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| ITEM: | | RECOMMENDATION: | APPROVAL |
| REF NO: | 3PL/2017/1354/F | CASE OFFICER | Rebecca Collins |
| LOCATION: | COLKIRK Land off Whissonsett Road, Colkirk | APPNTYPE: | Full |
| APPLICANT: | Breckland Bridge Limited C/O Agent | POLICY: | Out Settlemnt Bndry |
| AGENT: | Ingleton Wood 8 Whiting Road Norwich Business Park | ALLOCATION: | N |
| PROPOSAL: | Erection of 21 dwellings | CONS AREA: | N |
| | | LB GRADE: | N |
| | | TPO: | N |

REASON FOR COMMITTEE CONSIDERATION

The application is, as defined by the scheme of delegation, a major planning application and is therefore referred to Planning Committee for this reason.

KEY ISSUES

Principle of development
Highways Impacts
Character and appearance of the area
Impact on amenity
Arboricultural Impacts
Crime / Community safety
Flood Risk
Ecology
Other matters
Affordable Housing and other obligations

DESCRIPTION OF DEVELOPMENT

Full planning permission is sought for the redevelopment of the site to provide 21 residential dwellings. The design has been amended throughout the course of the application.

The dwellings would be laid out in an approximate 'U' shape, with open space to the front of the site and 8 dwellings fronting onto the open space/Whissonsett Road. A further row of properties lie to the rear (west) of the site.

Each of the detached and semi-detached plots would comprise either an attached or detached vehicular car port with the terraced dwellings having parking located opposite their dwellings. All dwellings would be served by private amenity areas to the rear of the houses.

The development would connect to the existing highway network through a vehicular access point on Whissonsett Road with an on-site tarmacked road.

The scheme also involves the provision of a footway link along the western side of Whissonsett Road, to link in with the existing provision on School Road and Timperley Estate.

SITE AND LOCATION

The site extends to approximately 0.95 hectares and currently consists of rough grassland, and has been used for the keeping of horses. Land to the south and east is similarly open and rural in nature. To the west and north there is existing housing and a point of access exists towards the north west corner of the field. The site has defined hedgerow boundaries with some trees.

The site is outside but adjacent to the settlement boundary of Colkirk. Colkirk is identified in the Local Plan as a rural settlement, the main aim of policy being about maintaining services and such settlements are deemed only suitable for nominal residential growth. It contains limited services including a public house and the village school.

Breckland Council is in the process of preparing a new Local Plan, which has been sent to the Planning Inspectorate for examination. The emerging Local Plan proposes removing the settlement boundary of Colkirk.

EIA REQUIRED

No

RELEVANT SITE HISTORY

Whilst there are no planning applications relating to the site which have been determined, in 2016, a planning application was submitted (planning reference: 3PL/2016/1309/F) for the erection of 21 dwellings, along with associated highway works and landscaping. The application was subsequently withdrawn in January 2017, following the Council's announcement that they were able to demonstrate a 5-year housing land supply.

POLICY CONSIDERATIONS

The following policies of the adopted Breckland Core Strategy and Development Control Policies and the adopted Site Specific Policies and Proposals Document, including the Proposals Maps, have been taken into consideration in the determination of this application. The provisions of the National Planning Policy Framework and National Planning Policy Guidance have also been taken into account, where appropriate

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|-------|-----------------------|
| CP.01 | Housing |
| CP.04 | Infrastructure |
| CP.05 | Developer Obligations |
| CP.06 | Green Infrastructure |
| CP.09 | Pollution and Waste |
| CP.10 | Natural Environment |

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| CP.11 | Protection and Enhancement of the Landscape |
| CP.14 | Sustainable Rural Communities |
| DC.01 | Protection of Amenity |
| DC.02 | Principles of New Housing |
| DC.04 | Affordable Housing Principles |
| DC.11 | Open Space |
| DC.12 | Trees and Landscape |
| DC.13 | Flood Risk |
| DC.16 | Design |
| DC.19 | Parking Provision |
| LBC | Planning(Listed Building & Conservation Areas) Act 1990 |
| NPPF | National Planning Policy Framework |
| NPPG | National Planning Practice Guidance |
| SS1 | Spatial Strategy |

OBLIGATIONS/CIL

The following requirements would need to be secured by a suitable legal agreement;

- Affordable housing contributions. A viability report has been submitted demonstrating that the development can not viably provide affordable housing (this is further discussed below). In the event a reduced amount of affordable housing is accepted then a viability review mechanism will be required.
- Open space provision.
- Library contribution.

CONSULTATIONS

CHARLES BRINDLEY, CLERK TO COLKIRK PARISH COUNCIL

Objection - The site is outside the settlement boundary and the proposal is therefore contrary to policy CP14. The proposal will have a major impact on the landscape and the current rural setting of the site. The application lacks detailed landscaping proposals and as a full application, these should be provided. The area is not well provided for by services, with only one bus per week. Case law and recent appeal decisions outline that the lack of a 5 year supply of sites does not necessarily mean consent should be granted.

The new local plan will classify Colkirk as a rural settlement devoid of key services. The committee has concerns that the proposed footpath/Whissonsett Road is inadequate, on a busy road used by HGV vehicles, and that there could be problems relating to sewerage disposal. Attempts to satisfy concerns of highway and pedestrian safety has led to a proposal for a revised access to the site and alterations to Whissonsett Rd which, if anything, are worse than the original proposal. The idea of sighting the site access in the middle of the S-bends adjacent to the start of the 30mph limit is irresponsible and the attempts to provide a footway along Whissonsett Rd lead to a proposal that will, in parts, mean that it is unusable by parents with toddlers. The idea of a reduction in carriageway width to 3.1m between Timperley Estate and the junction with School Rd will not work due to the number of agricultural vehicles and school coaches that regularly use the road.

