form and character
- Impact on neighbour amenity
- Highway safety
- Ecology and Biodiversity
- Flood risk
- Any other matters requiring consideration prior to determination of the application

### **Recommendation:**

**REFUSE**

## **THE APPLICATION**

This application is for the erection of three self-build and custom dwellings at land to the east of Black Drove in the parish of Marshland St James.

The application site is approximately 0.47ha of grade 2 agricultural land, comprising the siting of various agricultural buildings within overgrown shrubs and grassland, along Black Drove, which is outside the built-up settlement of Marshland St James. Within the wider setting are open low-lying parcels of countryside and agricultural land with limited and sporadic residential development.

Marshland St James is classified as a Tier 5 (Rural Village) settlement under the settlement hierarchy of policy LP01 of the Local Plan 2021-2040. The site falls outside the development boundary of Marshland St James by approximately 1.5km. The site is within the neighbourhood plan area of Marshland St James Neighbourhood Plan.

This decision will be balanced against the 'fallback' position established under planning permission 23/01765/PACU3, for conversion of an agricultural building on the site into three dwellings. This planning permission expires on 16 November 2026.

The building subject to Class Q approval is currently located to the south of the site and furthest east. The building is a simple brick-built building with sheet roof covering and sliding barn doors to the west elevation.

Planning permission (reference 25/01229/F) was sought for the development of three detached dwellinghouses with associated parking, turning and landscaping across the entire site, following the demolition of the existing agricultural buildings. This application was refused due to the impact on the open countryside setting outside the development boundary due to the scale, form and appearance of the development as a whole.

The Applicant sought pre-application advice from the Council in January 2026 (reference 25/00216/PREAPP), for a nearly identical scheme to this proposal of three attached dwellings, connected by a shared carport in between, creating a court-yard area. The Council concluded that should a Full application for that scheme be submitted, it would likely to be refused.

## **APPLICANT/AGENT SUPPORTING CASE**

Applicant Supporting Statement for Planning Application

Firstly, thank you for the opportunity to view our supporting statement of our planning application at Black Drove, Marshland St James for 3 x self- build courtyard style semi-detached dwellings for our children. We are local to the area, fourth generation farmers and would like to provide high quality bespoke homes for our children's future, for them to stay in the local area and continue farming.

The site has multiple buildings, which are derelict, unsafe and mainly beyond repair. The self-build courtyard dwellings have been designed with careful consideration to be in keeping with local traditional barns conversions. We would like to positively reuse the redundant barn, we envisaged the attractive 3 x self build courtyard style to be highly sensitive to the wonderful countryside surroundings. Our aim is to also improve the surrounding land to be landscaped and enhance the trees, shrubs etc for local wildlife in this rural area. This would enhance the look of the immediate setting, with no impact on neighbours and in keeping with the countryside. There would be ample and safe parking for the dwellings and all off road.

Thank you for your consideration.

Kind Regards

Daniel and Louise Cousins

Agent Supporting Statement for Planning Application

This statement has been prepared in support of a full planning application seeking permission for the demolition of existing derelict and disused agricultural buildings and the erection of three self-build residential dwellings.

A key material consideration in the determination of this application is the established fallback position. The site benefits from an existing Class Q approval for the conversion of the largest barn into three residential units. This is a significant factor, as it confirms that the principle of residential development on the site has already been accepted and that three dwellings could be delivered under permitted development rights. The current proposal represents a more considered and higher-quality form of development when compared to the fallback scheme. Drawing design from traditional agricultural forms and incorporating barn-like features into a courtyard arrangement creating a sense of a more enclosure characteristic of historic farmsteads while ensuring that the development sits comfortably within the landscape and avoids unnecessary visual prominence.

In support of the application, evidence has been submitted demonstrating that comparable developments within the district, including schemes of a larger footprint with no previous Class Q fallback application submitted, have been granted planning permission (example ref: 25/01697/F). These decisions indicate a clear and consistent approach by the local planning authority in supporting the redevelopment of redundant agricultural sites for residential use where proposals are well designed and contextually appropriate. In this regard, the current scheme is modest and aligns with established planning outcomes, visually respecting the character of the countryside.

The proposal delivers a number of clear and tangible benefits. It facilitates the removal of derelict structures that would only be left to worsen and detract from the rural environment, introduces a high-quality and sensitive design that reflects the site's agricultural heritage, and provides housing that meets a genuine family need. It also supports the long-term sustainability of a multi-generational farming enterprise and represents a more desirable outcome than the approved fallback position.

