



*St Edmundsbury*  
BOROUGH COUNCIL

# **Development Control Committee Report 3<sup>rd</sup> March 2016**

**Planning Applications: DC/15/1754/FUL,  
DC/15/1757/FUL, DC/15/1758/FUL,  
DC/15/1760/FUL, DC/15/1761/FUL,  
DC/15/1752/FUL, DC/15/1753/FUL,  
DC/15/1759/FUL**

**Larks Pool Farm, Mill Road, Fornham St Genevieve,  
Suffolk, IP28 6LP**

<b>Date</b>	2 <sup>nd</sup> September	<b>Expiry Date:</b>	28 <sup>th</sup> October 2015 (EoT
<b>Registered:</b>	2015		date to be agreed with agent)
<b>Case Officer:</b>	Dave Beighton / Ed Fosker	<b>Recommendations:</b>	Approve / Refuse
<b>Parish:</b>	Fornham St Martin Cum St Genevieve	<b>Ward:</b>	Fornham

**Proposal:** DC/15/1752/FUL - Planning Application - Retention of modification and Change of use of former agricultural building to part offices (Class B1(a)) and part storage (Class B8). (Building B).

DC/15/1753/FUL - Planning Application - Retention of modification and change of use of former agricultural building to storage (Class B8). (Building C).

DC/15/1754/FUL - Planning Application - retention of modification and change of use of former agricultural building to storage use

(Class B8) (Building D).

DC/15/1757/FUL - Planning Application - Part retention of replacement building (former agricultural building demolished) to be used for Class B1(a) Offices or B1(b) Research or B1 (c) Industrial or B8 storage. (Building E).

DC/15/1758/FUL - Planning Application - retention of modification and change of use of former agricultural building to Class B1 (a) offices or B1(b) research or B1 (c) industrial or B8 Storage or Sui Generis use. (Building F).

DC/15/1759/FUL - Planning Application - Retention of change of use of former agricultural land to use for open storage (Class B8) for caravans and motorhomes, (10 max), horseboxes (5 max) and containers (20 max).

DC/15/1760/FUL - Planning Application - retention of modification and change of use of former agricultural building to Class (B8) storage use. (Building I).

DC/15/1761/FUL - Planning Application - retention of modification and change of use of former agricultural building to Class (B8) storage use. (Building J).

**Site:** Larks Pool Farm, Mill Road, Fornham St Genevieve, Suffolk, IP28 6LP

**Applicant:** C J Volkert Ltd

**Synopsis:**

Application under the Town and Country Planning Act 1990 and the (Listed Building and Conservation Areas) Act 1990 and Associated matters.

**Recommendation:**

It is recommended that planning permission be approved for the above eight applications, subject to conditions.

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## **Background:**

**These applications are presented to the Development Control Committee following consideration by the Delegation Panel.**

**These applications were originally referred to Delegation Panel as the officer recommendations for approval are contrary to the Parish Council's response in raising concern to the applications. One application is recommended for refusal, as set out within the report.**

**A Committee site visit will take place on Thursday 25<sup>th</sup> February 2016.**

## **Proposal:**

1. Planning permission is sought for the following:
  - Retention of modification and change of use of former agricultural building to storage use (Class B8) (Building D).
  - Part retention of replacement building (former agricultural building demolished) to be used for Class B1(a) Offices or B1(b) Research or B1 (c) Industrial or B8 storage. (Building E).
  - Retention of modification and change of use of former agricultural building to Class B1 (a) offices or B1(b) research or B1 (c) industrial or B8 Storage or Sui Generis use. (Building F).
  - Retention of modification and change of use of former agricultural building to Class (B8) storage use. (Building I).
  - Retention of modification and change of use of former agricultural building to Class (B8) storage use. (Building J).
  - Retention of modification and Change of use of former agricultural building to part offices (Class B1(a)) and part storage (Class B8). (Building B).
  - Retention of modification and change of use of former agricultural building to storage (Class B8). (Building C).
  - Retention of change of use of former agricultural land to use for open storage (Class B8) for caravans and motorhomes, (10 max), horseboxes (5 max) and containers (20 max).

## **Application Supporting Material:**

2. Information submitted with the application as follows:
  - Planning Application forms
  - Transport statement
  - Ecology statement
  - Drawings

## **Site Details:**

3. The site known as Larkspool Farm is located in Fornham St Genevieve (Countryside) on the northern side of Mill Road and comprises a series of

commercial buildings and open storage uses located on a former pig farm. The applicant operates a haulage firm from the site, with a number of lock up garages, offices and workshops within converted former livestock sheds. An area of woodland protected by Tree Preservation Order exists to the east along Mill Road, with a large pond within the woodland.

4. Hardstanding surrounds the commercial premises except for building 'A'. To the west of the site is an area of grassland and to the north, beyond an existing evergreen hedge, is third party owned paddock land.
5. Buildings B, C, D, E, F, I, J and an open storage area north of Building 'H' are the subject of these eight planning applications. Building A is in use for commercial purposes (use unspecified, but appears to be vehicle repair related) and no application is submitted to cover this. Buildings A and G are also not covered by any of these applications. The agent has indicated that Building G is presently in use by CS Groundworks for storage purposes and that Building A is used as a commercial garage repair business. The agent has further advised that an application for a Lawful Development Certificate is expected to be submitted demonstrating the lawfulness of these changes of use by reason of the passage of time. In the absence of such submissions these use remain matters which are being investigated from a planning enforcement perspective.
6. Larks Pool Farm house is located to the western side of the site and is occupied by the applicant family. Beyond this, and closest to the application site is Oak Lodge, which is the closest third party owned property being approximately 100 metres as the crow flies to the nearest on site building. The dwelling known as 'Kingsbury Hill Wood' is located on the southern side of Mill Road approximately 100m away to the east. 'The Lighthouse' is located approximately 140m to the north of the site and located on West Stow Road.

