

15/02666/FUL

**Construction of an agricultural storage building
at Longbridge House Farm, Stillington Road, Easingwold
for Mrs Jane Grant**

This application was deferred by Committee on 26 May 2016 and again on 10 November 2016 so that officers could (i) investigate alternative siting of the proposed building; (ii) obtain further information on the agricultural justification for the proposed building; and (iii) investigate and obtain further information and advice on the storage of chemicals and fertilisers on the site, then further to (iv) establish the ownership of and rights to use land shown to be under a farming contract.

The applicant has lodged a non-determination appeal and the application will therefore be decided by the Planning Inspectorate and not the Council. The matter is therefore presented to the Committee at this time to determine the Council's response to the appeal.

Committee members inspected the site on 23 May 2016.

1.0 APPLICATION SITE AND PROPOSAL

- 1.1 The application site is south of Stillington Road opposite Easingwold Football Club and to the rear of Easingwold fire station and training centre. There are a number of buildings on the site, a weighbridge and two silos. The site is accessed from Stillington Road and access to the site is via a barrier control system. The Oaklands Way housing development to the west (Hurns Way) is visible from the site which is generally open in nature with a line of trees on the west boundary.
- 1.2 The site is outside the Development Limits of Easingwold. The Development Limits follow the boundary of the Fire Station and Training Centre and the Leasmires Beck to the west of the site.
- 1.3 The application proposes a new agricultural building measuring 54.8m by 30.4m and 13.8m to the ridge in the south western part of the site. The building would be of portal frame construction in a mixture of concrete grain panels on lower walls and profile sheeting to the upper walls and roof.
- 1.4 The applicant has stated that she needs this building because she has taken on tenancies to farm 712 acres comprising 304 acres at New Manor Farm, Carlton Husthwaite, farmed under contract, and 408 acres at Woodhouse Farm, Rufforth that is rented. These areas are about 7 miles (11km) and 14.0 miles (23km) from the application site respectively. The Planning Supporting Statement of November 2015 stated "pressure for additional storage has been further compounded by the applicants recently increasing the area they farm by some 420 acres", although it was not indicated where those 420 acres were.
- 1.5 The applicant advises that these two sites allow her to significantly increase the scale of her arable operations on good quality land that enables a variety of commercial crops to be grown. She indicates this is focused on cereal production but can include a variety of root or feed crops as market opportunities emerge.

- 1.6 The applicant states that neither of the contract or rental agreements includes the use of any buildings or covered storage on the farms in question, so this generates a need to develop the storage capacity at Longbridge House Farm. She also advises that the additional land at Carlton Husthwaite and Rufforth is farmed primarily by existing staff deployed to sites as operations require and may provide opportunities for employment growth.
- 1.7 The applicant confirms that the distance of the two parcels of land from Longbridge House is not considered to be unreasonable given the transport related activities of her business collective, and the majority of the movements can be dealt with by her own transport making the transport operations both viable and functionally efficient.
- 1.8 The applicant confirms that there will be no grain drying plant in the building.
- 1.9 As noted above, consideration of the application has been deferred twice so that officers could (i) investigate alternative siting of the proposed building; (ii) obtain further information on the agricultural justification for the proposed building; and (iii) investigate and obtain further information and advice on the storage of chemicals and fertilisers on the site, then further to (iv) establish the ownership of and rights to use land shown to be under a farming contract.

Alternative siting

- 1.10 The applicant has investigated this; however due to a nearby silo and waste operations which have bays on the southern boundary the relocation of the building is not possible. The applicant has also investigated turning the building through 90 degrees to increase the separation from residential properties to the west but this would not be possible without increasing the height of the building.

