

Development Control Committee 4 September 2019

Planning Application DC/18/2152/FUL – Thripskin Farm, High Street, Thelnetham

Date Registered: 26.11.2018 **Expiry Date:** 21.01.2019
EoT 11.09.2019

Case Officer: Marianna Hall **Recommendation:** Refuse Application

Parish: Thelnetham **Ward:** Barningham

Proposal: Planning Application - Provision of 1 no. agricultural worker's dwelling including conversion of existing single storey outbuilding (following demolition of existing pole barn and shed); change of use of agricultural land to garden. As amended by plans received on 6th and 20th December 2018.

Site: Thripskin Farm, High Street, Thelnetham

Applicant: Mr & Mrs Paul & Jo Nunn

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 the Committee determine the attached application and associated matters.

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Background:

This application was deferred at Development Control Committee on 7 August 2019 as Members resolved that they were 'Minded to Approve' contrary to the Officer recommendation of refusal. Members considered that there was sufficient justification for the proposal.

The Officer recommendation remains for REFUSAL for the reasons set out in this report.

Application Details:

1. See the Committee report in Working Paper 1.

Officer Comment:

2. The application was considered at Committee on 7th August where Members were minded to grant planning permission contrary to the officer recommendation of refusal. Members considered that there was sufficient justification for an agricultural worker's dwelling to be located on the site having regard to the agricultural business operating at Thripskin Farm, the current condition of the farm buildings and the amount of work required to improve the farm's viability.
3. For the reasons set out in this report it remains Officers' recommendation that permission be refused. If Members remain minded to approve the application, they must be satisfied that any risks associated with doing so have been properly considered.
4. The site is located outside of the defined Housing Settlement Boundary for Thelnetham and is therefore within the countryside for planning purposes. Policy CS13 of the Core Strategy states that development outside the settlements will be strictly controlled, with the development management and rural vision policies setting out the detailed uses which are appropriate in rural areas.
5. The National Planning Policy Framework (NPPF) states that the development of isolated homes in the countryside should be avoided unless particular circumstances are met, and these include where there is an essential need for a rural worker to live permanently at or near their place of work in the countryside (paragraph 79a). Development Management Policies DM5 and DM26 are consistent with the NPPF in supporting the principle of agricultural workers dwellings, with DM26 setting out the detailed considerations for this type of residential development.
6. Policy DM26 states:

New dwellings in the countryside, related to and located in the immediate vicinity of a rural enterprise, will only be permitted where:

a) evidence has been submitted to the satisfaction of the local planning authority that there is an existing agricultural, forestry or other commercial equine business-related functional need for a full time worker in that location; and,

b) there are no suitable alternative dwellings available, or which could be made available, in the locality to serve the identified functional need; and,

c) it can be demonstrated that the enterprise is, or will be in the case of new businesses, a viable business with secure future prospects; and,

d) the size and nature of the proposed dwelling is commensurate with the needs of the enterprise concerned; and,

e) the development is not intrusive in the countryside, is designed to have a satisfactory impact upon the character and appearance of the area, and is acceptable when considered against other planning requirements.

In addition to the above requirements, if a new dwelling is essential to support a new agricultural or forestry or other commercial equine business-related enterprise it will normally, for the first three years, be provided temporarily by a caravan, a wooden structure which can easily be dismantled, or other temporary accommodation. Successive extensions to any temporary permission will not normally be granted beyond three years, and any subsequent proposals to provide permanent accommodation at any site will be considered using the criteria above.

7. It is important to highlight that in order for agricultural workers' dwellings to be permitted under Policy DM26, all five criteria must be met. For the reasons set out within Working Paper 1, criteria 'a' and 'c' are not considered to have been met in this case.
8. The information that has been put forward in support of the proposed agricultural worker's dwelling has been independently appraised by Kernon Countryside Consultants and has been shown to be deficient. A copy of the appraisal is included as Background Paper 1.
9. Officers have had regard to the professional advice of Kernon Consultants concerning the need for the dwelling and consider that there is not a business-related functional need for a full time worker to live permanently on the site having regard to the number of livestock at the farm. The independent consultant agrees with the applicant that close supervision of the suckler cows is required to avoid unsuccessful attempts at breeding, and acknowledges that more successful breeding will benefit the enterprise economically. The consultant advises however that the timing of artificial insemination does not, of itself, require someone to live onsite. If the farm worker were engaged in the farm full time, or making regular inspections as they should be, then they would be able to monitor the suckler cows throughout the day. The applicant currently lives within a few miles of the site, making it relatively easy to commute. The process of animals giving birth is generally what gives greatest rise to the need to live onsite as this specifically concerns the welfare of the livestock. The level of stocking in this case however, at 15-20 suckler cows, is not considered to be of a level that demonstrates an essential need to permanently live onsite at this stage. There may be occasions where the need for close attention extends into the night time, and when a worker would benefit from living nearby. However, the number and frequency of such events with just 15-20 calving cows is not enough to warrant a permanent dwelling. Typically, 50-60 suckler cows are required to generate a full-time need for a resident worker.