There are no adverse impacts associated with the development that would significantly or demonstrably outweigh these benefits.  
We appreciate your time.

Kind Regards

Sarah-Jane Knight on behalf of J Knight Design.

## **PLANNING HISTORY**

25/00216/PREAPP: Likely to Refuse: 09.01.2026 - PRE-APPLICATION FULL (WITH CONSULTATIONS) AND A MEETING WITH A PLANNING OFFICER: Full planning for the demolition of existing buildings and erection of 3no. self build dwellings

25/01229/F: Application Refused: 24/09/25 - Full planning application for the demolition of existing buildings, and removal of hardstanding and remnants of previous building on site, and erection of 3no. detached two storey self-build dwellings with associated access, parking and landscaping. (Self-build)

23/01765/PACU3: Prior Approval - Approved: 16/11/23 - Notification for Prior Approval: Change of Use of Agricultural Building to 3no. Dwellinghouse (Schedule 2, Part 3, Class Q)

23/00111/PACU3: Prior Approval - Approved: 31/03/23 - Notification for Prior Approval: Change of use of Agricultural Buildings to Dwellinghouse (Schedule 2, Part 3, Class Q)

## **RESPONSE TO CONSULTATION**

**Parish Council: SUPPORT.**

**Local Highways Authority:**

Being mindful that approval on the site for 3 dwellings has been gained under planning reference 23/01765/PACU3 and together with consideration of the historic use classes. Although the unclassified network providing access to the site is not ideal due to the narrow carriage width of Black Drove, we believe that it would be difficult to substantiate an objection to the application on highway safety grounds.

The proposed development site is however remote from schooling; town centre shopping; health provision and has restricted employment opportunities with limited scope for improving access by foot and public transport. The distance from service centre provision precludes any realistic opportunity of encouraging a modal shift away from the private car towards public transport.

It is the view of the Highway Authority that the proposed development is likely to conflict with the aims of sustainable development and you may wish to consider this point within your overall assessment of the site.

**Internal Drainage Board:**

Consent is required under Byelaw 3 to discharge water to a watercourse. As Land Drainage Consent is required, the Board strongly recommends that this is sought from the Board prior to determination of this planning application.

**Anglian Water: NO COMMENT.**

Please be advised that there are no public sewers within the vicinity of the proposed development, and therefore Anglian Water will be unable to serve the sites drainage requirements.

**Environmental Health & Housing - Environmental Quality: NO OBJECTION** with suggested conditions and informative.

The application is for demolition of existing buildings and hardstanding, construction of 3 dwellings.

The applicant has provided a screening assessment has been submitted stating no known contamination other than suspected asbestos containing material within the roof of the structure.

Previous applications for a much smaller portion of the site indicates that one of the structures had use as an agricultural storage building.

We have reviewed our files and the site is first seen with structures present on the north of site in historic maps dated 1891-1912. A pond is also seen in this map which later looks to have been infilled. The site is more widely developed in historic maps dated 1945-1970. The surrounding landscape is largely agricultural.

### **Environment Agency: NO OBJECTION**

Strongly recommend that the mitigation measures proposed in the submitted Flood Risk Assessment (FRA), referenced 'ECL0982-3a/J KNIGHT DESIGN' and dated February 2026, are adhered to. In particular, the FRA recommends that:

- Finished floor levels will be set no lower than -0.1 mAOD.
- Flood resilient measures will be incorporated into the development up to 0.3 m above finished floor levels.

### **Senior Ecologist: NO OBJECTION**

#### **Bats**

A subsequent emergence survey was undertaken on 16/06/2025 and reported within the Phase 2 bat Survey Report. No bats were seen emerging from the buildings and very low general bat activity (a single serotine pass). No further survey is required but mitigation is recommended and proposed within Section 6 of the Phase 2 Bat Survey Report. This mitigation/enhancement strategy should be condition as part of any planning consent.

#### **Badgers**

The PEA reported that overview photos of the site (provided by the architect and taken in November 2024) showed large mammal holes within Barn B3. These were not visible during the PEA site visit, but some works had taken place in the barn since the photograph was taken. Camera trap surveys were subsequently recommended to determine the use of Barn B3 by badger.

The results of the camera trap survey are reported within the Badger Survey Report. Two camera traps were installed on the 07/03/2025 and left out on site for over a month. No evidence of any new holes being dug were noted.

