

<b>ITEM:</b>		<b>RECOMMENDATION:</b>	APPROVAL
<b>REF NO:</b>	3PL/2018/1053/O	<b>CASE OFFICER</b>	Naomi Minto
<b>LOCATION:</b>	FOXLEY Old Fakenham Road Foxley	<b>APPNTYPE:</b>	Outline
<b>APPLICANT:</b>	E Howell & Sons Tower Farm Bintree	<b>POLICY:</b>	Out Settlemnt Bndry
<b>AGENT:</b>	Strutt & Parker LLP 4 Upper King Street Norwich	<b>ALLOCATION:</b>	N
<b>PROPOSAL:</b>	Seven residential dwellings with associated gardens, garages and private drives.		
		<b>CONS AREA:</b>	N
		<b>LB GRADE:</b>	N
		<b>TPO:</b>	N

#### **REASON FOR COMMITTEE CONSIDERATION**

The proposal falls outside of the settlement boundary and is therefore contrary to adopted policy. As the proposal is recommended for approval, the application is referred to Committee.

#### **KEY ISSUES**

Principle of sustainable development  
Access and Highways Impact  
Density  
Impact Amenity  
Other Matters including Contamination, Flooding, Construction Works and Trees

#### **DESCRIPTION OF DEVELOPMENT**

Outline planning application with all matters reversed for seven residential dwellings with associated gardens, garages and private drives.

An indicative plan has been submitted showing an option of how the site could be laid out as a linear row of 3 and 4 bed houses. 3 access points are shown onto Old Fakenham Road, including a shared access for 5 properties.

#### **SITE AND LOCATION**

The application site comprises an irregular shaped parcel of land extending to 0.55ha at the junction of Old Fakenham Road, and the A1067.

The site is located adjacent to the rural settlement of Foxley. The site is relatively flat in topography and includes residential development to the north and rural open countryside to the south. The A1067 borders the site to the east.

**EIA REQUIRED**

No

**RELEVANT SITE HISTORY**

- 3PL/2007/1124/F (withdrawn) - Construction of 14 no. new dwellings

- 3PL/2017/0116/O (refused) - Outline application for 18 residential dwellings with associated gardens - Application Appealed. Appeal dismissed.

- 3PL/2017/1360/O (withdrawn) - erection of 18 dwellings.

**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

CP.01	Housing
CP.10	Natural Environment
CP.11	Protection and Enhancement of the Landscape
CP.13	Accessibility
CP.14	Sustainable Rural Communities
DC.01	Protection of Amenity
DC.02	Principles of New Housing
DC.12	Trees and Landscape
DC.16	Design
DC.19	Parking Provision
NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance
SS1	Spatial Strategy

**OBLIGATIONS/CIL**

No obligation required due to proposal falling below threshold detailed by National Planning Practice Guidance.

**CONSULTATIONS**

**FOXLEY PARISH COUNCIL**

Discussion during Foxley Parish Council Meeting and afterwards focused everyone's views on this

development and it was felt that the original comments whilst, not incorrect, do not adequately represent the councillors views. The councillors were split with 4 against and 1 for the proposal. The development is outside Foxley's settlement boundary and whilst one councillor was in favour of the 7 new homes the remainder feel that with no affordable homes in the proposal the one reason they might have had for supporting the proposal has been removed. There was considerable concern over what is to happen to the land at the rear of the development and there was a suspicion that it could be built on at a later stage. Foxley has no amenities - no pub, school or shop - not even a playground.

**NORFOLK COUNTY COUNCIL HIGHWAYS**

No objection, subject to conditions.

**ECOLOGICAL AND BIODIVERSITY CONSULTANT**

No objection, subject to conditions.

**TREE AND COUNTRYSIDE CONSULTANT**

No objection, subject to conditions.

**CONTAMINATED LAND OFFICER**

No objection, subject to conditions.