The Council notes that no written evidence has been submitted by Anglian Water to the developer with regards to sewerage services from the proposed new development. This is a great concern as the village experiences problems already with mains that are already working at capacity.

The revised site access is directly opposite a private car park that is owned by Colkirk Parish Council. This car park is provided for users of the allotments and playing field and cannot be considered to be an overflow car park for residents of the estate. Assessments of car parking provision for the site must be made without inclusion of this car park.

Colkirk Parish Council would wish to see planning obligations agreed by way of s106 contributions to the parish council by the developer if consent is granted for village facilities.

ENVIRONMENT AGENCY

We have no objections to the proposal. The site is located above a Principal Aquifer and within Source Protection Zone (SPZ) 3. However, we do not consider this proposal to be High Risk. The water environment is potentially vulnerable and there is an increased potential for pollution from inappropriately located and/or designed infiltration (SuDS). We consider any infiltration (SuDS) greater than 2.0 m below ground level to be a deep system and are generally not acceptable. If the use of deep bore soakaways is proposed, we would wish to be re-consulted. No further comments to add following re-design of the proposals.

NATURAL ENGLAND

Natural England has no comments to make on this application. Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

CRIME REDUCTION & ARCHITECTURAL LIAISON OFFICER

Disappointingly the Design and Access Statement does not make reference to any proposed crime prevention measures for the development. I would encourage the preventative security measures and standards found with the ACPO Secure by Design (SBD New Homes 2016) are adopted for this development, as the principles and products used have proven track record in reducing crime. We would encourage that measures are taken to provide a design which takes into account appropriate security measures.

Further comments following reconsultation:

Although we made no formal objection to the proposals it is still our recommendation that the developer adopts the designing out crime principles for the design, layout and physical security for this development, specifically my comments in reference to recesses in the housing design and 1.8m closed board fencing for the rear boundaries.

NATIONAL AIR TRAFFIC SERVICES

No safeguarding issues with this proposal. No update following re-consultation.

NORFOLK COUNTY COUNCIL HIGHWAYS

Whissonett Road is currently of a sub-standard nature due to its narrow width and lack of footway and should therefore not be used to serve significant development without substantial improvement. Proposed mitigation will fall short of what is needed and the proposed footpath cannot be delivered, as the hedge to be removed is under the ownership of the Highways Authority. Proposed highway improvements are not possible without third party land. The location of the proposed junction is also too far south, causing a waiting driver to have to look over his shoulder to see round the bend to the left, to the detriment of highway safety. Any new junction must also have visibility splays measuring 2.4 x 59m in both directions, which cannot be reduced in order to avoid existing trees. The application should be refused owing to inadequate access and that the road is too restricted for a development of this nature.

Re-consultation:

The highway authority objection relates to the substandard nature of Whissonsett Road and the inability of the applicant to provide an acceptable scheme to mitigate the increase in pedestrians and vehicular traffic generated by this development. Even if it could be built, which the County Council has doubts about due to hedges owned by third parties, the proposed highway improvements would still result in road and footway widths below an acceptable standard.

With regards the proposed layout I would further comment as follows: 1. The chicane is not necessary for traffic calming purposes, due to the relatively short length of road. Therefore, to avoid vehicles driving on the wrong side of the road close to the adjacent junction, it should be removed, as previously stated. 2. Residents and visitors to plots 2 - 3 & 19 - 20 are likely to want to park as close as possible to the dwelling. Therefore lay-bys adjacent to / opposite these dwellings would provide a better solution than the more remote parking spaces proposed. 3. Whilst I accept the proposed garages will be large enough to accommodate a parked vehicle. Experience has shown that the majority will remain unused. Therefore, as previously stated, in order to avoid unnecessary on-street parking, it would be beneficial to either set the garages further back / remove them or provide some additional lay-by parking for visitors etc. 4 Additionally the revised layout plan shown on drawing 3629-9-105-D does not provide adequate turning provision at the end of the private drive, as a size 3 turning head would be required for a private drive longer than 45m.

OBLIGATIONS OFFICER, NORFOLK COUNTY COUNCIL

There is spare capacity at Early Education, Primary and High school levels, therefore, Norfolk County Council will not seek Education contributions for this proposed development on this occasion.

It has been calculated that a development of this scale would require a total contribution of 1,575 (i.e. 75 per dwelling). This contribution will be spent on IT infrastructure and equipment at Fakenham Library.

Green infrastructure should be included within the proposed site in line with local policy. Connections into the local Green Infrastructure (GI) network, including Public Rights of Way and ecological features, should be considered alongside the potential impacts of development. We would advise the Local Planning Authority that a maintenance/mitigation contribution or commuted sum for new and existing GI features may be required in addition to the County response, in order comply with local policy. Thus allowing the local GI network to facilitate the development without receiving negative impact and equally, allow the development to integrate and enhance the existing network.

FLOOD & WATER MANAGEMENT TEAM

Officers have screened this application and it falls below our current threshold for providing detailed comment. This is because the proposal is for less than 100 dwellings or 2 ha in size and is not within a surface water flow path as defined by Environment Agency mapping. If you are aware of a particular surface water flooding issue at this location which requires further bespoke advice, please re-consult detailing the perceived nature of flooding or details of flooding that has occurred. No further comments following re-consultation.

TREE AND COUNTRYSIDE CONSULTANT

The road widening is likely to result in significant tree damage/loss. The supplied tree report does not allow a conclusion to be made on the impact although from a brief site visit it would appear that at least 1 category A Oak which is currently 1.5m from the edge of the road would be lost. Unless an engineering solution can be provided, and/or the widening amended then it is my opinion that the scheme would result in an unacceptable loss of trees along Whissonsett Road.