Agricultural justification

- 1.11 The applicant states she is an established farmer with significant holdings in her own right and she is also an agricultural contractor with significant commitments in terms of plant, equipment and manpower that must be kept utilised if the business is to remain viable and the latest machinery purchased. She advises that this building, and the availability of additional farm storage capacity, is integral to that business plan.
- 1.12 The update paper to the May 2016 meeting conveyed the applicant's advice that contracts had been entered into for the areas of land at Carlton Husthwaite and Rufforth. The applicant confirmed that these two agreements did not supplant the existing farmers, but were agreements to contract a part of the land/produce for which they are responsible. Copies of the contracts had not been submitted so the advice was taken in good faith.
- 1.13 Following the May 2016 deferral two unsigned contracts were supplied in August 2016. One gave a term date from 6 October 2015 to 5 October 2020, the other gave an end date of 30 March 2017 with options for annual extension. The applicant's agent subsequently confirmed by letter dated 8 September 2016 that the contracts had not been concluded and the tenancies had yet to start. These incomplete and unsigned documents were not considered to be contracts and therefore the position reported in May 2016 was incorrect. However, the applicant has confirmed in writing that she could submit signed contracts prior to the determination of the application.
- 1.14 It is of note that this information confirms that the 304 acres at Carlton Husthwaite is in fact made up of three parcels at Raskelf, Sessay and Oulston.
- 1.15 The question about ownership of land shown to be under a farming contract and rights to use arose when the application was deferred for the second time in

December 2016. It relates to the land at Oulston which is owned by Newburgh Priory Estate. Officers have sought advice from the Priory Estate on the matter.

1.16 This issue is considered in greater depth in section 5 below.

Storage of chemicals and fertilisers

1.17 The storage of chemicals is a carefully monitored position with 63 chemicals listed within the Regulations. The planning system only exercises control over the storage of specific substances if they are of the type and in the quantities set out in the Planning (Hazardous Substances) Regulations 2015. For simple ammonium nitrate based fertilisers which conform with the requirements of the Fertilisers Regulations 1991 and composite fertilisers in which the nitrogen content as a result of the ammonium nitrate is more than 28 per cent, the threshold at which Hazardous Substance Consent will be required is 1,000 tonnes. It is not expected that such quantities would be stored in the proposed building.

1.18 The May 2016 update paper also included information that grain would only be a part of the use of the building and that no grain drying equipment would be installed. The applicant stated the building would be used for storage and deployment of farm machinery, the collection and storage of produce (this would vary from year to year, season to season and subject to opportunities and fluctuations in demand), the storage of legitimate agricultural feedstuffs, fertilizers, sprays, chemicals and seed. Specific agricultural needs will inevitably vary from time to time, one such example being a recent demand for dry straw storage which could not be accommodated and which this application seeks to provide.

1.19 The applicant continues to indicate that she would accept the conditions outlined in the previous reports, specifically: (i) precluding drying or mechanical ventilation in the building; (ii) limiting its use to the storage of agricultural produce, consumables and machinery; and (iii) the reinforcement of the landscape boundary to the west of the

1.20 The applicant submitted further detailed information in August 2016 as follows:

- The adequate provision of infrastructure and storage space will allow the business to grow with the lack of space currently being prohibitive in the signing of additional land and contracts;
- The existing buildings on site have become redundant for agricultural purposes, mainly because of size, location and access constraints and as a result have been subject of subsequent approvals for alternative use. This is not however indicative of a lack of farming need on the site;
- The additional building will result in increased employment and investment;
- The building is not intended as a granary, there are no facilities for drying grain and the building is not mechanically ventilated or heated. The applicant indicates that a condition preventing the installation of such machinery would be accepted.
- The purpose of inclusion of grain on the list of produce is that it may be stored in the building. The type of grain is clarified with the grain stored will be treated with Propcorn NC if necessary and in accordance with manufacturers instruction on application rates and preservation times;
- The ability to store produce (specifically straw) at Longbridge in quantity allows the applicant to take advantage of best market conditions for sale without significant quantities being lost due to weather damage, in particular, which is uneconomic and unsustainable;
- The applicant has supplied information as to their business which has been operating since 1965 (initially as a sole trader), then as Whitkirk Farm Produce from 1975 and as Grants Pro Agri. since 2008. The applicant's land agent (Brian Bartle) has also written in support of the application;