No badger activity was noted on either camera, however little owl, stock dove, jackdaw and mallard were noted using the barn. Due to the presence of little owl on site a pole mounted owl box is proposed. This should form part of any condition to secure required mitigation alongside that required for bats.

Since a mitigation strategy has already been prepared within the Bat survey report and confirmed within the badger survey report, any condition should be worded so that the applicant must submit evidence of installation of required features prior to occupation of any proposed dwellings.

#### **Biodiversity Net Gain**

The applicant has claimed an exemption from Biodiversity Net Gain under the custom and self-build exemption. This must be secured via legal agreement.

**Norfolk Constabulary - Secured by Design:** Offered advice on how to provide a secure design. Full comment on public access dated 09 March 2026.

**REPRESENTATIONS** None received.

## **KING'S LYNN AND WEST NORFOLK LOCAL PLAN 2021-2040**

**LP01** - Spatial Strategy and Settlement Hierarchy Policy (Strategic Policy)

**LP02** - Residential Development on Windfall Sites (Strategic Policy)

**LP03** - Neighbourhood Plans (Strategic Policy)

**LP06** - Climate Change (Strategic Policy)

**LP13** - Transportation (Strategic Policy)

**LP14** - Parking Provision in New Development

**LP18** - Design & Sustainable Development (Strategic Policy)

**LP19** - Environmental Assets - Green Infrastructure, Landscape Character, Biodiversity and Geodiversity (Strategic Policy)

**LP21** - Environment, Design and Amenity (Strategic Policy)

**LP25** - Sites in Areas of Flood Risk (Strategic Policy)

**LP30** - Adaptable & Accessible Homes (Strategic Policy)

**LP31** - Custom and Self-Build Housing (Strategic Policy)

## **NEIGHBOURHOOD PLAN POLICIES**

**MSJ5** - Design

**MSJ6** - Residential Parking Requirements

## **NATIONAL GUIDANCE**

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

National Design Guide 2021

## **OTHER GUIDANCE**

## PLANNING CONSIDERATIONS

### The main considerations are:

- Planning History
- Principle of development
- Form and character
- Impact on neighbour amenity
- Highway safety
- Ecology and Biodiversity
- Flood risk
- Any other matters requiring consideration prior to determination of the application

### Planning History:

In March 2023, prior approval under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) order 2015 was granted for the conversion of a brick built agricultural building on the site to be converted to one dwellinghouse. A subsequent prior approval application was submitted for the same building to be converted into three dwellinghouses. This was approved in November 2023.

More recently, a Full application was submitted for the demolition of all the buildings on the site, for the erection of three large detached dwellinghouses with associated landscaping, covering the entire site within the Applicant's ownership (approximately 93m). This planning application (reference 25/01229/F) was refused for the following reason:

*The proposed development by reason of its scale, form and appearance would constitute an over development of the site in open countryside outside the development boundary. It would result in a development that would be at odds with the rural character and appearance of the immediate locality and wider views of the site. The proposal would therefore have a detrimental visual impact upon the rural character and appearance of the countryside in this location contrary to paragraph 135 and 187 of the NPPF and Policies LP02, LP04 LP18, LP19, LP21 and LP31 of the Local Plan 2021-2040.*

A pre-application enquiry, for the demolition of existing buildings and erection of three self-build dwellinghouses, was submitted following the previous refusal decision (reference 25/00216/PREAPP). The indicative plans submitted with the pre-application enquiry are largely similar to the submission of this application. The Council concluded that should a Full application for that scheme be submitted, it would likely to be refused as it was concluded that there would be no material considerations which would outweigh the policies of the Local Plan 2021-2040 when considering the principle of development, sustainability of the site, and impact to the setting of the countryside.

### Principle of Development:

The application site falls within the Parish of Marshland St James but is approximately 1.5km from the development boundary. Marshland St James is identified as a Tier 5 settlement under LP01 of the Local Plan 2021-2040. Under LP02 (Residential Developments on Windfall Sites), in tier 5-6 settlements, residential developments would not normally be supported outside the development boundary unless allocated through the Local Plan or Neighbourhood Plans. Marshland St James does have a Neighbourhood Plan, but the site is not allocated. Nor is the site an allocation through the Local Plan.

Moreover, Appendix I of the Local Plan 2021-2040 identifies a housing need of 3 in Marshland St James. This need has been met within the development boundary of Marshland St James.

The Applicant believes there is a valid fallback position under the granted of consent under Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), for an agricultural building to the southern part of the application site to be converted into three dwellinghouses (reference 23/01765/PACU3).