Re-consultation

The trees for removal are category B trees that are of moderate quality that would ideally be retained. Having said that the most important trees along the central section of the hedge will be retained (as part of the amended scheme) and have sufficient space for them to remain viable without pressure for removal. Whilst the loss of the trees shown is unfortunate I do not think that removal of trees alone would be sufficient reason for refusal as the sections that will be lost are relatively small and although retention of established trees is always preferable, the landscape impact would be quite low and could be compensated by a decent landscaping proposal.

I do have concerns over the proposed footpath on the other side of the road and believe this will result in damage/loss of garden hedges, these hedges are not particularly valuable but I believe that ownership is still unclear.

HOUSING ENABLING OFFICER

I have looked at the above application and can confirm that the site area and number of dwellings proposed trigger the thresholds of the Council's affordable housing policy. As identified in the documentation, at present a 25% provision is required on sites capable of accommodating 10 or more dwellings and/or 0.5ha. This is then further split into 70% being made available for rent and 30% for shared ownership, shared equity or any other intermediate product that meets the intermediate definition within NPPF, meets an identified need in the District and is agreed by the Council.

In this instance, for a site of 21 units, 5.25 units would be required, 4no for rent and 1no for intermediate housing. A commuted sum of 12,500 will also be payable, being 25% of the standard 50,000, to discharge the fractional 0.25 unit requirement.

All affordable units should meet these standards, and any that do not are likely to result in an objection from us.

I also note a viability assessment has been submitted, this will require independent assessment by the district valuer. If an independent review of the viability determines that it is not viable to provide the policy requirement, a clawback provision will be required as part of the S106 agreement. This will ensure that, should the scheme not be completed within three years from date of planning approval, half of any profits in excess of the percentage stated in the independent review shall be paid as a commuted sum to provide affordable housing in the district, up to an amount where the scheme has made the equivalent of a policy compliant affordable housing contribution. In the event the District Valuers assessment agrees with the assessment, I would indicatively prefer option A of 2no affordable units as this is closest to the policy compliant levels identified above. However a final view on this will be taken in the light of the DVs final comments.

ECOLOGICAL AND BIODIVERSITY CONSULTANT

We recommend conditioning a protected species method statement, nesting bird condition and Ecological Management Plan (EMP).

CONTAMINATED LAND OFFICER

Based on both the accuracy of the information provided in the Phase 1 Geo-Environmental Assessment report RLC ref: 161000 Rev 01 dated June 2016 by Rossi Long Consulting and the current records of contaminated land issues we hold to date, I recommend approval providing the development proceeds in line with the application details and subject to the following conditions to alleviate environmental concerns:

- Site investigation report
- Implementation of remediation scheme
- Reporting of unexpected contamination

No update following re-consultation.

FACILITIES MANAGEMENT

Much of the site is owned by BDC and Facilities Management is aware of the scheme. It is currently used as grazing for horses under a licence which expires in March 2020. Facilities Management would normally only consider taking on responsibility for an open space if it was a simple grass area protected by a knee rail fence to prevent parking on the grass. Consequently it is unlikely that Facilities Management would be willing to take on the management of the communal garden area and trees proposed.

No update following re-consultation.

ENVIRONMENTAL PLANNING

No Comments Received

ANGLIAN WATER SERVICE

No Comments Received

REPRESENTATIONS

The application has been publically consulted upon, when it was first received and on the re-designed proposals. The comments received are summarised as follows:

- The site lies outside the adopted settlement boundary.
- The village is inappropriate for a development of this size.
- Concern about highway safety on what is a narrow rural lane.
- Combined with other developments in the village the car generation will be too much for the highway network.
- Concern over lorries using the roads during construction.
- The proposed road alterations will have a detrimental effect on the smooth and safe movement of traffic through this part of the village.
- The Whissonsett Road is used by many agricultural vehicles, commercial vehicles, and buses on a daily basis. These vehicles will find it nigh on impossible to negotiate this section of road safely.
- Moving of the entrance onto the bend is completely unsafe and worse than that previously proposed.
- The proposed pavements are too narrow and are located directly outside my property, which will undermine my border hedge and subsequently front garden. Also, traffic calming measure directly outside of properties are not appropriate - especially as the current road dimensions would prevent them from coming forward.
- There are no plans to increase road widths and improve pedestrian access on any roads entering the village only Whissonsett Road to accommodate this development.
- Concern over proximity of proposed footway to border with neighbouring property and permitted accessibility for maintenance.
- Concern over impact on trees and roots.
- The village has very few local services - the school is at capacity.
- There are no job opportunities and limited public transport in the village.
- The water and sewage infrastructure is only just coping at present.
- The site has flooded in the past.
- There are sink holes in this field.
- Where are Anglia water comments?
- The number is still too many houses for that small plot with insufficient car parking spaces for a modern family.
- Concern about impacts on existing amenity including loss of privacy from proximity of new dwellings to

existing.

- The development is far too dense for a village such as Colkirk.
- The number of parking spaces is inadequate.
- Concern about loss of vegetation and potential impacts on protected species.
- The proposed layout is inappropriate.
- Developer contributions should also be sought to support the maintenance of play facilities installed by the Parish Council on the Camping Land and the playing field on Whissonsett Road.
- Limited local consultation has taken place.
- What evidence is there that there is a requirement for 21 additional homes in Colkirk? There are currently several properties of varying types for sale in the village that have remained unsold for many months.
- The Economic Viability Analysis appears to show that the proposed development is not economically viable.
- Concern over restriction of accessibility to licenced field with BDC.