- Details of landholdings for the applicant and land under contract offer have been supplied alongside letters from the farmers themselves;
- The applicant has not supplied commercial detail of the agreements but can confirm that there would be a 3 or 5 year 'Farm Business Tenancy Agreement'. This would transfer for the period of the tenancy full 'farming rights' to cultivate and lift crops and to derive any payment or entitlements for the land. The only constraint in the contract being that good husbandry principles are to be applied;
- The applicant has supplemented the need discussion further by indicating the land under contract would have the potential to supply approximately 7,400 bales ('Mini Heston') over the course of the season which require dry storage and some 1,220 tonnes of corn with the potential for Barley and Wheat also capable of being farmed;
- Fertilisers will be stored in accordance with Fertilisers Regulations 1991 and the HSE permit regulations;
- The applicant also highlights that the proposed shed is some distance from residential properties on Hurns Way, the existing tree belt is substantial and could be added to if desired;
- The existing tree belt is over 150m long and 30m wide and was planted 4-5years ago with trees of a mix of semi-mature and younger stock which will grow higher over time. The trees include Oak, Birch, Alder, Beech, Wild Cherry and Pine. There is also potential to increase and supplement hedgerow planting; and
- There are functional and operational benefits from the proposed layout in that the access to the shed is currently from the east elevation and the existing yard. There would be constraints on the door size, accessibility and tipping space making the building less functional if handed. The tipping trailer needs a height of 11m for tipping and the proposed height of the building (at 13.8m) is necessary.

2.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY

- 2.1 There has been extensive planning history relating to the site with the development starting at the front of the site and moving around to the rear of the fire station and training centre. Some diversification and complimentary uses have been permitted on the site (e.g. vets and general storage) whilst other proposals (e.g. MOT and caravans have been refused).
- 2.2 97/50445/O - Outline application for a dwellinghouse; Refused 3 March 1998.
- 2.3 97/50446/O - Outline application for an agricultural building for the accommodation of livestock; Granted 12 September 1997.
- 2.4 98/50376/P, 98/50377/P and 98/50378/P – Three agricultural buildings for the accommodation of livestock; all Granted 28 September 1998.
- 2.5 98/50379/P - Agricultural building for the accommodation of livestock; Granted 18 December 1998.
- 2.6 00/50427/P and 00/50428/P – Two agricultural buildings for storage purposes; both Granted 27 April 2000.
- 2.7 02/00500/FUL - General purpose agricultural building for storage of feed and machinery (including weighbridge); Granted 29 April 2002.
- 2.8 03/00097/FUL - Agricultural building for storage and machinery repair purposes - Granted 21 March 2003.
- 2.9 03/01614/FUL - Retrospective application for entrance walling at front of site; Granted 16 October 2003.

- 2.10 04/00133/FUL - Change of use of part of office block into a veterinary surgery; Granted 31 May 2005.
- 2.11 04/02303/FUL - Installation of liquid waste storage tank; Refused 31 May 2005.
- 2.12 05/01700/FUL - Change of use of two agricultural buildings to general storage; Granted 26 September 2005.
- 2.13 06/00029/FUL - Change of use of agricultural building to MOT test centre; Refused 16 June 2006.
- 2.14 06/00425/FUL - Two storey veterinary surgery; Withdrawn 19 December 2006.
- 2.15 06/02583/FUL - Alterations and change of use of an agricultural building to form a storage and office building; Granted 10 January 2007.
- 2.16 07/00292/FUL - Revised application for a two storey veterinary surgery with associated facilities; Granted 17 April 2007.
- 2.17 07/01128/APN - Application for prior notification of an agricultural building for the storage of agricultural machinery; Refused 3 May 2007. This proposal was on the York Road frontage, away from the main agricultural yard, and was refused because the proposed size and siting of the building was considered to have a significant adverse impact upon the appearance of the surrounding countryside.
- 2.18 07/02214/FUL - Change of use of agricultural land to the siting of six residential caravans to be used as agricultural workers dwelling; Refused 13 September 2007.
- 2.19 08/00838/FUL - Revised application for change of use of agricultural land to the siting of six residential caravans; Refused 23 May 2008. The caravans were proposed to be located in the same position as the building now proposed.
- 2.20 08/00857/FUL - Revised application for a single storey veterinary surgery with associated facilities; Granted 27 May 2008.
- 2.21 10/01634/FUL - General purpose farm building; Granted 8 December 2010.
- 2.22 10/02960/FUL - First floor extension to office building; Withdrawn 10 February 2011.
- 2.23 16/00685/FUL - Retrospective application for the use of land and buildings for the display and servicing of motor vehicles and the retention of an office building; Refused 2 June 2016.
- 2.24 16/02053/FUL – Revised application for the continued use of land and buildings for MOT and car sales (including retention of an office building); Granted 11 November 2016.