Gambone v SSCLG1 [2014] EWHC 952 (Admin) establishes that a 'fall-back' is a two-stage approach. First, the decision maker should determine whether the fall-back position is a material consideration. If so, they then must decide what weight is attached to it.

The status and concept of a fall-back development as a material consideration has been established through High Court Cases. Precedent judgements have referred to Class Q of the GDPO as a 'fall-back' position and state that Councils should satisfy themselves that there is a 'real prospect' of the 'fall-back' development being implemented. For a 'fall-back' position to be considered a 'real prospect', it does not have to be probable or likely: a possibility will suffice.

The Class Q application for three dwellings was approved on 16 November 2023. Approval under Class Q is subject to conditions of the same part. Q.2(4) states that *Development under Class Q is permitted subject to the condition that development ... if any, must be completed within a period of 3 years starting with the prior approval date.* In order for the fallback position to be afforded significant weight, there needs to be a real prospect of the Class Q approval being completed by 16 November 2026. At the time of the site visit in March 2026, development had not yet commenced. It is considered that there is a low prospect that the Class Q approval could be completed in this timeframe.

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The Applicant believes there is a valid fallback position under the granted of consent under Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order (GDPO) 2015 (as amended), for an agricultural building to the southern part of the application site to be converted into three dwellinghouses (reference 23/01765/PACU3).

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Furthermore, an Inspector of a recent appeal decision at Holme Oak, Stoke Road, Wereham (appeal reference APP/V2635/W/25/3372005 / planning reference 25/00561/F) (attached as an appendix) concluded in paragraph 14 of the appeal decision, that the Applicant's intention to convert the barn should also be considered when establishing if the 'fall-back' position should be considered a material consideration. The Applicant had applied for planning permission, for the construction of three dwellinghouses across the whole site in September 2025. This application is considered a repeat submission, for three larger dwellinghouses, in contrast to the previously approved Class Q scheme. The scale and nature of the proposal demonstrate the Applicant have no intention of converting the agricultural building which has approval under Class Q into three modest units of residential accommodation.

Lastly, other judgements from the Inspectorate also state that for significant weight to be afforded to the 'fall-back' position, it would need to be equally, or more harmful than the Class Q approval. The proposed development, being a significant increase in site area and footprint, would introduce domestic consolidation in an otherwise undeveloped open countryside setting, and is considered to be more harmful than the Class Q approval. This is discussed in detail below.

The repeat submission of an alternate proposal, which is far removed from the initial Class Q approval and would result in a scheme which is not equally, or less harmful than the Class Q approval, in combination with the limited timeframe to complete the development, would afford the 'fall-back' position very limited weight.

Whilst very limited weight is afforded to the 'fall-back' position as a material consideration, another material consideration which is afforded moderate weight is the self-build and custom (SBC) dwellinghouses. Footnote 28 of the NPPF explains that that the Self Build and Custom Housebuilding Act 2015, (as amended recently by the LURA), places a legal duty "to give enough suitable development permissions to meet the identified demand".

Furthermore, LP31 of the Local Plan 2021-2040 supports custom and self-build dwellings where they respect local character and comply with other relevant policies in the plan.

However, when considering the harm which the proposal would have to the rural character of Black Drove and on sustainability, the benefit of providing three SBC dwellings would not outweigh the identified harm.

Lastly, paragraph 84 of the NPPF states that planning decisions should avoid the development of isolated homes in the countryside unless there is an essential need for a rural worker to live permanently near/at their place of work; would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; would re-use redundant or disused buildings and enhance its immediate setting; would involve the subdivision of an existing residential building; or is of exceptional design.

The site is isolated from services, being approximately 1.5km from the closest village development boundary, and the closest residential neighbour would be over 480m away. No argument has been forwarded to justify the development in line with paragraph 84 of the NPPF.

To conclude, there are no material considerations advanced of such weight that would outweigh the primacy of the development plan. There is no prospect of three dwellings occupying part of the application site and being constructed within the remaining prior notification consent period and the proposal is not considered to result in less harm, or equal harm, to the approved Class Q. As such, limited weight is afforded to the fallback position. Furthermore, the self-build and custom nature of the enquiry would not outweigh the departure from the development plan when considering the sustainability of the site and impact on form and character. The principle of development would be contrary to LP02, LP06, LP13, LP18, LP19, LP21 and LP31 of the Local Plan 2021-2040 and provisions in the NPPF.