### **Planning History:**

7. The site has some formal planning application history but nothing directly relevant to the planning applications before us. The site does have an extensive enforcement history including investigations into the haulage business which concluded in 2001 when considering that said business was lawful at that time due to the length of time that it had existed. There are also ongoing enforcement investigations into the present unauthorised uses, which has led to the submission of these applications.

### **Consultations:**

8. Highway Authority: *Do not wish to restrict the granting of planning permission. Confirm that the access is suitable and the development will have no impact on highway safety. The site is well served by an existing access onto Mill road which is currently being used by agricultural vehicles. Mill road has an adequate surface and has no recent injury accident history.* The Highway Authority have made these comments in light of the third party submitted Transport Assessment.

9. Ramblers Association: *The site is totally unsuitable for industrial usage on this scale, especially as it is situated next to the river Lark and to fishing lakes nearby which could be contaminated by traffic of heavy goods vehicles. There is also no mention of the type of materials which may be stored in these units, which could include harmful chemicals. The only entrance and exit is via Mill Road which is a very narrow single track country road with overhanging trees and no footpath, and no passing places. Definitely not the place for a small industrial estate. Concern is raised about the accident risk to walkers, cyclists and horse riders and an unacceptable impact on recreational amenity in terms of safety and enjoyment of this important route.*
10. Rights of Way: No comments or observations in respect of these planning applications affecting any public rights of way.
11. Ecology Officer: Offer no objection but make detailed comments which are considered in more detail below.
12. Planning Policy: The proposal for the re-use of buildings accords with DM5, on the basis that there does not seem to be any evidence of adverse impact in relation to the three strands of agricultural land/highways/landscape.

#### **Representations:**

13. Fornham St Martin Cum St Genevieve Parish Council: *Historic failings in the planning and enforcement process have created circumstances that make it almost impossible for the Parish Council to make any meaningful planning judgements. However it is clear that, over time, the site has been transformed from a pig farm into a small business park. The Parish Council can only comment that if it were to receive an application to transform a pig farm into a business park on this site, the recommendation would be refuse (Officer Note – this is not necessarily the case, noting the support for such in principle offered by Policies DM5 and DM33). In the event that the Planning Authority decides to approve the applications the Parish Council recommends that the applicant be subject to sanction for intentional unlawful development and that the effect of such sanction should be to remedy any excessive impact on noise, appearance, local amenity and neighbours.*
14. Culford, West Stow and Wordwell Parish Council: Object to all eight applications. Concerns over highway safety, the applicant company is not a Limited Company and question does this have any legal implications? The Parish Council is of the opinion that these applications refer to work that constitutes intentional unauthorised development showing disregard for planning regulations. Why were applications not made at the time?
15. Representations: Seven letters received objecting, three letters of support received and representation from the applicant.
16. Objections raised include:

- Mr Pettitt – Objects to the applications, the road and its junction are very dangerous due to the width and size of the road, a very narrow road not approved as a 'through highway', poor visibility, large volume of commercial vehicles using the road, noise levels cause disturbance to residents and visitors.
- Marcus Codrington Fernandez – Object to all applications, excessive noise created by the large volume of vehicular movements at all times of the day and night, damage to the road by these vehicles, large amount of unauthorised development, the changes from agricultural to industrial uses since 1989 were not declared to the rating authority until 2014 and assessment and collection was evaded until 2015, highway safety concerns, unacceptable visual clutter on the site.
- Dr Roderic Cooledge – Object to all applications, Development by stealth without any consideration for planning law, now a sizable development exists in an inappropriate location, traffic levels have significantly increased including a large number of HGVs making the road now unsafe.
- Fullers Mill Garden (West Stow) – Object to the applications, the site has been developed by stealth over more than 25 years and raises serious questions concerning the diligence of the local planning authority in their duty of care towards public and private amenity and the special Brecks and River Lark landscape. Excessive vehicular traffic using the road in conjunction with the business and the scale and nature of the low cost industrial buildings which have been proposed and constructed without authorisation are unattractive intrusions into the rural landscape, do not enhance a previous group of agricultural buildings and fail to recognise the intrinsic character and beauty of the countryside.
- Mark Anston – In light of new Government Guidance with regard to intentional unauthorised development of land undertaken in advance of obtaining planning permission. In such cases there has been no opportunity to mitigate the harm that has already taken place. In light of this a firm line should be taken on these cases.
- Birketts LLP (on behalf of Mr Hilder) – The site is one planning unit, as such according to case law, all uses at the site are unauthorised and failure to treat the site as one planning unit is likely to leave the granting of any permission open to challenge. Failure to submit application for all the uses at the site has resulted in the planning authority and Highways authority unable to properly assess the cumulative impact of the unauthorised development. The deliberate failure to seek planning permission prior to development taking place is a material consideration and should weigh heavily against the applicant. The applications fail to meet any sustainability criteria and the harm caused by the unauthorised development is not outweighed by the minimal economic benefit created by such a low level employment use. The current applications propose up to 4,783.6sqm

of B8 floor space (including external storage) which is neither low level nor ancillary and therefore contrary to policy. The report from Transport Planning Consultants highlights that the frequent and large scale vehicular movements pose safety risks to those using Mill Road which is a single lane road with no formal passing places. The proposed outside storage area is wholly at odds with policy which seeks to protect the countryside. Noise from the site and associated vehicular movements are dominant and disturb Mr Hilder and his family in their home and garden which are situated in very close proximity to the site, having a significant detrimental impact on their residential amenity. The applications should be refused and prompt enforcement action taken.