Support

- If the proposal goes ahead it will improve my view by removing some of the 10 mtr high hedge which has blocked my light for years.
- It will remove a rat infested ditch.
- Road safety will also be improved by providing a footway from the village to the playing field for all children using the field.
- The location of the proposed development is a logical extension to the village and much better than the linear development along Dereham Road that has been allowed in the past.
- I welcome the provision of 8 affordable houses. Villages such as Colkirk need young people and families moving into them and the provision of affordable housing will hopefully encourage this.
- The school has adequate capacity.
- Road safety will be improved.
- The Planning Authority should consider using developer contributions to supporting the introduction of a commercial bus service to Colkirk. The Konectbus service 21 between Fakenham and Dereham passes Colkirk and could easily be diverted to pass through the village.

ASSESSMENT NOTES

1.0 Principle of Development

1.1 For decision making purposes, as required by Section 38(6) of the Planning & Compulsory Purchase Act 2004, the Development Plan comprises the Adopted Core Strategy and Development Control Policies Development Plan Document, together with the Site-Specific Allocations DPD. Material considerations in respect of national planning policy are the NPPF and the recently published National Planning Policy Guidance.

1.2 The site is located outside the settlement boundary of Colkirk (as defined by policies SS1, DC2, CP1, and CP14 of the Core Strategy and Development Control Policies Development Plan Document 2009), where such development is heavily restricted. The application is clearly contrary to these policies. Furthermore, the site is not being put forward for 100% affordable housing under the rural exceptions policy DC5. The proposal should therefore be refused unless there are material considerations that dictate otherwise. The lack of a 5-year housing supply carries significant weight in the consideration of the application.

1.3 Paragraphs 47 and 49 of the National Planning Policy Framework (NPPF) state that where an

authority does not have an up to date five year housing land supply (at present the District figure is 3.3 years), the relevant local policies for the supply of housing as referred to above should not be considered up-to-date and that housing applications should be considered in the context of the presumption in favour of sustainable development.

1.4 The Government defines sustainable development as having three dimensions. These dimensions give rise to the need for the planning system to perform a number of roles:

- Economic - in terms of building a strong economy and in particular by ensuring that sufficient land of the right type is available in the right places;
- Social - by supporting, strong vibrant and healthy communities by providing the supply of housing required to meet future need in a high-quality environment with accessible local services, and;
- Environmental - through the protection and enhancement of the natural, built and historic environment.

1.5 Paragraph 8 of the NPPF stresses that these roles should not be undertaken in isolation because they are mutually dependent, therefore a balanced assessment against these three dimensions is required.

1.6 In terms of environmental sustainability - the site is located immediately adjacent to the settlement boundary of Colkirk with established areas of residential development immediately to the north and west. Given the proximity of the established built development and the location of the site immediately adjacent to the settlement boundary, it is considered that the development would not represent undue encroachment into the countryside.

1.7 In terms of economic and social sustainability, whilst Colkirk is not identified as a Service Centre Village, it is a rural settlement which contains some limited amenities such as a pub, church and a primary school which would be supported and enhanced through residential development such as that proposed. Whilst the village does include limited service provision, it should be noted that travel to Dereham, Fakenham and Kings Lynn would be necessary for wider service provision. Public transport services are available which includes a shopper service to both Fakenham and Dereham, as well as to Fakenham High School. Notwithstanding the limited public transport provision, it is likely that longer journeys would be undertaken by car.

1.8 Paragraph 47 of the NPPF requires new sites for housing development to be deliverable, which is defined as being available now, be suitable in terms of location, and be achievable in respect of housing being developed on the site within the next five years. The applicant has set out within the planning statement that the site is within the sole ownership of the applicant, is available for development at the present time and thus there is a realistic prospect of the site being delivered within the next 5 years.

1.9 Taking into account all of the considerations outlined above, it is considered that the lack of a 5 year housing land supply weighs heavily in favour of the application and the sustainability of the location in economic, social and environmental concerns mean that the application could be considered acceptable in principle.

2.0 Highways Impacts

2.1 Policy CP4 of the Breckland Core Strategy requires new development to ensure safe access. The application site is located adjacent to Whissonett Road which runs south from the village of Colikirk. As part of the proposals a new vehicular access would be created which would be located to the south of the existing vehicular access to Timperley Estate. The proposed access has been moved following the initial proposals to avoid the loss of significant trees, which was considered unacceptable. A new narrow footpath is also proposed which would be created on the eastern side of Whissonett Road and would connect to the existing

footpaths astride the Temperley Estate Road. The footpath would connect the site (and Temperley Estate) with School Road and the village to the north. There is also to be a footpath within the site, running through the proposed open space to the west of the site, connecting to the highway in the north-west corner of the site to allow occupants access to the proposed footway to the west side of Whissonsett Road.

2.2 NCC Highways have expressed concern at the proposed off-site highway improvements, for the following reasons:

- The highway authority objection relates to the substandard nature of Whissonsett Road and the inability of the applicant to provide an acceptable scheme to mitigate the increase in pedestrians and vehicular traffic generated by this development.
- Even if it could be built, which the County Council has doubts about due to hedges owned by third parties, the proposed highway improvements would still result in road and footway widths below an acceptable standard.
- The culverting of the existing ditch will require significant highway construction closer to the adjacent trees. With regards the culverting of the existing ditch, whilst I have no objection in principle to this, the new pipe and manholes must not be located in the highway.
- The chicane is not necessary for traffic calming purposes, due to the relatively short length of road.
- Residents and visitors to plots 2 - 3 & 19 - 20 are likely to want to park as close as possible to the dwelling. Therefore lay-bys adjacent to / opposite these dwellings would provide a better solution than the more remote parking spaces proposed.
- Whilst I accept the proposed garages will be large enough to accommodate a parked vehicle. Experience has shown that the majority will remain unused. Therefore, as previously stated, in order to avoid unnecessary on-street parking, it would be beneficial to either set the garages further back / remove them or provide some additional lay-by parking for visitors etc.
- The revised layout plan shown on drawing 3629-9-105-D does not provide adequate turning provision at the end of the private drive, as a size 3 turning head would be required for a private drive longer than 45m.