### **Form and Character:**

Policies LP18, LP19 and LP21 of the Local Plan 2021-2040 seek to ensure that all development in the borough is high quality design and conserve and enhance the amenity of the wider environment, reinforcing the distinctive character areas identified in King's Lynn and West Norfolk Landscape Character Assessment. This involves assessing the scale, height, massing, materials and layout of a development to ensure it responds sensitively and sympathetically to the local setting and pattern of adjacent streets including spaces between buildings through high quality design and use of materials.

Furthermore, LP31 of the Local Plan 2021-2040 supports custom and self-build dwellings where they respect local character and comply with other relevant policies in the plan.

This is reiterated in paragraph 135 of the NPPF which states that planning decisions should ensure development will function well and add to the overall quality of the area for its lifetime, are visually attractive, sympathetic to local character and history, maintain a strong sense of place, optimise the potential of the site, and create safe, inclusive and accessible places.

Finally, paragraph 187 of the NPPF seeks to ensure planning policies and decision should contribute and enhance the natural and local environment by protecting and enhancing valued landscapes and recognise the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services.

Policy 5 of the Neighbourhood Plan requires that development proposals should incorporate high-quality design and be consistent with the Marshland St. James Neighbourhood Plan Design Guidance and Codes (2022). The site is located within CA2 - Countryside which is characterised by low lying landscape providing panoramic views with scattered meadows, farmlands, and some farmhouses within large plots. Buildings are no taller than 2 storeys tall with pitched or hipped roofs.

In addition, in accordance with the neighbourhood plan, new development is required to have regard to the materials and colours, site layout to provide sufficient rear and front gardens, enhance key landscape features, minimise impact on dark skies, and incorporate zero carbon design.

The proposal is for a 'U' shape building comprising three two-storey dwellinghouses and attached single storey shared carports to the southern part of a large rectangular site.

Presently, the whole site spans approximately 93m wide to northern part of Black Drove. The site comprises three agricultural buildings (two brick buildings and one Nissan hut) and areas of hard standing within overgrown shrubs and grassland. The site is surrounded by open parcels of agricultural land in all directions.

The proposed dwellings of plots 1 and 2 would be semi-detached dwellings, measuring approximately 15.6m in depth, 8.5m in width and 8.7m in height. On the east elevation, a single storey lean-to addition, which would measure 5.4m in width, 3m in depth, and 4m to its highest point, is included. These dwellings would be attached to the dwelling of plot 3 by a single storey shared carport and living space of plots 2 and 3, which measures 5.6m in depth, 22.4m in width and 4.7m in height. Lastly, the dwelling of plot 3 would measure 10.1m in depth, 7m in width and 7.5m in height. The proposed dwellings and carport would be finished in a mix of red multi facing brickwork, horizontal and vertical grey treated timber cladding, slate roof tiles, clay roof tiles, UPVC window and doors, and timber post details.

The proposed dwellings and carport would be located to the south of the application site, with the northern section kept as wild grassland. To the west of the proposed dwellings and carport, a manicured front garden (approximately 20 - 27m in depth) with ornamental landscaping, comprising of existing trees and new native trees and hedgerow, is proposed. Access would be provided to the most southern part of the application site. The access and driveway area would be finished in 20mm loose gravel. Land immediately attached to the proposed dwellings would form garden. A 1.2m post and rail fence is shown around the south, east and north boundaries of the gardens. Details of the fencing in between each plot have not been specified.

It should be noted that only the existing brick building, which is located to the east of the southern part of the application site, along with approximately 139.2 square metres of garden area, benefits from Class Q approval. As part of the Class Q approval, no other landscape features, such as parking and turning area, was approved. This building is simple brick and roof sheeting building which currently measures 18.2m in depth, 7.7m in width and 6.4m in height. As part of the Class Q approval for three dwellings, on the west elevation, full length glazing is proposed to replace the existing sliding doors. On the south, east and north elevations, limited openings were proposed to provide access and natural lighting to the ground floor each proposed dwelling. Roof lights on the north and south roof slope were also proposed to provide lighting to first floor bedrooms.

Compared to the approved Class Q scheme, the site area being proposed as garden under this application would amount to approximately 603.5 square metres, and the whole site area (including parking and turning, driveway, and ornamental landscaping) would measure approximately 1,903 square metres. The proposed domestic garden area would increase by 464.3 square metres (approximately 333 percent increase) and the site area by 1763.8 square metres (approximately 1268 percent increase) when compared to the garden and site area of the Class Q approval.