3.0 RELEVANT PLANNING POLICIES

- 3.1 The relevant policies are:

Core Strategy Policy CP1 - Sustainable development
Core Strategy Policy CP2 - Access
Core Strategy Policy CP4 - Settlement hierarchy
Core Strategy Policy CP15 - Rural Regeneration
Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets
Core Strategy Policy CP17 - Promoting high quality design
Core Strategy Policy CP21 - Safe response to natural and other forces

Development Policies DP1 - Protecting amenity
Development Policies DP3 - Site accessibility
Development Policies DP4 - Access for all
Development Policies DP8 - Development Limits
Development Policies DP9 - Development outside Development Limits
Development Policies DP10 - Form and character of settlements
Development Policies DP25 - Rural employment
Development Policies DP26 - Agricultural issues
Development Policies DP30 - Protecting the character and appearance of the countryside
Development Policies DP32 - General design
Development Policies DP33 - Landscaping
Development Policies DP42 - Hazardous and environmentally sensitive operations
Development Policies DP44 - Very noisy activities
National Planning Policy Framework - published 27 March 2012

4.0 CONSULTATIONS

- 4.1 Town Council - Wish to see approved for agricultural storage only and not to be used as part of any waste management activities.
- 4.2 Highway Authority - No objection.
- 4.3 Environmental Health Officer - No objection; conditions relating to external lighting, prohibiting mechanical extraction or drying equipment and preventing the building from being used to store farm or other waste are recommended.
- 4.4 Public comment - four objections from residents of the nearby residential development raising the following grounds:
- Residents already suffer from noise and smells from current farm use, an additional building and increased activity would be unbearable;
 - The building should not be so close to neighbours properties; the applicant has other land at their disposal;
 - It was understood that the land would not be built on when property was purchased;
 - Large flood lights operating through the night;
 - An addition of further tree planting to screen the building would be welcomed;
 - Questions about the size and scale of the building;
 - The development would bring disturbances closer to housing and so make them worse;
 - The building will overshadow houses and gardens and potentially cut out sunlight; and
 - It will create a poor view from the rear and affect the re-sale value of property.

5.0 OBSERVATIONS

- 5.1 The main planning issues to take into account when considering this application relate to (i) the principle of development in this location, including agricultural need; (ii) the impact on the character and appearance of the area; (iii) the impact on neighbour amenity; and (iv) the impact on highway safety.

Principle of development

- 5.2 As indicated in section 2, the site has a complex and long planning history with a range of non-agricultural uses approved. However the key issue with the current application is whether an exception to the strict control of development beyond

Development Limits can be applied. In the case of proposed agricultural buildings, criterion i of Core Policy CP4 provides an exemption where the building is “necessary to meet the needs of farming, forestry, recreation, tourism and other enterprises with an essential requirement to locate in a smaller village or the countryside and will help to support a sustainable rural economy”.