2.3 These comments were sent to the applicants who have provided further amended plans changing garages to carports, which is considered an acceptable solution to the highways authority to address the car parking concerns raised. The proposal is therefore considered in accordance with Policy DC19 of the Breckland Core Strategy. The highways authority have raised concerns about the parking for plots 14-21 being located 'opposite' plots instead of outside of front doors. Although, the comments made in this regard are shared, it is worth noting that the relevant plots which this affects are at the end of a proposed cul de sac and therefore any on street parking is unlikely to block anyone other than these plots. In addition, the distance to front doors is relatively short. For these reasons this proposed car parking is considered acceptable in this instance.

2.4 The applicants have submitted further information to demonstrate a fire appliance access is possible to all plots via the rear access route which does incorporate a Type 3 turning head, as required by the Highways Authority.

2.5 The highways authority and applicants have agreed on a 59m splay with a set back position of 2.4 metres, which is shown on the amended plans.

2.6 With regards to the width of Whissonsett Road, the applicants state that, they have sought to provide a narrow footway along Whissonsett road, narrowing the carriageway to 4.5m for a short stretch, would be more beneficial to residents who currently have to walk on the road. This could be omitted and a slightly wider carriageway of 4.8m (other than one pinch point of 4.48m just south of Timperley Avenue) be provided. However, this would result in a loss of benefit for local people (the footway). Off road access would also be

available through the frontage open space on the application site but users would have to cross the road to access the proposed footway. Obviously residents of the proposed development would use this route.

2.7 Policy 9, Paragraph 109 of the NPPF states that 'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'. Within this context, Paragraph 110 states that applications for development should (a) give priority to pedestrian and cycle movements (b) address needs of people with disabilities and reduced mobility (c) create places that are safe, secure and attractive (d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and (e) be designed to enable charging of plug-in and other low emission vehicles.

2.8 It is noted that the highway (and proposed footway, which could be removed from the scheme) is below current highways standards and that the highways authority have raised objection in this regard, due to the inability of the applicant to provide an acceptable scheme to mitigate the increase in pedestrians and vehicular traffic generated by this development. However, it is not considered, in the context of paragraph 109 that given the numbers of development proposed and that the required visibility and layout standards can be achieved, that the impact on highway safety or cumulative impacts (with the existing traffic, noted in the objections of neighbours) that the impacts would be severe to contravene paragraph 109. It is also considered that the development seeks to give priority to pedestrians by providing the footway from the site (opposite side of Whissonsett Road) to School Road and the existing footway network, albeit narrower than highways standards, in accordance with Paragraph 110. The latter is considered to be of public benefit and on this basis the development is not considered to result in such significant and demonstrable harm to warrant refusal of planning permission in this instance, in accordance with the requirements of Paragraph 11 of the NPPF.

2.9 Given the officer recommendation for approval, further advice is sought from the highways authority with regards to highways conditions, in the event this application is approved.

3.0 Character and Appearance

3.1 In accordance with Policy DC16 of the Adopted Local Plan (2009), all new development should achieve the highest standards of design and in assessing any proposal the criteria laid out there under will be taken into account. Policy 11 of the NPPF seeks to make effective use of land.

3.2 The proposal was re-designed on the advice of officers. Although, it maintains a U shape, the open space has been relocated to the front (east) of the site, partly to protect the significant trees at the frontage of the site from development, including their RPA's. Furthermore the dwellings along Whissonsett Road have been re-designed to front the road with roof slope detail, more in character with the surrounding area. The dwellings to the rear maintain the originally proposed narrow, gable fronting the highway approach, previously proposed. The dwelling includes box dormers and large expanses of glazing, not particularly characteristic with the surrounding area, nor are the proposed plot sizes and widths. It is however, noted that house type 3 brings dormers into the eaves, more characteristic of traditional properties in the surrounding area, albeit with a modern twist.

3.3 It is also noted that the majority of development on this site will be largely hidden from view by the existing vegetation adjacent to Whissonsett Road, which is conditioned to be retained and can be managed as part of open space adjacent. In addition, Policy 11 of the NPPF seeks to make effective use of land, taking into consideration the following:

a) the identified need for different types of housing and other forms of development, and the availability of

land suitable for accommodating it;

b) local market conditions and viability;

c) the availability and capacity of infrastructure and services - both existing and proposed - as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;

d) the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and

e) the importance of securing well-designed, attractive and healthy places.

3.4 Paragraph 123 of Policy 11 goes on to say 'Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site'.

3.5 Although, it is considered that the proposed dwellings are not in proportion to neighbouring plots widths, although plots lengths are considered generous, and the design introduces a more modern concept into the wider area than that of existing development. Given the presence of screening and the need to make a more efficient use of land, as well as the fairly insular nature of the proposed development, then the design is considered acceptable in this instance and would not place significant and demonstrable harm on the wider character of the area or street scene, in accordance with Paragraph 11 of the NPPF.

4.0 Impact on amenity

4.1 Policy DC1 of the Core Strategy seeks all new development to protect the amenity of the area, neighbouring and future occupants. The development is significantly spaced from properties to the west of the application site by the highway, proposed open space and retained vegetation. To the north, there is also vegetation and a good separation distance and dwellings have been placed in line with the neighbouring property to avoid overlooking and overbearing impacts. The row of properties to the rear of the site (east) are sufficiently distanced, with intervening vegetation so as not to impact the amenity of this property also.

4.2 Sufficient space remains around each plot and the proposed dwellings have large rear gardens to protect the amenity of future occupants. The proposal is therefore considered in accordance with Policy DC1 of the Core Strategy.