- Transport Statement from Transport Planning Consultants (appointed by Mr Hilder) - TPC consider that the vehicle trip generations and nature of large vehicles arising from the unlawful uses at Larks Pool Farm are significantly higher than those possible from the extant farm and animal food processing operation. The applicant should provide appropriate evidence of estimated traffic movement volumes and type of vehicles in respect of the extant land use compared with the existing unlawful use to enable the planning and highway authority to make a qualified judgement of the traffic impact on Mill Road. Before the applications are considered for decision, a further estimate should be made by the applicant of the number of vehicle trips and type of vehicles that could arise in the future following the grant of a planning permission for each of the respective land/planning classes rather than just what has been counted to date. The accumulated impact for all uses and operations should then be the overriding consideration having regard that this site is a single planning unit. The high proportion and volume of HGV traffic movements per peak period and across the whole day compared with those that could arise from the extant permission clearly causes considerable damage to the highway verges and private driveways where opposing vehicles cannot pass each other in Mill Road. No provision has been made in the applications neither to mitigate this situation nor to address the harm to the character of this rural lane of such mitigation. Adversely impacts upon the safety and peaceable enjoyment of the public highway and public footpath by recreational users. Accordingly TPC believe there are significant highway, traffic and potential road safety issues that may arise as a result of the continued use by approving permitted development on the Larks Pool Farm site. TPC consider the statements made above, together with evidence of intentional unauthorised development over the preceding 25 years at this site, to be important considerations that should be given substantial weight in determining retrospective applications for permitted development at Larks Pool Farm.

#### 17.Support included:

- Owner of a small gardening business which employs five people with a storage container at Larkspool Farm, equipment is picked up in the morning and dropped off in the evening. This site offer a safe, secure, sustainable site that helps support the livelihoods of local employees.

- Mrs Doman – Horse owner who has been riding past Larkspool Farm regularly for the past 20 years, during which time no issues with traffic from the farm with vehicles always being considerate to riders and walkers.
- Eight additional individuals have signed the letter to show support for the applications who regularly walk their dogs up and down the road and have never had any issues.

18.Applicant:

- Mr & Mrs Volkert – After attending the Parish Council meeting on the 8<sup>th</sup> October 2015, it came as an unexpected surprise the amount of detail, documents and information that Mr Hilder had been collecting for what appears to be many, many years about the Volkert family and Larkspool Farm, to the point where we feel this has become an absolute and unhealthy obsession as the years have gone by. We do not believe that any of Mr Hilders objections are infact for the 'greater good' but totally personal towards the Volkert Family.

**Policy:** The following policies of the Forest Heath and St Edmundsbury Joint Development Management Document February 2015, the St Edmundsbury Core Strategy December 2010 and the National Planning Policy Framework 2012 have been taken into account in the consideration of this application:

19.St Edmundsbury Core Strategy December 2010

- Policy CS3 – Sustainable development

20.Forest Heath and St Edmundsbury Joint Development Management Document February 2015

- DM1 Presumption in favour of sustainable development
- DM5 Development in the Countryside
- DM2 Creating Places – Development Principles and Local Distinctiveness
- DM13 Landscape Features
- DM31 Farm Diversification
- DM33 Re-Use or Replacement of buildings in the Countryside

**Other Planning Policy:**

21. National Planning Policy Framework (2012)

**Officer Comment:**

22.The issues to be considered in the determination of the application are:

- Principle of Development
- Impact on character of the area
- Highway Safety
- Residential Amenity

### **Building 'B'**

23. This application proposes the retention of and change of use of building 'B'. Building 'B' is located towards the western edge of Larkspool Farm within the site and has been designed and finished in materials to give the appearance of a traditional farm building being one of a group of former farm buildings. The original building comprised nine individual pig buildings with a straw store above. The works to convert the building into the unit now present on site comprised the demolition of separating walls where necessary retaining those required to form three individual units (as required), internal blocking up between floor and roof, removal of a wooden floor present at first floor level and the insertion of a new floor, ground floor concrete screed, damp proof membrane, insulation, external cladding to walls, roof and the installation of a power supply. The works commenced in late 2009 and were completed early in 2010 following which the premises stood empty until first occupation of part in Sept. Presently, 2 of the units are occupied by HG Frost Builders Ltd. for company offices and the third is in a storage use by a separate user. The proposed planning Use Class for the building is Class B1 Office and Class B8 Storage.

### **Building 'C'**

24. This application proposes the retention of and change of use of building 'C'. This building is located towards the western edge of Larkspool Farm within the site. It has been modified and finished in materials to give the appearance of a traditional farm building being one of a group of former farm buildings. Building 'C' formerly comprised a series of connected former Trowbridge pig buildings that have been modified to accommodate garage style doors as well as roof and wall insulation to facilitate their use for storage purposes. The works were completed early in 2010. Each storage 'box' is let to a separate individual user. The proposed planning Use Class for the building is B8 Storage.

### **Building 'D'**

25. This application proposes the retention of and change of use of building 'D'. The building is located towards the western edge of Larkspool Farm within the site. It has been modified and finished in materials to give the appearance of a traditional farm building being one of a group of former farm buildings. Building 'D' comprised a series of connected former pig buildings that have been modified to accommodate garage style doors as well as raised roof pitches and wall insulation to facilitate their use for storage purposes. The works were completed early in 2011. Each storage 'box' is let to a separate individual user with the proposed planning Use Class for the building being B8 Storage.

### **Building 'E'**

26. This application seeks permission for the 'retention' of a replacement building for a former agricultural building (now demolished) to be used for B1 purposes. The site of Building 'E' was previously occupied by one of a

number of such buildings forming part of the redundant pig farm at Larkspool Farm. This has now been demolished and works started on the erection of the replacement building, albeit these are limited to a single course of blockwork. This application encompasses proposals to retain those works as well as to complete the building. Building 'E' is located towards the eastern end of Larkspool Farm, within the site. It is proposed to be finished in materials to match others on the site to give the appearance of a traditional farm building being one of a group of former farm buildings.