- 5.3 Compliance with this criterion of policy CP4 is not achieved by virtue of the building being intended for agricultural use but because there is an agricultural need for it, so it is reasonable to test the evidence relating to the stated agricultural activity.
- 5.4 As indicated in section 1, there was initially limited evidence relating to the applicant’s claim to have tenancies of 712 acres (304 acres at New Manor Farm, Carlton Husthwaite and 408 acres at Woodhouse Farm, Rufforth) that, in their view, made the building necessary and that evidence was taken in good faith in the advice given by officers in May 2016.
- 5.5 When documentary evidence was submitted in August 2016 it was in the form of contracts had not been signed and which contained errors suggesting they would not be signed in that state. The agent subsequently confirmed in September 2016 that the contracts had not been concluded and the tenancies had yet to start.
- 5.6 Signed copies of contracts dated 7 November 2016 were then submitted and in order to provide the Committee with appropriate assurance, officers sought to verify the facts. In doing so they carried out reasonable due diligence tests and found that a proportion of the land at Oulston is not owned by the parties to the contracts but by Newburgh Priory Estate. The agent advises that the Estate’s arrangement with the tenant farmer who signed the contract with the applicant allows him to enter that contract but despite repeated requests the Estate has not provided confirmation.
- 5.7 Officers have also sought further explanation from the agent in respect of their statement that (in November 2015) “pressure for additional storage has been further compounded by the applicants recently increasing the area they farm by some 420 acres”. Officers noted that two parcels of 304 acres and 408 acres had been identified elsewhere in the application and shared their assumption that it was the 408 acres at Rufforth with the agent, which would mean the applicant was farming that land a year before they had a contract to do so and has continued to do so without the benefit of the building the subject of this application. Officers asked the agent to advise, if that assumption was correct, where the applicant has stored the plant and equipment necessary to farm the land and where they have stored the produce they took from it. No answer has been received.
- 5.8 Concern has also been expressed that the 408 acres of land at Rufforth indicated to be farmed under contract is unsuitable for the production of the types of crops indicated in the application. The land is understood to be grazing land, not currently in arable cultivation. No evidence is available on this point.
- 5.9 Policy CP4, criterion I, also refers to supporting a sustainable rural economy and the economic benefits that the new building would create have therefore been given closer consideration. The application form does not state the existing number of employees but does say that the building would allow two full time equivalent jobs to be created. The agent was asked to confirm existing employee numbers and whether any of the jobs growth has already occurred as a result of farming the additional 420 acres mentioned above. No answer has been received.
- 5.10 In the absence of a demonstrated agricultural need, approval of the application would be contrary to Policy CP4. Where there is doubt relating to the need then it is appropriate to seek further information; this was done and the applicant has provided some further information, as set out earlier, although not all that was requested.

However the evidence submitted does not demonstrate an agricultural need, as CP4i requires, but explains that a lack of suitable buildings may prevent the expansion of the business. It should be noted that previous applications to locate buildings elsewhere in the enterprise have been resisted due to their remoteness and impact on the open countryside. Locating the buildings together has a practicality and there is an existing office building and other buildings that could be co-joined together.

- 5.11 It has also been noted that part of the Carlton Husthwaite land, the parcel at Raskelf, appears to include a range of modern agricultural buildings. The agent was asked to clarify why those buildings are not available to the applicant for the purposes of agricultural storage detailed in the application. The agent has replied that the relationship of the buildings to the contract land is purely coincidental and that their availability and suitability have not been assessed. Whilst it is understood that the buildings have not formed part of any contract offer or potential option to the applicant, it is less clear why the applicant has not considered the possibility.
- 5.12 Government policy, in the NPPF at paragraph 28, extends general support for the expansion of all types of business in rural areas. As noted above LDF Policy CP4 supports new agricultural development where it is necessary to meet the needs of farming and will help to support a sustainable rural economy. The evidence supplied shows a desire to expand the farming business but in view of the areas of doubt relating to the suitability of the land at Rufforth, the applicants right to farm the land at Oulston and the apparently unexplored opportunities of existing buildings at Longbridge Farm and near Raskelf it is considered that the proposal has not shown that the proposed building is necessary. The proposal is therefore considered contrary to Development Plan policy and it is not considered that the general support provided by the NPPF alone justifies the grant of planning permission.

The Character and Appearance of the area

- 5.13 It is noted that the proposed building would be large and designed to meet the needs of a modern agricultural enterprise. There are also HGV movements on the site and commercial activity occurring relating to the approved waste operations. The proposed building would be designed in a manner akin to the neighbouring building which measures 30.5m x 36.6m with a height to the ridge of 11.9m and was approved as a general purpose farm building under planning reference 10/01634/FUL.
- 5.14 The building would be similar in character to other agricultural buildings and the scale and size would allow for operations, such as the delivery of goods by trailer to take place within the building.
- 5.15 The building would be located on an otherwise open field which is currently grassland bringing the group of buildings closer to the properties on Hurns Way. However, it would be viewed from the countryside against the existing industrial estate and fire station and would effectively infill the land between existing operations and the housing estate whilst leaving a gap of approximately 50m to the boundary of the site, and approximately 70m residential properties. Additional tree planting would assist the development assimilating into the area. The existing trees on the boundary with the Hurns Way estate along Leasmires Beck are the subject of a Tree Preservation Order 12/00001/TPO. This existing young tree belt provides a significant visual break between the residential Hurns Way and the countryside and application site beyond.
- 5.16 Overall the scale and character of the building are similar to the existing agricultural and commercial operations on the site and the neighbouring industrial estate and it is