5.0 Arboricultural Impacts

5.1 The development was revised as the earlier proposals including the footpath and road widening which would have extended to within close proximity to existing trees and hedgerows, with the previously proposed road widening being likely to result in significant tree damage/loss, resulting in the loss of at least 1 category A Oak. Damage to hedges which are within private ownership on the opposite side of the road, through the introduction of the footway, was also considered likely.

5.2 The scheme was subsequently amended and the access moved further south. The road widening works have been removed from the scheme, with a narrow footway opposite the site. As set out the Tree Officer has reviewed the amendments and although there remains trees for removal, these are category B trees that are of moderate quality, that would ideally be retained. However, the revisions mean that most of the important trees along the central section of the hedge would be retained (as part of the amended scheme) and through the revised location of the open space would have sufficient space for them to remain, without pressure for removal. The Tree Officer states 'whilst the loss of the trees shown is unfortunate I do not think that removal of trees alone would be sufficient reason for refusal as the sections that will be lost are relatively small and although retention of established trees is always preferable, the landscape impact would be quite

low and could be compensated by a decent landscaping proposal'. It is therefore proposed to condition a landscaping proposal, which there is plenty of space within the site to implement.

5.3 It is noted that the Parish Council raise concerns about the landscaping being subject to a condition. However, given the space within the site, it is considered reasonable in this instance to condition a suitable landscaping scheme to be submitted and implemented, prior to first occupation.

5.4 With regards to the proposed footpath on the other side of the road, both the Tree Officer and the Highways Authority believe this will result in damage/loss of garden hedges. The Tree Officer does not consider these hedges to be particularly valuable but both the Tree Officer and Highways Authority question the ownership of the hedgerows and whether their removal would be possible. The applicants have confirmed that they do not need to do any works beyond the highway boundary to implement the footway to the proposed standards. Also, they state that they have had legal advice, and the proposed works can be undertaken. A condition can be added to ensure the footway, is implemented prior to first occupation to ensure its successful delivery.

5.5 Although the proposed tree loss is regrettable, given the Tree Officer's advice above, it is considered acceptable in this instance and would not be considered significant and demonstrable harm in the context of paragraph 11 of the NPPF. Conditions will be added with regards to tree protection also.

6.0 Crime Prevention / Community Safety

6.1 Norfolk Constabulary Architectural Liaison officer was consulted on the application and made comments in relation to the design of the scheme in the context of Secured by Design guidelines. Specifically, concerns were raised that the housing design within the scheme incorporated recesses which could provide scope for potential assailants to loiter unseen whilst it was also recommended that a 1.8 metre high close boarded fence be incorporated to the boundaries of the site. Following the reconsult, Norfolk Constabulary raised concerns that their guidelines were not incorporated into the redesign. Whilst these matters have not been addressed in the current proposals, appropriate conditions could be attached if permission were to be granted.

7.0 Flood Risk

7.1 Policy 14 of the NPPF requires seeks to direct new development away from areas at highest risk of flooding and for new development to not increase flood risk elsewhere. The Environment Agency have no objections to the application on the basis of flood risk or drainage. The site falls below the thresholds for comment from the LLFA. It is noted that Anglia Water have not responded to the consultation, as set out by the Parish Council and residents. However, given their statutory duty to connect then this is not considered a reason to delay/refuse planning permission.

7.2 The site falls outside flood zones 2 and 3, which have the highest probability of flooding and although it is noted that issues with surface water drainage exist on the west side of Whissonsett Road (which might explain some of the concerns raised in this regard) there are no mapped issues of this kind on the development site. The development maintains a significant amount of open space and it is considered that a suitable drainage scheme could be reached to ensure flood risk is not increase elsewhere. The proposal is therefore considered in accordance with Policy 14 of the NPPF, subject to a condition with regards to surface water drainage.

8.0 Ecology

8.1 Policy 15 of the NPPF seeks to preserve and enhance ecology. Both Natural England and the Council's Ecology officer were consulted on the application and had no objections to the application subject to conditions relating to great crested newts, the timing of vegetation clearance and an Ecological Management Plan. If permission were to be granted, such conditions would be attached accordingly.

9.0 Other matters

9.1 Concerns have been raised with regards to boundaries and accessibility were raised by neighbouring properties. Boundaries and access are civil matters and not material planning considerations.

10.0 Affordable Housing and other obligations

10.1 The application is accompanied by a viability assessment which sets out that the provision of affordable housing is not viable in this instance. This report is currently being assessed by the DV and the recommendations of their report will be provided to members at the Planning Committee via the supplementary.

10.2 Open space and contributions shall be provided and secured through a section 106 agreement in accordance with Policy DC11.

10.3 A library contribution is also sought and will be secured through the section 106 agreement.

10.4 The Parish Council have requested contributions for village services. Paragraphs 54 and 56 of the NPPF set out the requirements with regards to planning obligations. Paragraph 54 states 'Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition'. Paragraph 56 sets out:

Planning obligations must only be sought where they meet all of the following tests:

- a) necessary to make the development acceptable in planning terms;*
- b) directly related to the development; and*
- c) fairly and reasonably related in scale and kind to the development*

10.5 No information has been submitted from the Parish Council with regards to costed schemes where the money could be spent or the need for monies generated by the development and how the monies is directly related to the development. It is therefore unreasonable to request monies from the developer, especially given the scale of development; the proposed contributions, namely the open space; and the viability of the scheme.

11.0 Conclusion

11.1 The site is considered to be capable of accommodating 21 dwellings at the proposed density in an appropriate layout which would meet the expectations of Policies DC1, DC2 and DC16 of the Adopted Local Plan (2009). Although, the design of development and plot size is modest in the context of the wider area, the proposal meets the objectives of Policy 11 of the NPPF in terms of making a more effective use of land, than that of neighbouring development and some cues have been taken from the wider context with a modern twist. Given the sites location then the design is considered acceptable in this instance, in accordance with these policies also.