### **Building 'F'**

27. This application proposes the retention of and change of use of Building 'F'. The building is located towards the eastern edge of Larkspool Farm within the site and to the rear. It has been modified and finished in materials to give the appearance of a traditional farm building being one of a group of former farm buildings. Building 'F' comprised a former pig building which has been modified by increasing the side walls in height, a replacement truss roof installed and the whole carapace covered in a colour coated profiled sheet metal cladding. The works listed above were completed early in 2013. The building is currently occupied by a use which does not fall into any particular Class of the Use Classes Order and is therefore considered to be a 'sui generis' use. The occupier undertakes modifications to cars comprising vehicle graphics or replacement specialised individualised car parts such as non standard exhaust tail pipes or hose pipes within the engine compartment. Customers tend to order parts and customised works from the businesses website and call only to have work done. The proposed planning use for the site is sui generis and for the purpose of personalised car modifications. However, to provide for flexibility in demand in the future should the existing business move, the application also proposes that B1 (all 3 subdivisions) or B8 storage as appropriate alternatives.

### **Building 'I'**

28. This application proposes the retention of and change of use of Building 'I'. The building is located towards the front, southern edge of Larkspool Farm site sitting behind and screened by trees. It is visible from Mill Road. It has been modified to a modest scale and finished in materials to give the appearance of a traditional farm building being one of a group of former farm buildings. Building 'I' comprised a semi detached former pig building that has been modified by the formation of walls in blockwork, a truss roof installed and metal profiled sheet cladding to the exterior. Insulation and power have been installed. A roller shutter door has been installed to the gable to facilitate the building's use for storage purposes. The works were completed late in 2011 and the building has operated for the last 4 years. The proposed planning Use Class for the building is B8 Storage.

### **Building 'J'**

29. This application proposes the retention of and change of use of Building 'J'. The building is located towards the front, southern edge of Larkspool Farm. It is physically joined to building 'I' and is visible from Mill Road. It has been modified to a modest scale and finished in materials to give the appearance of a traditional farm building being one of a group of former farm buildings. Building 'J' comprised a semi detached former pig building that has been modified by the formation of walls in blockwork, a truss roof installed and metal profiled sheet cladding to the exterior. Insulation and power have been installed. A roller shutter door has been installed to the gable to facilitate the building's use for storage purposes. The works to the building were completed late in 2011 and the building has been in operation for the last 4 years. The proposed planning Use Class for the building is B8 Storage.

### **Principle of Development**

30. The area outside defined development boundaries is classified as the countryside. The countryside is a principal element of the rural character of West Suffolk and is enjoyed by both residents and visitors. The quality and character of the countryside should be protected and where possible enhanced and planning therefore has an important role in supporting and facilitating development and land use which enables those who earn a living from, and those who help maintain and manage the countryside, to continue to do so.

31. The Government's NPPF advises in paragraph 109 that 'the planning system should contribute to and enhance the natural and local environment'. It is therefore important to manage development in the countryside but it is also recognised and balanced, quite reasonably, that new development will also help to support the rural economy.

32. Policy DM5: Development in the Countryside provides that proposals for economic growth and expansion of all types of business and enterprise that recognises the intrinsic character and beauty of the countryside will be permitted where:

- it will not result in the irreversible loss of best and most versatile agricultural land (grades 1, 2 and 3a);
- there will be no significant detrimental impact on the historic environment, character and visual amenity of the landscape or nature conservation and biodiversity interests; and
- there will be no significant adverse impact on the local highway network.

33. Subject to satisfying the above criteria the principle of the proposed applications for conversion and open storage are considered acceptable. This is supported by Policy DM33 which also supports the re-use of redundant buildings within the rural area for economic development proposals as well as by Policy DM31 which offers support for farm diversification. However, further scrutiny of Building E is required since this is a replacement building, not a conversion.

34. It is not considered that the site is so remote that it would be unsustainable development in locational terms, and neither is it

considered that the need to make adaptations to certain structures on the site should necessary preclude the principle of development. In this regard it is noted that Policy DM33 permits the 'alteration and extension' of buildings in the countryside for employment uses (including B1, B2 and small scale storage).

35. The works that have taken place to buildings B, C, D, F, I and J, can be considered to be within the realms, reasonably so, of alteration and extension, given what is known about their former appearance and given the extent of works that have been stated as having taken place to them, as is set out below.
36. In relation to Building B the works involved the demolition of internal separating walls, internal blocking up, insertion of a new first floor (as a replacement for an existing wooden floor), as well as the provision of external cladding to the walls and roof. This is considered to fall within the scope of 'alteration and extension'.
37. In relation to Building C the works were limited to the insertion of garage style doors on the front elevation and insulation to the walls and roof. These are plainly within the scope of works allowed under Policy DM33.
38. In relation to Building D it is clear how the building has been adapted to allow its revised use, and it is equally clear that these works fall comfortably within the limitations of 'alteration and extension'.
39. In relation to Building E the former structure has been demolished. This introduces a different Policy test noting that to replace a building in the rural area requires 'exceptional circumstances' under Policy DM33. This will be discussed in more detail later in this report therefore.
40. In relation to building F these works were potentially more significant and limited information is available in relation to the former appearance of the building. It is indicated that the building was increased in height and a replacement roof added but details are not forthcoming about its former scale and appearance. However, the footprint of the building is shown to be the same as before, and the overall scale and appearance is commensurate with the wider site, and not unduly visible in this context. On this basis, on balance, it can be accepted that the works fall within the scope of alteration or extension, noting that the policy does not preclude extension in an upwards fashion as has taken place here.
41. In relation to Buildings I and J, which are now conjoined giving the external effect of being a single building, the works are stated to involve the formation of walls in blockwork, the installation of a truss roof and the external cladding of the building. Limited information is available of the former appearance of the site. However, aerial photographs indicate that the footprint of the buildings remain the same, or certainly similar, as before but, as with Building F, the works have the potential to be more significant. However, the overall scale of the building is respectful to its context and its appearance is satisfactory. On balance therefore, support can be offered in this regard on the basis that it is reasonably considered

on the basis of the information available to be the alteration and extension of the former buildings.