The proposed building is considered more harmful than the approved Class Q scheme due to the size, bulk, and mass. The footprint of the proposed building would be approximately 328.7 square metres, spanning 30.7m in width within associated landscaping which would span across 45.4m. The footprint of the building subject to Class Q approval is 140.4 square metres and only spanning 7.7 in width within an application site which measures 15m in width. The proposed development would be approximately 188.3 square meter larger footprint (140 percent larger) than the building where the conversion to dwellings had been approved.

An argument has been put forward by the Planning Agent that the proposal would be no less harmful when considering the footprint of the site is no more than the cumulative footprint of all the buildings and hardstanding across the whole site. Irrespective of the loss of the other buildings on the site, the Class Q approval relates to one building only and development beyond this approval cannot be mitigated by the demolition of other agricultural buildings on the site.

Cumulatively the development proposed is significantly different to the approved Class Q scheme and would have a much greater visual impact. The site is located within CA2 - Countryside of the Neighbourhood Plan. The Design Code and Guidance appended to the Neighbourhood Plan describes this area as "an intensively farmed arable landscape comprising mainly geometric fields cut up by straight drainage channels and dykes. Despite the various human influences within the area, the area is very rural and provides a sense of openness and tranquillity."

The increase in the site area would result in over domestication and consolidation of residential development of the countryside, contrary to the sporadic pattern of residential development set within expansive parcels of low-lying agricultural land, which currently provide a sense of openness and rural tranquillity. The proposal would therefore fail to meet the design guidance of CA2 - Countryside of the Neighbourhood Plan.

Regarding dark skies, the proposed development would introduce a significant amount of lighting in this area which is currently completely devoid of any lighting. No mitigation has been offered to limit lighting in the countryside which would ultimately have a detrimental impact on dark skies in this area of the countryside.

When considering the impact of development of this site against the Class Q approval, it is not considered that any development here would be equal or less harmful than the Class Q approval. The location of the site would create a residential area and building, larger than approved by the Class Q consent, ultimately detracting from the rural character of the area. This would harm the appearance of the countryside, contrary to policies LP18 and LP21 of the Local Plan 2021-2040, policy MSJ5 of the Neighbourhood Plan, and the NPPF.

#### **Impact on Neighbour Amenity:**

Given the rural location of the site, there would be no impact on surrounding neighbours. The closest neighbour would be approximately 500m to the west. Regarding impact on neighbours, the proposal would comply with LP21 of the Local Plan 2021-2040.

#### **Highway Safety:**

The site would be accessed by an existing access to the south of the site from Black Drove.

Each proposed dwelling would have three bedrooms. Under policy LP14 of the Local Plan 2021-2040, a three-bedroom property needs to have two parking spaces. A total of six parking spaces is shown on the site plan (3 covered, 3 uncovered). This would comply with the criteria of policy LP14 of the Local Plan 2021-2040.

Policy MSJ6 (Residential Parking Requirements) states that development proposals should incorporate on-plot front or side parking to meet the most up-to-date parking standards; should be constructed using sustainable materials to reduce the impact of impermeable surfaces on the drainage systems; and where practical, parking areas should be landscaped either specifically or within the overall design of the wider development.

The proposed access, driveway and parking area would be laid with loose gravel which is a permeable material. Whilst the parking area is not specifically landscaped, the parking is incorporated with the design of the building and site. The parking provisions would therefore comply with policy MSJ6 of the Neighbourhood Plan.

The Local Highway Authority had no objection to the proposal when considering the fall-back position subject to conditions. However, as previously explained, very limited weight is afforded to the fall-back position. The site is located approximately 1.5km from the development boundary of Marshland St James, which is a rural village with limited services.

As such, the proposal would go against the overall aims for sustainable transport goals identified within LP06, LP13, and LP18 of the Local Plan 2021-2040 and the NPPF.

### **Ecology and Biodiversity Net Gain:**

The application was supported by a Preliminary Ecological Appraisal (Philip Parker Associate Ltd, 02/04/2025) (PEA), Phase 2 Bat Survey, and Phase 2 Badger Survey. Further surveys demonstrated that no bat or badger activity was noted; however, little owl, stock dove, jackdaw and mallard activity were noted using a barn on the site. Due to the presence of little owl on the site, mitigation of a pole mounted owl box, and mitigation for bats, is proposed. Had the application been recommended for approval, conditions related to securing mitigation recommended within the surveys would have been considered necessary and appropriate in accordance with LP19 of the Local Plan 2021-2040 and Chapter 15 of the NPPF.