11.2 The proposal would result in the loss of trees, which were not considered significant to warrant retention when balanced against the delivery of 21 dwellings. The proposal is therefore considered in accordance with

Policy DC12 of the Adopted Local Plan (2009).

11.3 The proposed highway works, although contrary to highways standards, would result in a narrow carriageway and footway. The proposal would also provide a footway within the site for future residents. It is noted that both the carriage width and proposed footway are not ideal. The footway does however, provide some public benefit and as the provision is for 21 dwellings only. The highways impacts are not considered so severe to warrant refusal of planning permission (in the context of paragraph 109 and 110 of the NPPF) and the development is not considered so significant to result in significant and demonstrable harm to warrant refusal of planning permission in this instance, in accordance with paragraph 11 of the NPPF.

11.4 Weighed in favour of the development, taking into account the highways, trees or design matters raised, is the provision of 21 dwellings, which would contribute positively to the councils currently lack of housing supply figures. The balance of out of date housing land supply policies and any significant or demonstrably harm from the development is considered to tip in favour of granting planning permission, subject to conditions.

11.5 On this basis, and on balance, the application is therefore recommended for approval.

RECOMMENDATION

The application is recommended for approval, subject to the following conditions and a section 106 agreement.

CONDITIONS

- 1 Full Permission Time Limit (2 years)**

The development must be begun not later than the expiration of TWO YEARS beginning with the date of this permission.
Reason for condition:-
As required by section 91 of the Town & Country Planning Act 1990 (as amended) and to ensure the deliverability of the scheme to contribute to the five year housing land supply.
- 2 In accordance with submitted plans NEW 2017**

The development must be carried out in strict accordance with the application form, and approved documents and drawings as set out in the table at the end of this notice.
Reason for condition:-
To ensure the satisfactory development of the site.
- 3 External materials to be approved**

Prior to the commencement of any works above slab level precise details of the colour of the external materials shall be submitted to and approved in writing by the Local Planning Authority. Only such agreed materials shall be used in connection with this approval.
Reason for condition:-
To ensure the satisfactory appearance of the development, in accordance with Policy DC 1 and DC 16 of the Adopted Core Strategy and Development Control Policies Development Plan Document 2009.
This condition will require to be discharged
- 4 Contaminated Land (Full)**

Unless otherwise agreed in writing, the following details shall be submitted to and approved

in writing by the Local Planning Authority prior to the commencement of the development hereby approved:

A. Site Investigation

A site investigation and risk assessment to determine the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The report of the findings must include: (i) a survey of the extent, scale and nature of contamination; (ii) an assessment of the potential risks to: human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments; (iii) an appraisal of remedial options, and proposal of the preferred option(s).

B. Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

C. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

The above must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason for condition:-

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

Informative:

Land contamination risk assessment is a step-by-step process. During the course of the risk assessment process set out in the above condition, it may become clear that no further work is necessary to address land contamination risks. Where this is the case the condition may be discharged by the Council without all the steps specified being completed. In all cases written confirmation should be obtained from the Council confirming that the requirements of the condition have been met.

5 Contaminated Land - Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with details to be agreed in writing with the Local Planning Authority. Where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report shall be submitted to and approved in writing by the Local Planning Authority.

Reason for condition:-

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

This condition is imposed in accordance with CP9 of the Breckland Adopted Core Strategy.

This condition will require to be discharged

6 Landscaping scheme to be submitted - hard and soft

No development shall take place on site until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:

- hard surfacing materials;
- means of enclosure;
- proposed finished levels or contours;
- minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.)

Soft landscaping shall include:

- Planting plans;
- Written specifications (including cultivation and other operations associated with plant and grass establishment);
- Schedules of planting, noting species, plant sizes and proposed numbers/densities where appropriate;
- Implementation programme

Reason for condition:-

In the interests of the satisfactory appearance of the development in accordance with policy DC12 of the Adopted Core Strategy and Development Control Policies Development Plan Document 2009.

This condition will require to be discharged

7 Fencing protection for existing trees

Prior to the commencement of any work on the site, all existing trees shall be protected by the erection of Tree Protection Fencing. This fencing shall be retained throughout the period of the development and at all times when works (as defined below) are being carried out on the site.

For the purposes of this condition "work" shall include the storage of plant, materials, site huts or the use of any machinery either for preparatory site work or construction itself.

"Trees" shall refer to all trees both on and adjacent to the site.

Protective fencing shall be constructed and maintained in accordance with BS5837:2012

and the Council's document Practice Note: Construction and Maintenance of Tree Protection Fencing, which is available to download from the Council's website.

Reason for condition:-

The works are required to be undertaken prior to the commencement of work on the site in order to safeguard the protection of trees from the outset of the development, in accordance with Policy DC 12 of the Adopted Core Strategy and Development Control Policies Development Plan Document 2009.

This condition will require to be discharged

8

Retention of trees and hedges

No trees or hedges shall be cut down, uprooted destroyed, lopped or topped, other than in accordance with the approved plans and particulars, without the previous written approval of the Local Planning Authority.

Any trees or hedges removed without consent shall be replaced during the next planting season November/March with trees of such size and species as agreed in writing with the Local Planning Authority.

Reason for condition:-

To ensure that the trees and hedges are retained in the interests of the visual amenities of the area and the satisfactory appearance of the development in accordance with policy DC12 of the Adopted Core Strategy and Development Control Policies Development Plan Document 2009.

This condition will require to be discharged

9

Boundary treatment/screening to be agreed

Prior to the occupation of the development hereby permitted a plan indicating the positions, design, materials and type of boundary treatment/screening to be erected shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment/screening shall be completed before the building(s) to which it relates is first occupied or in accordance with a timetable to be first agreed in writing with the Local Planning Authority. Development shall be carried out in its entirety in accordance with the approved details.