42. The economic benefits of the proposal in terms of the generation of employment must also be taken into account in informing the principle of development, and this must be considered as offering significant weight in support of all applications. It is not considered that any storage use proposed within buildings is anything other than small scale and the external storage is modest in extent, and well sited within the existing enclave of buildings and screened to the north by landscaping. In relation to this storage element the agent has confirmed that the application is seeking up to 10 caravans and motor homes in total. At the time of Officers' most recent inspection there were 12 caravans on site and three motor homes so, even if approved, there will still be an immediate breach of planning control that would require attention.
43. The consideration in relation to Building E is different since it is apparent on inspection that there is no building here to re-use, convert, alter or extend. Aerial photographs indicate the footprint of a former building on site but a site inspection reveals a concrete base and limited blockwork, with limited evidence of the former building still on site. Certainly, when judged against Policy DM33 it is considered that criterion h and i are more appropriate for considering this proposal since they relate to the replacement of a building in the countryside, rather than considering this proposal on the basis that it is a re-use, conversion, alteration or extension. On this basis, the test of 'exceptional circumstances' exists in order to support such a scheme. This is considered a much higher test than in relation to proposals to re-use existing buildings, even in relation to those which propose adaptations and extensions.
44. Evidence of the former building includes the roof plan and footprint shown in aerial photographs, plus the concrete base and limited blockwork (one course, although it is unclear if this is a surviving part of the former building or a more recently installed part of the replacement building) extant on site. The applicant has also provided a photograph, taken from the entrance to the site, in which part of the former building is visible. This appears to show an agricultural building of typical construction, with blockwork or rendered elevations under what appears to be a sheet metal roof. Scaling the photograph is impossible but it appears to have an eaves height modestly greater than single storey and a relatively steeply pitched roof. The building now proposed on the site has a more ostensible two storey scale and a much shallower roof pitch.
45. However, a comparison of the changes that are being made between the former Building E and the proposed Building E would only be a test that needed to be made if the former Building E was still extant on site. In such a case, the matter, and the merits of any changes proposed, could be considered on the basis of the 'alteration or extension' test set out within Policy DM33. However, this is not the case here since the former building no longer exists in any substantive form, and certainly not in any form that could be 're-used', 'converted', altered' or 'extended', since to rebuild from a single course of blockwork would stretch the definition of

'alteration' and 'extension' some way past breaking point. Rather, there is no building, and, therefore, the test for a replacement building in the countryside is set out within criterion h and i of DM33.

46. Given this lack of any obvious building to re-use, and noting that the proposal is now in effect for a new building albeit 're-using' the site of the former, the test of exceptional circumstances, which is a high test, is considered relevant. This test requires any replacement building to result in a more acceptable and sustainable development than might be achieved through conversion, which has not been shown, and it requires the replacement building to restore the visual, architectural or historic coherence of a group of buildings, where this would otherwise be lost, which is also not considered to be the case here.
47. It is acknowledged that support in relation to the replacement of Building E can be offered to an extent by DM5, but that the more specific tests within Policy DM33 should be used principally to judge the merits of this proposal. In the absence of any robust evidence to judge compliance with criterion h and i of Policy DM33, and noting the high test of exceptional circumstances, it is not considered that the principle of replacing Building E can be supported.
48. DM5 supports economic growth and the expansion of all types of business use and enterprise, providing that it recognises the intrinsic character and beauty of the countryside. Whether or not the proposals succeed in this regard will be considered in more detail in the following sections.
49. Therefore, and all matters considered, it is concluded that the principle of the developments can be supported, with the exception of Building E, subject to there being no significant matters of detail that would otherwise preclude development.

### **Impact on character of the area**

50. The NPPF establishes in paragraph 28 that 'planning policies should support sustainable economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development'. The proposal does not involve the irreversible loss of the best and most versatile agricultural land (grades 1, 2 and 3a) as the proposal does not involve any development outside the existing boundaries of the former pig farm site.
51. The site is generally well contained and whilst the development of such an enclave of businesses would not generally be supported if the buildings were not already there, the re-use and conversion of existing buildings adds support in favour of the proposal, whilst also limiting the visual harm arising. Hardstanding and vehicle parking and circulation areas are generally well contained within the enclave of buildings, such that significant visual or landscape harm cannot be demonstrated such that the proposals should be refused.
52. The proposals show no further intrusion into the adjacent Hengrave Belt

woodland which is protected by TPO 071(1966) although the red line is within the woodland area as defined by the 1966 TPO.

53. The proposal also seeks permission to retain external modifications to a number of buildings. In the main these were utilitarian structures noting their former use, and the elevation changes, including cladding and fenestration have, again in the main, led to an improvement.
54. The objection of The Ramblers is noted and respected. The use of the site for the purposes sought has the potential to adversely affect the amenities of users of nearby public footpaths. However, this concern must be considered in light of the lack of objection from Suffolk County Council Rights of Way Officer, and also, and materially, in light of the additional extensive landscaping proposed.
55. The use of the site for open storage has an impact on the adjacent countryside and the rural lane as does the employment use of the buildings and barns. The site is located within a special landscape area.
56. The scheme does however include a soft landscaping scheme that it is considered, subject to some revisions through conditions, will offer effective screening to the site. It is also considered reasonable to impose a condition preventing the stacking of the containers more than one high, in order to better protect the character and appearance of the area. Noting the subsequently modest height of such, and noting the modest height and extent of caravan and motor home storage, it is considered that this will have an acceptable impact. The open storage is screened by the enclave of existing buildings to the south, and by the existing hedge (to be replaced with a more appropriate native hedge, see below) to the north.
57. The applications are supported by a landscape drawing which shows a number of elements as follows:
- A holm oak hedge to the northern and western edge
  - Row of pine trees to the north of existing buildings
  - Scattered trees – oak, birch and pine to the west and southern edge between site and the adjacent residential property at Larks Pool Farm
  - Thicket and hedgerow between the site entrance and Mill Road
58. Holm oak is a slow growing evergreen species normally grown as a specimen tree. It is considered therefore that the hedgerow should be a mixed native hedge with a 50% evergreen element. This could include some evergreen oak but also holly, native privet, field maple, spindle, hawthorn and hazel. A native hedge should be substituted for the existing Leyland cypress hedge although a staged approach to removal once a new hedge has established would be acceptable – however it would be difficult to get the native species established next to the leylandii without a significant amount of aftercare and watering. The hedge is required to ensure the site is effectively screened from West Stow Road.
59. Additional species of trees to the west and south should be included including field maple, cherry and hornbeam. Additional trees (possibly

hazel) should be planted south of building A.