As a self-build and custom dwelling, the proposal would be exempt from providing Biodiversity Net Gain (BNG) under Schedule 7A of the Town and Country Planning Act 1990. In order for self-build and custom to be secured, a unilateral undertaking is required. A Planning Obligation Statement was submitted by the Applicant, which gives an indication that they were willing to enter a legal agreement to secure self-build and custom. However, as the application is recommended for refusal, this has not been pursued further.

Kings Lynn and West Norfolk Council adopted the Norfolk Green Infrastructure and Recreational Impact Avoidance and Mitigation Strategy Action Plan 2024 (GIRAMS) which identifies strategic mitigation to avoid adverse recreational effects resulting from development on the integrity of Habitat sites in and around Norfolk. Whilst the site falls within the Brecks, Wash, and Norfolk Coast Zone of Influences, it is not within close proximity to these zones and therefore a bespoke appropriate assessment is not required. The development proposes a net of three dwellings. As such a mitigation fee of £315.58 per dwelling (from 1 April 2026) would be required to be paid to offset recreational impacts to Zones of Influence (Zols) (a total of £946.74). The Applicant has paid the full amount to offset GIRAMS.

### **Flood Risk and Drainage:**

The site is located within Flood Zone 3. Within the Flood Risk Assessment (FRA), mitigation measures such as finished floor levels set no lower than -0.1m AOD and flood resilient measures incorporated up to 0.3m above finished floor levels, are recommended. The Environment Agency have no objection to the FRA and mitigation measures within.

The development is located within Flood Zone 3 and therefore requires sequential and exceptions testing in line with the NPPF. It is for the LPA to steer development to areas at least risk of flooding in accordance with the sequential test (Paragraph 174 of the NPPF) and Local Plan Policy LP25.

As outlined above, the 'fall-back' position is afforded very limited weight. The principle of development of three self-build dwellinghouses in this location is not found to be acceptable. The development, of three self-build and custom dwellings, could reasonably be accommodated within the development boundary of Marshland St James, where there are opportunities for residential development of an equivalent scale in a lower risk of flooding. The development therefore does not pass the sequential test.

Although the development would not meet the sequential test and therefore the exception test is not required, for the avoidance of doubt, the development is also not considered to comply with the exception test.

Under paragraph 178 of the NPPF 2024, in order to pass the Exception test, the following must be demonstrated:

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

The Applicant has demonstrated that the site could be made safe through the mitigation recommendations within the FRA, which include raising the finished floor levels to -0.01m AOD. This would meet part (b) of the exception test.

In relation to wider sustainability benefits, the Planning Practice Guidance (PPG) provides some examples of wider sustainability benefit to the community could include the re-use of a suitable brownfield land as part of a regeneration scheme; reducing the flood risk to the wider community through the provision of flood management infrastructure; and providing sustainable drainage systems.

Surface water is shown to be diverted to a ditch on land in the control of the Applicant to the east of the site and foul drainage would feed into a sewage treatment plant. Whilst no objections were raised by Anglian Water and the Internal Drainage Management Board (IDB) (subject to consent with IDB), the proposal fails to ultimately provide wider sustainability benefits, such as water reuse, recycling, rainwater and stormwater harvesting, or other sustainable measures, which would outweigh the flood risk. Furthermore, as stated above, the principle of development of this site, approximately 1.5km from the development boundary of Marshland St James, is not considered a sustainable location being remove from services, schooling and employment. The development would therefore fail to meet part (a) of the exception test.

In terms of flood risk and drainage, the proposal would not comply with policy LP06, LP18 and LP25 of the Local Plan 2021-2040 and paragraphs 170 - 179 of the NPPF.

### **Other matters requiring consideration prior to the determination of this application:**

#### *Climate Change:*

LP06 of the Local Plan 2021-2040 requires all development to recognise and contribute to the importance of future proofing against the challenges of climate change to support the transition towards meeting the Government target of becoming a net zero economy by 2050.

The proposal involves demolition of three agricultural buildings for the erection of a large building in an unsustainable location. As demonstrated above, this development is not in a sustainable location and criterion 1 of Policy LP06 would not be met.

### *Contamination:*

The Environmental Quality Team considered that due to this agricultural history of the site, and siting of a pond on historic maps, had the application been recommended for approval, conditions for the submission of a remediation scheme for contamination, compliance of the approved scheme, and unexpected contamination, would have been included on decision notice.