Reason for condition:-

In the interests of the satisfactory appearance of the development in accordance with policy DC 16 of the Adopted Core Strategy and Development Control Policies Development Plan Document 2009.

This condition will require to be discharged

10

Construction Method Statement

No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period.

The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- v. wheel washing facilities
- vi. measures to control the emission of dust and dirt during construction
- vii. a scheme for recycling/disposing of waste resulting from construction works

Reason for condition:

The details are required prior to the commencement of the development in the interests of the amenity of the area and to ensure a safe development from the outset of the development.

This condition will require to be discharged

11 Provision of visibility splays - condition/approved plan

Prior to the first occupation/use of the development hereby permitted, visibility splays shall be provided in full accordance with the details indicated on the approved plan.

The splay(s) shall thereafter be maintained at all times free from any obstruction exceeding 0.225/0.6/1.05 metres above the level of the adjacent highway carriageway.

Reason for condition:-

In the interests of highway safety in accordance with the principles of the NPPF and Policy CP4 of the Core Strategy.

This condition will require to be discharged

12 Provision of parking and servicing areas

Prior to the first occupation of the dwelling to which the access and car parking relates, the proposed access/on-site car parking, turning area(s) shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.

Reason for condition:-

To ensure the permanent availability of the parking/ manoeuvring areas, in the interests of satisfactory development and highway safety in accordance with Policy CP4 of the Core Strategy.

This condition will require to be discharged

13 Highway improvements - off-site

Notwithstanding the details indicated on the submitted drawings no works above slab level shall commence on site unless otherwise first agreed in writing by the Local Planning Authority until detailed drawings for the off-site highway improvement works as indicated on the approved drawing reference has been submitted to and approved in writing by the Local Planning Authority.

Prior to the first occupation of any of the dwellings hereby approved, the approved off-site highway improvement works shall be completed.

Reason for condition:-

To ensure that the highway improvement works are designed to an appropriate standard in the interest of highway safety and to protect the environment of the local highway corridor in accordance with Policy CP4 of the Core Strategy.

14 Precise details of surface water disposal

Prior to the commencement of any works above the laying of foundations, the level precise details of the means of surface water disposal shall be submitted to and approved in writing by the Local Planning Authority. Only such agreed system or works shall be used in connection with this approval.

Reason for condition:-

The details are required to minimise the possibilities of flooding from the outset of the development.

This condition is imposed in accordance with Policies DC 1 and DC 13 of the Adopted Core Strategy and Development Control Policies Development Plan Document 2009

This condition will require to be discharged

15 Precise details of foul water disposal

Prior to the commencement of any works above the laying of foundations, precise details of the means of foul water disposal shall be submitted to and approved in writing by the Local Planning Authority. Only such agreed system or works shall be used in connection with this approval.

Reason for condition:-

The details are required to minimise the possibilities of flooding from the outset of the development.

This condition is imposed in accordance with Policies DC 1 and DC 13 of the Adopted Core Strategy and Development Control Policies Development Plan Document 2009

This condition will require to be discharged

16 Ecology - GCN

No development shall take place (including any demolition or ground works or site clearance) until a method statement for great crested newts has been submitted to and approved in writing by the local planning authority. The works shall be carried out strictly in accordance with the approved details.

Reason for condition:-

To protect and enhance ecology in accordance with Policy 15 of the NPPF.

17 Ecology - Birds

No removal, in full or in part, of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

Reason for condition:-

To protect and enhance ecology in accordance with Policy 15 of the NPPF.

18 ECMP

An Ecological Management Plan (EMP) shall be submitted to, and approved in writing by the LPA prior to commencement of development. The content of the EMP shall include the following:

- a) Description and evaluation of features to be managed,
- b) Ecological constraints on site that might influence management
- c) Aims and objectives of management
- d) Appropriate management options for achieving aims and objectives including mitigation detailed in the Ecological

Report (Norfolk Wildlife Services; Updated January 2018) submitted with the application namely that for:

- great crested newts,
- protection and enhancement of bat feeding and commuting corridors,
- protection and enhancement of hedgerows and trees,
- badger
- hedgehogs

- bat boxes
- nest boxes for birds
- No works to trees 1 and 2 including removal, pruning or crown reduction shall take place unless a competent ecologist has undertaken a careful, detailed check of the potential for bat roosts and provided written confirmation that no bat roosts will be harmed and/or that there are appropriate measures in place to protect bat interest on site. Any such written confirmation should be submitted to the local planning authority.

e) Prescriptions for management actions

f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period)

g) Details of the body or organisation responsible for implementation of the plan

h) On-going monitoring and remedial measures

The EMP shall also include details of the legal and funding mechanisms by which the long-term implementation of the plan will be secured by the developer. The plan shall also set out (where the results of monitoring show that conservation aims and objectives of the EMP are not being met) how remedial action will be identified, agreed and implemented so the development still delivers the fully function biodiversity objectives of the originally approved

Reason for condition:-

To protect and enhance ecology in accordance with Policy 15 of the NPPF.

21

Application Approved Following Revision

The Local Planning Authority has acted positively and proactively in determining this application, and by assessing the application against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise, and by identifying matters of concern within the application and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal within as timely a manner as possible, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Copies of all documentation submitted in connection with this application can be viewed online at <http://www.breckland.gov.uk/content/planning-search-0>

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Criterion E - Planning Apps Where Approved

Appeals against planning decisions

If you are aggrieved by the decision of your local planning authority to attach any particular condition/s to this permission, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within: 28 days of the date of service of the enforcement notice, or within 6 months (12 weeks in the case of a

householder appeal) of the date of this notice, whichever period expires earlier.

If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.

Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN or online at www.planningportal.co.uk

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.