60. The native thicket and hedge should be extended behind buildings I and J to provide additional visual screening from Mill Road, enhance and define the edge of the protected woodland.
61. The existing protected woodland has suffered incursion from the extension and continued expansion of this site and this now needs to be checked. For this reason it is considered that a post and rail fence is erected on the woodland boundary to prevent further expansion of the 'uses' and protection of the woodland. This can be secured through a condition.
62. There is also an existing unmade access through the woodland that provides an additional direct access into the site and all the buildings. It is presently gated but appears in use. This offers a more direct access to Building G, which is outside of any of the red line application sites and is a building of agricultural nature and appearance, but which it is advised is used for storage purposes by a groundworks firm. There is no proposal before us at present that seeks any change of use of this building albeit the agent has advised that a lawful Development Certificate application can be anticipated presently in relation to this groundworks use.
63. The second access in this part of the site is within the blue line but not within any of the red lines. The agent has confirmed that no access through this part of the site is necessary. Given that the track is unmade, given that it proceeds through the protected woodland, and given that approving these changes of use regularises the potentially more intensive use of the premises than would have occurred through any agricultural use, it is considered reasonable to impose a condition on all approvals preventing the use of this entrance.
64. In this context therefore, and subject to these conditions, the effect upon the wider character and appearance of the area can be considered acceptable. In fact, it can be concluded, with the imposition of conditions in relation to additional landscaping here, that the impact of the proposal upon the character and appearance of the area can be significantly and materially enhanced. Accordingly, it can be considered that the proposals will have a significant beneficial effect upon the character and appearance of the area, and one which must be given appropriate weight in the balance of considerations.
65. Noting however that any one of these applications will raise concerns set out above, unless adequately mitigated, it is considered reasonable to impose these conditions on each of the applications presently before us so that the replacement and supplementary landscaping requirement will bite in relation to them all.

### **Impact upon Biodiversity**

66. The proposal does not appear to have a significant impact on nature conservation and this is supported by the ecology report that accompanies the applications, including the impacts upon the pond within the site and

any wildlife that might use such, and subject to the following points and associated conditions.

67. All the commercial buildings (B, C, D, F, I & J) which are the subject of applications at the Larks Pool site have been assessed for their suitability to support bats. The premises B, C, D, F, I & J are constructed predominantly from either blockwork walls or timber frames clad with corrugated metal cladding and corrugated asbestos cement or metal roofing. Such buildings do not generally support roosting bats and the building inspection found no signs of roosting bats within any of the buildings. It is recommended that bat boxes should be erected on the east gable end of building C and/or the south gable end of building D. It is also recommended to install artificial house martin boxes or sparrow terraces under the eaves on buildings C and E. These can be agreed through conditions.
68. The report requires that to minimise adverse impacts upon bats using the site as a result of light disturbance, lighting on the commercial buildings B, C and D should be directed away from the woodland. Therefore, the following measures should be adopted:
1. Type of lamp (light source): Light levels should be as low as possible as required to fulfil the lighting need. Low or high pressure sodium lamps should be used preferentially instead of mercury or metal halide lamps;
  2. Lighting design: Lighting should be directed to where it is needed, with no horizontal spillage towards existing trees. This can be achieved by restricting the height of the lighting columns and the design of the luminaire as follows: Light columns in general should be as short as possible as light at a low level reduces the ecological impact. However, if taller columns (>8m) are required, the use of cowls, hoods, reflector skirts or shields should be used to prevent horizontal spill. The use of asymmetric beam floodlights (as opposed to symmetric) orientated so that the glass is parallel to the ground will ensure that the light is cast in a downward direction and avoids horizontal spillage; and Movement sensors and timers should be used to minimise the 'lit time'.
69. This can be included as an informative on the decision notices.
70. It is also recommended that lighting on the site is restricted by condition either referring to these parameters directly or by reference to the biodiversity report.
71. The wildlife report also recommends that Otter fencing (Appendix A2) should be erected around pond P1 to dissuade otters from crossing Mill Road; and Wildlife reflectors (e.g. Swareflex) could be erected on posts every 20m – 30m on alternate sides of the road adjacent to the application site.
72. This should also be conditioned and the applicant required to submit details. The ecology report also recommends the following enhancement measures which should be conditioned and it is recommended that details are submitted.

### 73. Bats

- erect bat boxes (Appendix A3) such as the 2F-DFP on trees within the woodland (e.g. around the pond),
- and Schwegler 1FF bat boxes should be erected on east gable end of building C and/or the south gable end of building D.

### 74. Birds

- install artificial house martin boxes or sparrow terraces under the eaves on buildings C and E (Appendix A4). Boxes should be sited to avoid issues (droppings) for tenants, i.e. not above windows or doors.
- Bird boxes for small passerines and/or a tawny owl box should be erected on trees retained on site.

75. The existing and proposed buildings within the site are agricultural in nature, size and scale and not unlike what would reasonably be expected to be seen on a former pig farm situated within the countryside. Conditions will also be attached as set out above and it is considered that with such imposed there would not be any significant detrimental impact on nature conservation and biodiversity interests, and in fact is likely to have some biodiversity benefit as a result of the enhancement measures proposed, thereby being in compliance with policies DM5 & DM13.

## **Highway Safety**

76. The conclusions contained within the Transport Statement by Transport Planning Consultants and objections with regard to highway safety concerns are noted; however the Highways Authority does not wish to restrict the granting of planning permission. In commenting the Highway Authority have stated that "*The access is suitable and the development will have no impact on highway safety. The site is well served by an existing access onto Mill road which is currently being used by agricultural vehicles. Mill road has an adequate surface and has no recent injury accident history*". It is not considered that there would be any significant adverse impact on the local highway network in compliance with policy DM5.