**ENVIRONMENT AGENCY**

No objection, subject to conditions.

**BAWDESWELL PARISH COUNCIL**

The Parish Council wish to object to the application as Foxley have no services so it is likely that residents would visit Bawdeswell as the nearest village and put a further strain on resources.

**REPRESENTATIONS**

The site notice was erected on 24-09-18, and neighbours consulted on 19-09-2018. In addition, an advert was placed in a local news paper on 24-09-2018. Seven local representations were received raising the following objections:

- No proven need for new dwellings in Foxley
- Foxley has no services and would strain Bawdeswell's infrastructure
- Development would set a precedent
- Inspector previously refused an application on the site due to impact on the countryside
- Outside the developed part of the village and village boundary and would have an urbanising effect
- Negative impact to Foxleys rural character
- Proposed density would limit ability to deliver high quality design
- Unlikely to be affordable for local young residents
- At least 2 dwellings should be restricted to the sale to local persons at an affordable price
- Access to and from the A1067 is already difficult and this would increase the issue
- Foxley has already contributed by the grant of 7 units at another site
- Site was previously arable field until the land owner planted trees

One local representation was received in support, which set out that small rural housing development is needed.

**ASSESSMENT NOTES**

1.0 Principle of the Development

1.1 As detailed in the planning history, an application for 18 dwellings at the site was refused planning permission in October 2017 by Breckland Council, and the dismissed at Appeal on 29th March 2019. This application had a larger site area extending southwards up to the field boundary. The Inspector found that due to the site's open rural character, size and its high visibility, the proposed development would contrast harshly with the layout of Foxley which is linear along roads and their junctions. In addition, due to the prominent location, the proposal was considered to have a adverse affect on the wider landscape.

1.2 The current proposal is for a considerably smaller development of 7 units for a reduced site area running along Old Fakenham Road. The indicative development plan shows how the development could be laid out as a single line of development fronting the road, as detached properties. This is considered a more appropriate scale and layout which respects Foxleys historic character.

1.3 In relation to impact on the wider landscape, this has been greatly reduced by the reduction of 11 units and reduced site area. To reduce landscape impact to an acceptable level, a greater non-developed area would be required to the eastern part of the site nearest the A1067 of 13m (measured west to east from the redline boundary). Given that all matters reserved this could be conditioned.

1.4 The issues which previously resulted in a refusal have on the foregoing, been adequately addressed and now are satisfactory.

1.5 Whilst the the previous application was found to be acceptable in principle on other matters, for clarity and robustness, these have been re-assessed. The site is located outside the settlement boundary of Foxley, which is a rural village, and is therefore contrary, in principle, with Policies SS01, DC02 and CP14 of the adopted Core Strategy and Development Control Policies Development Plan Document, (2009), which seek to focus new housing within defined Settlement Boundaries.

1.6 The Council does not currently have a published 5 year land housing supply as required by the National Planning Policy Framework, which provides national planning guidance for local planning authorities and is a strong material consideration in the determination of planning applications. Paragraph 11 of the NPPF, states that where an authority does not have an up-to-date five year housing land supply the relevant local policies specifically for the supply of housing, should not be considered up-to-date. Furthermore, housing applications should be considered in the context of the presumption in favour of sustainable development unless any adverse impacts of doing so would demonstrably outweigh the benefits or specific policies in the Framework indicate that development should be restricted. On the aforementioned basis, other principle planning issues for the application are considered below.

1.7 The site is immediately adjacent to the built up part of Foxley, which is a Rural Village without sufficient facilities and services to meet the day to day needs of existing residents.

1.8 The village benefits from a small village hall and a regular bus service the No. X29 (Fakenham - Foxley - Norwich). This bus service means that the future residents would not be solely reliant on the use of private car to meet their day to day need, which should be afforded some weight in support of the application.