10. In addition to the above, the business that the dwelling is proposed to serve is not economically viable. This point is not contested by the applicant. In order to satisfy the financial test for a permanent agricultural worker's dwelling, the enterprise concerned must already be considered financially sustainable. In general terms, this means the business must be making a profit that is sufficient to pay a farm worker if the applicant, for whatever reason, could not undertake the day to day management of the farm. It is also important to note that the enterprise that demonstrates the need to live onsite must be the enterprise that is financially sustainable.
11. The applicant has provided financial information for 2018/2019 and projections for 2020-2026. These demonstrate that at present the farm does not make a profit sufficient to satisfy the financial test within policy DM26. Setting aside the applicants' other sources of income, the suckler enterprise must be making a profit of at least agricultural minimum wage to justify a dwelling onsite to serve that enterprise.
12. In the case of new businesses, policy DM26 similarly requires applicants to demonstrate that the enterprise will become a viable business with secure future prospects. In addition, if a new dwelling is essential in relation to a new enterprise it will normally be provided by temporary accommodation for the first three years. Whilst this is an existing rather than a new enterprise, Kernon Consultants advise that it does not have a clear prospect of becoming financially sustainable even after 8 years management, based upon the information provided by the applicant. The application is also for a permanent rather than temporary dwelling.

Whether there is a permitted development (PD) fall-back

13. It was queried at the 7th August meeting whether the applicant would be able to convert the application buildings to a dwelling without the need for planning permission under the provisions of Class Q of the General Permitted Development Order as 'permitted development'.
14. Development is not however permitted under Class Q if the building is a listed building. As such the single storey building proposed to be converted under this application could not be converted under Class Q as it is a curtilage listed building.
15. The other application buildings comprise a timber shed and a modern pole barn. Although no structural survey has been submitted with this application (as they are proposed to be removed), given their existing form and condition it is considered extremely unlikely that they would be capable of conversion without substantial rebuilding/replacement. Such works would foreseeably very clearly exceed the remit of Class Q which only allows for building operations 'to the extent reasonably necessary for the building to function as a dwellinghouse'. In addition, development under Class Q requires developers to go through the prior approval process with appropriate details and reports (including structural reports) formally submitted to enable the LPA to determine whether prior approval is required, and whether it should be granted or refused. There is no extant Prior Approval under Class Q in this case. As such there is not considered to be a 'fall-back' position under permitted development in this instance, nor there any realistic likelihood of there ever being one.

Risk Assessment

16. If Members remain of the opinion that this application should be approved, they must be aware of any potential risks that may arise. The most significant potential risk in this case is reputational, as officers consider the development proposed in this case to be contrary to policy.
17. Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require decisions to be made in accordance with the development plan unless there are material considerations that indicate otherwise.
18. The application site lies outside of the defined Housing Settlement Boundary for Thelnetham and is therefore classified as countryside where rural area policies of restraint apply. There is a presumption against residential development in such locations as set out in Policies CS4, CS13 and DM5.
19. Given the remote location of the site it follows that the occupiers of the proposed dwelling would have to travel by car to access shopping, education, recreation, and social facilities. The dwelling would also create demand for additional trips by visitors and service vehicles. The site is therefore considered to be within an unsustainable location.
20. Policy DM5 states that areas designated as countryside will be protected from unsustainable development. Residential development within the countryside is only permitted where it is for affordable housing for local needs, a dwelling for a key worker essential to the operation of agriculture in accordance with the requirements of Policy DM26, infill development within existing clusters in accordance with Policy DM27, or the replacement of an existing dwelling on a one for one basis.
21. The NPPF represents up-to-date Government planning policy and is a material consideration when determining planning applications. The Framework reiterates that proposals that conflict with the development plan should be refused permission unless material considerations indicate otherwise.
22. The NPPF states that isolated new homes in the countryside should be avoided unless there are special circumstances. These special circumstances include where there is an essential need for a rural worker to live permanently at or near their place of work in the countryside. In order to determine whether a need is both 'essential' and 'permanent' it is necessary to establish both whether there is a physical need for someone to live on site, and whether the operation itself has reasonable long term prospects such that it can be regarded as permanent.
23. Officers consider that given the scale of the agricultural business in this case, an essential need for a rural worker to live on the application site has not been demonstrated. This view is supported by Kernon Countryside Consultants within their agricultural appraisal. It is acknowledged by the applicants, and evidenced in the financial information submitted, that the enterprise at the farm is not currently economically viable. In addition, Kernon Consultants have considered the projected figures provided and advise that the enterprise does not have a clear prospect of becoming financially sustainable even after 8 years management.