therefore considered that the building would not to cause significant demonstrable harm to the character or appearance of the area.

Neighbour amenity

- 5.17 Environmental Health Officers note that this application is for an additional building on an existing operation and comment that depending on use, agricultural buildings do have the potential to be a focus for activities which may adversely affect the amenity of neighbours. The particular use of the building proposed in this application is not clearly specified. The application supporting information states that the vehicular access doors are to be in the east gable facing away from the adjacent housing estate. This would allow the building envelope to provide some attenuation whilst the building is being accessed. However, as no acoustic details have been provided it is not clear how much attenuation the building envelope will provide.
- 5.18 Further, should this building need to be accessed before 7am or after 11pm, times when neighbouring residents might be expected to be asleep or preparing for sleep, there may be an impact on amenity. There are no such limitations on the nearest building within the site (a general purpose farm building approved under 10/01634/FUL) but restrictions on open storage and operating hours do exist on the general storage (Class B8) use of two buildings (which are further away) approved under 05/01700/FUL. It is also noted that the building approved under 10/1634/FUL has an opening fronting the residential properties and therefore a building in front of this could provide some noise attenuation and potential enhancement of residential amenity.
- 5.19 Grain storage is stated to only be a part of the use of the building; the building could also be used for storage and deployment of farm machinery, the collection and storage of produce, feedstuffs, fertilizers/sprays/chemicals and seed, all of which are legitimate agricultural products and consumables.
- 5.20 The applicant indicates that they would accept conditions to:
- Preclude drying and mechanical ventilation in the building;
 - Limit its use to storage of agricultural produce, consumables and machinery; and
 - Reinforce the landscape boundary to the west of the building.
- 5.21 As previously stated, the nearest properties on Hurns Way are approximately 70m from the site of the proposed building, allowing alleviation from the activity. It is noted that existing activity is approximately 156m from residential properties. It would therefore be appropriate to restrict open storage on the site and operating hours within the building by condition if permission were to be granted. Similarly, noise attenuation to the building could be secured by condition.
- 5.22 Due to the distance from residential properties, the proposal would not result in the loss of light or overshadow residential properties. It is noted that there are some floodlights on the existing buildings but there are also significant floodlights to the Fire Station. To guard against light pollution a condition could be applied to require approval for external lighting if permission is granted.
- 5.23 The proposal is therefore considered not to have a material adverse impact on residential amenity.

Highway safety

- 5.24 The application site benefits from a wide access onto Stillington Road with good visibility. There are no proposed changes to the access. The Highway Authority's

comments are noted and considered. Further it is noted that there would be no significant impact on the ability of HGVs to turn and manoeuvre within the site so that they can exit from the site in a forward gear through the barrier controlled entrance. Therefore it is considered that there would be no significant or material harm to the highway network.

The planning balance

- 5.25 The proposal has been the subject of extensive scrutiny, the additional supporting information provided by the applicant's agent has not shown that the building is required to meet the needs of farming and despite the findings that the scheme would not cause significant harm to the character or the area, amenity of neighbours or highway safety, the scheme is contrary to the LDF Policy CP4 and is recommended for refusal.

6.0 RECOMMENDATION

- 6.1 That the stance taken by the Council in the non-determination appeal proceedings is that the appeal should be **DISMISSED** as the development is contrary to Development Plan policy for the following reason:
1. The proposal is contrary to Local Development Framework Policy CP4 as the site is outside the Development Limits of Easingwold and the scheme has not been shown to be necessary to meet the needs of farming.