1.9 The village of Bawdeswell, which is a Local Service Centre, is to the south of Foxley, and has a primary school, convenience shop and public house. The route to these facilities is via Foxley Road, which has a

pavement, and would be reached by using the proposed pedestrian crossing.

1.10 The combination of a frequent bus service, village hall, primary school, shop and public house within walking distance is considered to make the site acceptable in terms of access to services and facilities for a limited number of dwellings. It therefore accords with paragraph 78, which states that housing should be located where it will maintain the viability of rural communities and isolated dwellings in the countryside should be avoided.

## 2.0 Access and Highway Impact

2.1 The Highways Authority have not objected to the proposal and are satisfied a safe access can be achieved. They have recommended conditions including one for the suggested off-site highways work, including widening of footpath fronting the site and a pedestrian crossing for the A1067. The local representation/s raising access as an issue is noted, however, Highways have assessed the access and found it to be acceptable. On this basis, the development's access and impacts to highways safety have been found acceptable in accordance with CP4.

## 3.0 Density

3.1 The proposal would equate to 12 dwellings per hectare, which is below that required by Policy DC2. However, given the need for a buffer at the eastern part of the site and the existing character of Foxley, this is considered appropriate. There is sufficient space provide a quality design in terms of layout.

## 4.0 Impact on Amenity

4.1 The only neighbour, which is closest enough to be affected by the development in relation to overshadowing, overlooking and creating a sense of enclosure is Chalet Poultry Farm, Foxely. However the applicant has demonstrated there is sufficient room for the development to be laid out in a way to protect their amenity. On the aforementioned basis, the impact to existing neighbour's amenity is considered acceptable and in compliance with Policy DC1.

## 5.0 Other Matters including Contamination, Flooding, Construction Works and Trees

5.1 The Contaminated Land Officer has advised that the development could proceed subject to suitable conditions relating to Site Investigation and remediation. The proposal therefore accords with Policy CP9.

5.2 The site is located within Flood Risk Zone 1, which has the lowest risk of flooding from rivers and the sea. In addition, it is in a very low risk area for surface water flooding. It is noted that the eastern part of Foxley is at risk of surface water flooding, however, this does not extend to the application site. The proposal therefore accords with Policy DC13.

5.3 The Ecology Consultant has reviewed and commented on the application and has raised no objection. They recommend mitigation and enhancement measures as set out in the submitted report are conditioned. The development therefore complied with Policy CP10.

5.4 Residents have said that the development should include affordable properties with a local tie. However, National Planning Practice Guidance stipulates that affordable housing should not be required for developments of 10 units and less, subject to the gross internal floor area being limited to 999sqm. On this basis, there is no overriding justification for affordable housing. Condition will be required to limit the total amount of floor space.

5.5 A further objection was the creation of a precedent. However, this is not a material planning consideration.

5.6 Objection was also raised on the strain on the services to Bawdeswell. However, again the National Planning Practice Guidance advises that tariff-style section 106 contributions, such as education, is not appropriate for this scale of development.

5.7 The tree officer has not objected to the proposal subject to the retention of the 4 category B trees in the final design. Given their location at the edge of the site and low density of development this is achievable.

## 6.0 Planning Balance

6.1 The application does not accord with the adopted development plan as the site falls outside of the settlement boundary of Foxley. However, the Council does not currently have a 5 year land supply as required by the NPPF and this development would provide a modest but valuable contribution towards Breckland's Housing supply. On this basis, the other key principle considerations for this proposal must be assessed and are whether the site is a sustainable location for housing and the visual impact on the countryside.

6.2 The site is adjacent to an existing rural village with a settlement boundary, which has a village hall and daytime bus service to Norwich and Fakenham. In addition, the Service Center Village of Bawdeswell is in walking distance, via Foxley Road, which benefits from a footpath. This village provides a primary school, shop and public house. The future residents would therefore not be solely reliant on the use of private car for their day to day needs.