24. For the above reasons the proposal in this case is considered contrary to Policies DM5 and DM26 of the Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies Document (February 2015) and paragraph 79 of the National Planning Policy Framework (2019).
25. The preamble to Policy DM26 explains that the policy sets out the circumstances under which the provision of agricultural and essential workers dwellings will be permitted. These are cases where the demands of farming make it essential for one or more persons engaged in this work to live at or very close to the site of their work. The preamble also highlights that this is an exception that is made where it is proven to be necessary for such housing in the countryside in order to sustain the effective operation of a viable rural business. Such cases must be exceptional if the integrity of the policy and the character and appearance of the rural area are to be maintained. The NPPF also states that the need must be 'essential', i.e. absolutely necessary. Officers are unable to conclude that such a need exists in this case.
26. Officers consider that if the Local Planning Authority were to accept the argument that has been put forward by allowing a new dwelling, then it is an argument that could be repeated often, in similar circumstances, resulting in further unsustainable development in the countryside and undermining the principles behind Policies DM5 and DM26.

Conclusion:

27. It remains the opinion of officers that the proposed dwelling is contrary to local planning policy and national planning guidance. This is reflected in the recommendation of refusal made below.
28. If however Members remain minded to approve this application notwithstanding the advice given, Officers recommend that the following conditions be imposed:
- 1) The development hereby permitted shall be begun not later than 3 years from the date of this permission.
Reason: In accordance with Section 91 of the Town and Country Planning Act 1990.
 - 2) The occupation of the dwelling hereby permitted shall be limited to a person solely or mainly employed, or last employed, in the locality in agriculture as defined in Section 336(1) of the Town and Country Planning Act 1990, or in forestry or a dependent of such person residing with him or her, or a widow or widower of such a person.
Reason: To reserve suitable residential accommodation for persons employed locally in agriculture, in accordance with policy DM26 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 5 of the National Planning Policy Framework and all relevant Core Strategy Policies.
 - 3) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the approved plans and documents (*to be listed*).
Reason: To define the scope and extent of this permission.

4) No development above ground level shall take place until a scheme of soft landscaping for the site drawn to a scale of not less than 1:200, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include accurate indications of the position, species, girth, canopy spread and height of all existing trees and hedgerows on and adjacent to the site and details of any to be retained, together with measures for their protection during the course of development. Any retained trees removed, dying or becoming seriously damaged or diseased within five years of commencement shall be replaced within the first available planting season thereafter with planting of similar size and species unless the Local Planning Authority gives written consent for any variation. The works shall be completed in accordance with the approved plans and in accordance with a timetable to be agreed with the Local Planning Authority.
Reason: To enhance the appearance of the development and to ensure that the most vulnerable trees are adequately protected during the periods of construction, in accordance with policies DM2, DM12 and DM13 of the West Suffolk Joint Development Management Policies Document 2015, Chapters 12 and 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

5) No development above ground level shall take place until details of the treatment of the boundaries of the site have been submitted to and approved in writing by the Local Planning Authority. The details shall specify the siting, design, height and materials of the screen walls/fences to be constructed or erected and/or the species, spacing and height of hedging to be retained and / or planted together with a programme of implementation. Any planting removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced by soft landscaping of similar size and species to those originally required to be planted. The works shall be completed prior to first use/occupation in accordance with the approved details.
Reason: To enhance the appearance of the development and ensure a satisfactory environment, in accordance with policies DM2, DM12 and DM13 of the West Suffolk Joint Development Management Policies Document 2015, Chapters 12 and 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