77. The site is considered to contain a sufficient degree of space to cater for parking, delivery and manoeuvring of vehicles such that condition control of such is not required.

78. In light of these conclusions the Highway Authority are not recommending that any conditions be imposed.

## **Residential Amenity**

79. Concerns have been raised by third parties with regard to the impact on residential amenity of the occupiers of 'Kingsbury Hill Wood' which is located on the southern side of Mill Road approximately 100m away to the east. Also the occupier of 'The Lighthouse' which is the residence of Mr Codrington Fernandez and is located some 140m to the north of the site and located on the West Stow Road. It is also important to consider the

effect upon Larkspool House and Oak Lodge which are the two closest dwellings to the west of the site, albeit that Larkspool House is occupied by the applicant family in this instance.

- 80.No objections or concerns have been raised by the occupiers of any of the other residential dwellings to be consulted with regard to loss of residential amenity. Furthermore, no adverse comments have been received from Environmental Services in relation to the consideration of these applications. Nonetheless, careful, and objective analysis is necessary.
- 81.The concerns raised by third parties are noted; however the property known as 'Kingsbury Hill Wood' is located on the southern side of Mill Road approximately 100m away to the east from the edge of the Larkspool Farm site, separated by woodland and Mill Road. The access to Larkspool Farm is approximately 180m along Mill Road from 'Kingsbury Hill Wood'. Also the property known as 'The Lighthouse' which is located some 140m to the north of the site and located on the West Stow Road is separated by countryside and whilst there is likely to be some level of noise associated with the road and operations at Larkspool Farm experienced in this location it is not considered that these would be over and above that which could reasonably be expected to be associated with a working pig farm, of which Larkspool Farm was originally, and neither is it considered that any operations at the site, noting the office and low key storage uses, are at a level likely to materially affect residential amenity.
- 82.This would be subject to the imposition of conditions restricting the uses to those use classes or operations presently sought, in the interests of controlling the future use of the site in the interests of amenity. The introduction of boundary screening and conditions controlling the hours of operation would also further mitigate against any noise impacts being unreasonably harmful, either as a direct result of the uses themselves, or as a consequential impact from vehicles travelling to and from the site. It is considered therefore that there would be no material adverse impact on the residential amenity enjoyed by any residential dwellings, certainly not at a level at which it could be concluded that permission should be refused, and noting the low key nature of the uses proposed.

### **Other Issues**

- 83.How to prove a breach of planning control was intentional, and what weight should be given to this as a material consideration in the decision making process, are questions on which there is no current guidance. If development is undertaken intentionally in contravention, it is not known to what extent the usual planning considerations will now be overridden by this material consideration. It is not known whether this overrides planning policies, or whether there will need to be a test as to the particular flagrancy of conduct. Further guidance may or may not transpire from the Government, in which case the Council will follow relevant appeal decisions as they progress through the Planning Inspectorate and Courts.

84. The matter was first looked at in 2001 following allegations that the site was being used as an HGV Operating Centre. This was investigated at the time, and it was determined at this stage that the use was lawful by the passage of time
85. The matter was again raised again in 2003-2006 including investigations in relation to the stationing of storage containers. Whilst there were periods of inactivity in the investigation, there was deemed to be no urgency as the main use of the site had already been looked into and the business use of the site determined to be lawful in 2001.
86. A Planning Contravention Notice was served in 2014 and raised issues which are currently being pursued with the site operator. This has led to dialogue and the current eight applications under consideration.
87. The cumulative impact of all the applications is taken into account when considering the applications by Planning, Environmental Health, Highways Authority and the local authority's Tree, Landscape and Biodiversity Officer.
88. With all these matters considered it is not felt that any 'deliberate' breaches of planning control are such that these proposals should not otherwise be readily, fairly and objectively assessed on their own merits. With such done it can be concluded that the retrospective nature of these developments is not reason alone to resist, particularly noting the generally permissive wording of Policies DM5 and DM33.
89. There are no other matters that would preclude the granting of planning permissions, setting aside the in principle objections raised in relation to Building E (DC/15/1757/FUL). The lack of robust and objectively assessed amenity concerns as well the satisfactory highway related impacts and the fact that the proposals will not lead to the irreversible loss of the best and most versatile agricultural land are also all matters that weigh in their support.
90. In relation to Building E, this harm in principle, noting the high policy test of 'exceptional circumstances' required to enable support to be offered, is considered to be significant, and sufficient to outweigh the support that might otherwise be afforded to such a scheme under Policy DM5, and by the NPPF. It is not considered therefore that support can be offered for what is in effect the complete replacement of Building E, notwithstanding that such a replacement might reasonably be considered to be on a similar footprint to that which existed previously.
91. There are no other reasons to preclude the grants of planning permission. Accordingly, and when considered in the balance Officers feel able to offer support to these remaining proposals, subject to the conditions as set out below.

## **Conclusion**

92. The application is therefore considered to comply with policies contained

within the Forest Heath and St Edmundsbury Joint Development Management Document February 2015, the St Edmundsbury Core Strategy December 2010 and the National Planning Policy Framework 2012.

### **Recommendations:**

In respect of application DC/15/1757/FUL it is **RECOMMENDED** that planning permission be **refused**, for the following reason –

1. This proposal is considered to constitute the replacement of Building E, noting that the only remnants of any former building are the concrete base and a single course of blockwork. Policy DM33 of the Joint Development Management Policies Local Plan only permits the replacement of buildings within the countryside in 'exceptional circumstances', including where the replacement building will result in a more acceptable and sustainable development than might be achieved through conversion, or where a replacement would restore the visual, architectural or historical coherence of a group of buildings, and where this would otherwise be lost. Neither of these provisions are considered to apply in this case given the context of this site and what is known about the appearance of the previous building E. The development is therefore considered contrary to Policy DM33, as a matter of principle.