6.3 The development would encroach into the countryside, however, the site is immediately adjacent to the built up part of Foxley and the development follows the existing pattern of development of linear development along roads, the proposal therefore accords with policies CP11 and DC16 of the adopted Core Strategy.

6.4 In accordance with paragraph 11 of the NPPF, no harm has been identified, which would significantly and demonstrably outweigh the benefits, and therefore, the grant of Outline planning permission subject to conditions, is recommended.

### RECOMMENDATION

Approval subject to conditions.

### CONDITIONS

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#### **Outline Time Limit (2 years) Early Delivery**

Application for Approval of all Reserved Matters must be made not later than the expiration of TWO YEARS beginning with the date of this permission, and the development must be begun within TWO YEARS of the FINAL APPROVAL OF THE RESERVED MATTERS or, in the case of approval at different dates, the FINAL APPROVAL OF THE LAST SUCH MATTER to be approved.

Reason for condition:-

As required by section 92 of the Town & Country Planning Act 1990 and in order to ensure the early delivery of housing.

**3 Standard Outline Condition**

No development whatsoever shall take place until the plans and descriptions giving details of the reserved matters referred to above shall have been submitted to and approved by the Local Planning Authority and these plans and descriptions shall provide details of the appearance, layout, scale, access and landscaping of the development.

Reason for condition:-

The details are not included in the current submission.

**4 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.

**6 Contaminated Land - Site Investigation/Remediation**

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. Desk Study**

A desk study and risk assessment to determine the risk of any contamination on the site, whether or not it originates on the site. The desk study 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 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.

**B. 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).

**C. 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.

**D. 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.

**This condition will require to be discharged**

**7**

**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**

**8**

**Non-standard highways condition**

Notwithstanding the details indicated on the submitted drawings no works above slab level

shall commence on site unless otherwise agreed in writing until detailed drawings for the off-site highway improvement works as indicated on Drawing No.SK1 (10 June 2018) have been submitted to and approved in writing by the Local Planning Authority.

Reason: 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.

**9 Non-standard highways condition**

Prior to the first occupation of the development hereby permitted the off-site highway improvement works referred to in Part A of this condition shall be completed to the written satisfaction of the Local Planning Authority.

Reason: To ensure that the highway network is adequate to cater for the development proposed.

**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. detailed proposals for the removal of asbestos from existing buildings to be demolished
- viii. a scheme for recycling/disposing of waste resulting from demolition and 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 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. Category B trees as identified in Oakfields report (dated July 2016) shall be incorporated into the final design.

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**

**12**

**Ecology**

The recommendations and enhancements of the Ecological Survey (Section 5.3 and 5.4 of the Ecological Report, Norfolk Wildlife Services; August 2018) will be strictly adhered to during construction works and prior to first occupation of the development.

Reason for condition:-

To ensure the development is not detrimental to Protected Species and in order to protect the wildlife value of the site in accordance with Policy CP10 of the Adopted Core Strategy and Development Control Policies Development Plan Document 2009 and the National Planning Policy Framework.

**13**

**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 or DATA ERROR!!!

**This condition will require to be discharged**

**14**

**Non-standard condition**

The cumulatively internal floor area of the development in total, including any garages, shall not exceed 999sqm and is limited to 7 no. dwellings.

Reason for condition:-

Any increase of floor space above the set limit would require affordable housing provision, in accordance with Policy DC 4 of the Adopted Core Strategy and Development Control Policies Development Plan Document 2009 and National Planning Practice Guidance paragraph 031 DATA ERROR!!!

**18**

**Variation of approved plans**

Any variation from the approved plans following commencement of the development, irrespective of the degree of variation, will constitute unauthorised development and may be liable to enforcement action.

You or your agent or any person responsible for implementing this permission should inform the Development Control Section immediately of any proposed variation from the approved plans and ask to be advised to the best method to resolve the matter. Most proposals for variation to the approved plans will require the submission of a new application.