### *Other matters:*

Policy LP30 (Adaptable and Accessible Homes) states that planning permission would be granted for new dwellings subject to 40% of new homes must be built to meet requirement M4(2) of Part M of the Building Regulations: Category 2 for accessible and adaptable dwellings. Plot 2 has been designed to comply with this policy.

## **CONCLUSION:**

The application seeks to demolish existing agricultural buildings and remove hardstanding, for the construction of three self-build and custom dwellinghouses along Black Drove in the parish of Marshland St James.

Paragraph 48 of the NPPF and Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

The Applicant has not demonstrated that material considerations exist which would outweigh the development plan. A prior approval for the conversion of the agricultural building to three modest dwellings under Class Q of the GDPO (reference 23/01765/PACU3) remains extant until November 2026. However, at the time of the site visit, no development had commenced, and it is unlikely that the conversion could be completed within the required timeframe. As such, only very limited weight can be afforded to the claimed fall-back position, particularly given the repeated submission of alternative proposals for three new dwellings and the greater degree of harm arising from the current scheme compared with the Class Q approval. Moderate weight is afforded to the self-build and custom build nature of the proposal, but this does not outweigh the conflict with policy LP02 of the Local Plan 2021-2040.

In the absence of a valid fall-back position, the proposal for three self-build and custom dwellings in a countryside location, significantly removed from the development boundary and reliant on private car use, is contrary to the sustainability aims of the NPPF.

The site lies within Flood Zone 3. Suitable opportunities for self-build and custom housing exist within areas of lower flood risk inside the development boundary of Marshland St James. The proposal would not deliver sustainability benefits sufficient to outweigh the identified flood risk. The scheme therefore fails the sequential test and would also fail the exception test required by the NPPF.

Furthermore, the increased site area, the arrangement of three dwellings linked by a single-storey carport to form a courtyard, and the associated domestic landscaping would result in an over domesticated and consolidated form of development. This would be at odds with the sporadic pattern of residential development set within expansive areas of low lying agricultural land. The scale, bulk and massing of the dwellings would create a visually dominant residential enclave in the rural landscape, with design features likely to increase light spill and adversely affect local dark skies.

The proposal would not result in harm to neighbouring amenity or ecology.

For the reasons set out above, it is recommended that Members refuse the application, as it is contrary to policies LP01, LP02, LP03, LP06, LP18, LP19, LP21, LP25 and LP31 of the Local Plan 2021-2040, policy MSJ5 of the Neighbourhood Plan, and the provisions of the NPPF.

## **RECOMMENDATION:**

REFUSE for the following reason(s):

- 1 The development, of three self-build and custom dwellinghouses outside the development boundary of Marshland St James by approximately 1.5km, would fail to comply with policy LP02 of the Local Plan 2021-2040. The site is not an allocation within the Neighbourhood Plan nor an allocation of the Local Plan 2021-2040. The housing need identified under policy LP03 of the Local Plan 2021-2040 has been met by development in the development boundary of Marshland St James. The Applicant has failed to convince the Local Planning Authority that there are material planning considerations ('fall-back' position under a Class Q approval and self-build and custom nature of the proposal) which would outweigh the primacy of the Local Plan 2021-2040 when considering the impact on form and character and sustainability of the site in connection to local facilities and services.

The proposal would fail to comply with policies LP01, LP02, LP03, LP06, LP18 and LP31 of the Local Plan 2021-2040 and provisions of the NPPF.

- 2 The proposed development by reason of its scale, form and appearance would constitute an over development of the site in open countryside outside the development boundary. It would result in a development that would be at odds with the rural character and appearance of the immediate locality and wider views of the site. The resultant dwellinghouses would be a prominent addition in the street scene, disrupting the openness and rural tranquility of the countryside.

The proposal would therefore have a detrimental visual impact upon the rural character and appearance of the countryside in this location contrary to paragraph 135 and 187 of the NPPF, policies LP02, LP04 LP18, LP19, LP21 and LP31 of the Local Plan 2021-2040 and policy MSJ5 of the Marshland St James Neighbourhood Plan.

- 3 Within Flood Zone 3, sequential and exception testing has to be applied as prescribed by paragraphs 173 - 177 of the NPPF, and both parts must be passed. The development, of three self-build and custom dwellings, could reasonably be accommodated within the development boundary of Marshland St James, where there are opportunities for residential development of an equivalent scale in a lower risk of flooding. The development therefore does not pass the sequential test. As such, the exception test is not required.

The proposal therefore fails to comply with paragraphs 173 - 179 of the NPPF and policies LP06, LP18 and LP25 of the Local Plan 2021-2040.