It is acknowledged that support in relation to the replacement of Building E can be offered to an extent by DM5, but that the more specific tests within Policy DM33 should be used principally to judge the merits of this proposal. In the absence of any robust evidence to judge compliance with criterion h and i of Policy DM33, and noting the high test of exceptional circumstances, it is not considered that the principle of replacing Building E can be supported.

In respect of applications DC/15/1754/FUL, DC/15/1758/FUL, DC/15/1760/FUL, DC/15/1761/FUL, DC/15/1752/FUL, DC/15/1753/FUL, DC/15/1759/FUL it is **RECOMMENDED** that planning permissions be **granted** subject to the following conditions:

1. Time limit where appropriate (if further operation development is sought, for example).
2. Compliance with plans.
3. Hours of Operation – 07:00 – 18:00 Monday to Friday and 08:00 – 13:00 Saturday with no use on a Sunday or Bank Holiday (except for in situ storage). No vehicle or pedestrian movements to or from any of the storage uses outside of these times.
4. Use restricted to specific uses sought (with uses in the alternative where submitted as such).
5. Details of lighting to be submitted (see informative 1)

6. Details of Otter fencing and wildlife reflectors as per submitted ecological report to be submitted within three months of approval, and implemented thereafter in accordance with agreed timescales. Installed details to thereafter be retained.
7. Details of bat and bird boxes to be submitted within three months of the date of approval (or prior to first use where application is not retrospective). Agreed details shall be implemented in accordance with any timescales specified within the agreed scheme and shall thereafter be retained. See informative 2.
8. Revised soft landscaping scheme to be submitted within three months of the date of the approval. Approved scheme to be planted in the first planting season following the approval of details. See informative 3.
9. Boundary treatments to protected woodland area to be submitted and agreed within three months of approval and installed in accord with timescales and thereafter retained. See informative 4.
10. Area 'H' limited to a maximum of 20 containers (size of the containers to be clarified and specified within the condition), 10 caravans and motorhomes and 5 horseboxes. Containers to only be stacked to a single height.
11. All uses shall be accessed from Mill Road through the access on the red line plan submitted with the application. There shall be no access from Mill Road through any other access.

It is also recommended that the following informatives are included on all decision notices.

1. *In order to minimise adverse impacts upon bats using the site as a result of light disturbance, lighting on the commercial buildings B, C and D should be directed away from the woodland. Therefore, the following measures should be adopted when details are submitted under condition 5:*

1. *Type of lamp (light source): Light levels should be as low as possible as required to fulfil the lighting need. Low or high pressure sodium lamps should be used preferentially instead of mercury or metal halide lamps;*
2. *Lighting design: Lighting should be directed to where it is needed, with no horizontal spillage towards existing trees. This can be achieved by restricting the height of the lighting columns and the design of the luminaire as follows: Light columns in general should be as short as possible as light at a low level reduces the ecological impact. However, if taller columns (>8m) are required, the use of cowls, hoods, reflector skirts or shields should be used to prevent horizontal spill. The use of asymmetric beam floodlights (as opposed to symmetric) orientated so that the glass is parallel to the ground will ensure that the light is cast in a downward direction and avoids horizontal spillage; and Movement sensors and timers should be used to minimise the 'lit time'.*

2. *In order to satisfy the requirements of condition 7, the following advice is offered to support any such scheme to be submitted under this condition.*
- *erect bat boxes (Appendix A3) such as the 2F-DFP on trees within the woodland (e.g. around the pond),*
  - *and Schwegler 1FF bat boxes should be erected on east gable end of building C and/or the south gable end of building D.*

*Birds*

- *install artificial house martin boxes or sparrow terraces under the eaves on buildings C and E (Appendix A4). Boxes should be sited to avoid issues (droppings) for tenants, i.e. not above windows or doors.*
  - *Bird boxes for small passerines and/or a tawny owl box should be erected on trees retained on site.*
3. *The following advice is offered in relation to the additional soft landscaping required under condition 8. The applications are supported by a landscape drawing which shows a number of elements as follows:*

- *A holm oak hedge to the northern and western edge*
- *Row of pine trees to the north of existing buildings*
- *Scattered trees – oak, birch and pine to the west and southern edge between site and the adjacent residential property at Larks Pool Farm*
- *Thicket and hedgerow between the site entrance and Mill Road*

*Holm oak is a slow growing evergreen species normally grown as a specimen tree. It is considered therefore that the hedgerow should be a mixed native hedge with a 50% evergreen element. This could include some evergreen oak but also holly, native privet, field maple, spindle, hawthorn and hazel. A native hedge should be substituted for the existing Leyland cypress hedge although a staged approach to removal once a new hedge has established would be acceptable – however it would be difficult to get the native species established next to the leylandii without a significant amount of aftercare and watering. The hedge is required to ensure the site is screened from West Stow Road. Additional species of trees to the west and south should be included including field maple, cherry and hornbeam. Additional trees (possibly hazel) should be planted south of building A. The native thicket and hedge should be extended behind buildings I and J to provide additional visual screening from Mill Road, enhance and define the edge of the protected woodland.*

4. *The existing protected woodland has suffered incursion from the extension and continued expansion of this site and this now needs to be checked. For this reason it is considered that a post and rail fence is erected on the woodland boundary to prevent further expansion of the 'uses' and protection of the woodland.*

**Documents:**

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online:

<https://planning.westsuffolk.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=NU1GF4PDK5S>

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<https://planning.westsuffolk.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=NU1GEPPDK5000>

<https://planning.westsuffolk.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=NU1GEXPDK5000>

<https://planning.westsuffolk.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=NU1GFFPDK5W00>

<https://planning.westsuffolk.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=NU1GFAPDK5U00>

<https://planning.westsuffolk.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=NU07ZUPDK5F00>

<https://planning.westsuffolk.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=NU07ZMPDK5D00>

<https://planning.westsuffolk.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=NU07ZCPDK5B00>

Alternatively, hard copies are also available to view at Planning, Planning and Regulatory Services, West Suffolk House, Western Way, Bury St Edmunds, IP33 3YU