6) All planting comprised in the approved details of landscaping shall be carried out in the first planting season following the commencement of the development (or within such extended period as may first be agreed in writing with the Local Planning Authority). Any planting removed, dying or becoming seriously damaged or diseased within five years of planting shall be replaced within the first available planting season thereafter with planting of similar size and species unless the Local Planning Authority gives written consent for any variation.
Reason: To enhance the appearance of the development and ensure a satisfactory environment, in accordance with policies DM2, DM12 and DM13 of the West Suffolk Joint Development Management Policies Document 2015, Chapters 12 and 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

7) All ecological measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal as already

submitted with the planning application and agreed in principle with the Local Planning Authority prior to determination.

Reason: To secure biodiversity enhancements commensurate with the scale of the development, in accordance with policy DM12 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

8) The dwelling shall not be occupied until the areas within the site shown on drawing no. 5642 101A for the purposes of manoeuvring and parking of vehicles has been provided and thereafter those areas shall be retained and used for no other purposes.

Reason: To ensure that sufficient space for the on site parking of vehicles is provided and maintained in the interests of highway safety.

9) Prior to the dwelling hereby permitted being first occupied, the vehicular access onto the highway shall be properly surfaced with a bound material for a minimum distance of 5 metres from the edge of the metalled carriageway, in accordance with details previously submitted to and approved in writing by the local planning authority.

Reason: To secure appropriate improvements to the vehicular access in the interests of highway safety and to prevent mud and debris from being carried onto the highway.

10) The mitigation measures outlined in the Flood Risk Assessment shall be implemented in full prior to the first occupation of the dwelling unless otherwise agreed by the local planning authority.

Reason: To provide mitigation for flooding in accordance with policy DM6 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 14 of the National Planning Policy Framework and all relevant Core Strategy Policies.

11) The dwelling hereby approved shall not be occupied until the optional requirement for water consumption (110 litres use per person per day) in part G of the Building Regulations has been complied with and evidence of compliance has been obtained.

Reason: To ensure that the proposal meets with the requirements of sustainability, in accordance with policy DM7 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 14 of the National Planning Policy Framework and all relevant Core Strategy Policies.

12) Prior to first occupation, all dwellings with off street parking shall be provided with an operational electric vehicle charge point at reasonably and practicably accessible locations, with an electric supply to the charge point capable of providing a 7kW charge.

Reason: To promote and facilitate the uptake of electric vehicles on the site in order to minimise emissions and ensure no deterioration to the local air quality, in accordance with Policy DM14 of the Joint Development Management Policies Document, paragraphs 105 and 110 of the National Planning Policy Framework and the Suffolk Parking Standards.

Recommendation:

29. It is recommended that **PLANNING PERMISSION** be **REFUSED** for the following reason:

The site lies outside of the defined housing settlement boundary for Thelnetham in an area designated as countryside. Policy CS13 of the Core Strategy provides that in such locations development will be strictly controlled, with a priority on protecting and enhancing the character, appearance and other qualities of the countryside while promoting sustainable diversification of the rural economy. Development Management Policy DM5 states that the countryside will be protected from unsustainable development, with a new or extended building permitted where it is for (inter alia) a dwelling for a key worker essential to the operation of agriculture in accordance with the requirements of Policy DM26. Policy DM26 sets out the detailed criteria that must be met in order for agricultural workers dwellings to be permitted. These include the need to demonstrate to the satisfaction of the local planning authority that there is an existing agricultural functional need for a full time worker in that location, and the need to demonstrate that the enterprise is a viable business with secure future prospects. The National Planning Policy Framework (NPPF) states that planning policies and decisions should avoid the development of isolated homes in the countryside unless (inter alia) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside.

Planning permission is sought for a permanent agricultural worker's dwelling on the site in connection with an existing cattle breeding and rearing enterprise. The enterprise is not considered to be of a size that demonstrates an essential functional need for a full time worker to reside on site and the enterprise is furthermore not currently financially sustainable. The circumstances of the proposal are not such as to justify the dwelling as an exception to local and national policies that generally seek to restrict development in the countryside. The development is therefore contrary to Policy DM5 and DM26 of the Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies Document (February 2015) and paragraph 79 of the National Planning Policy Framework (2019).

Documents:

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online [DC/18/2152/FUL](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/791212/DC182152FUL.pdf)