

<b>ITEM:</b>		<b>RECOMMENDATION:</b>	REFUSAL
<b>REF NO:</b>	3PL/2019/0988/F	<b>CASE OFFICER</b>	Mark Simmonds
<b>LOCATION:</b>	SHIPDHAM Land adjacent Larwood Way Shipdham	<b>APPNTYPE:</b>	Full
<b>APPLICANT:</b>	Clayland Estates Ltd The Glass House Lynford Gardens	<b>POLICY:</b>	Out Settlement Bndry
<b>AGENT:</b>	Clayland Architects The Glass House Lynford Gardens	<b>CONS AREA:</b>	N
<b>PROPOSAL:</b>	Proposed residential development of 8 dwellings	<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. The proposal is to be determined by Planning Committee as the application has been 'Called-In' by a Breckland Councillor.

#### KEY ISSUES

Principle of development  
Impact on character and appearance of area  
Amenity impact  
Highway safety  
Impact on trees  
Impact on Ecology  
Contamination  
Flood Risk

#### DESCRIPTION OF DEVELOPMENT

The application seeks full planning permission for the erection of eight dwellings on land adjacent to Larwood Way in Shipdham. Access is proposed from an existing farm entrance from Mill Road via a new long road which is to the south west of the proposed site. A new footpath has also been proposed joining onto Larwood Way to the north of the site.

The proposals also include the provision of a new car park connecting to the existing cemetery. The Design and access statement states that following discussions with the Parish Council this proposal will allow funeral hearses and vehicles to park closer to the rear plots at the cemetery and as claimed in the submissions, alleviate the current situation which requires pallbearers to make a long journey down the length of the cemetery. The car park could also be for visitors with restricted mobility to use it to park closer to the cemetery. The land for the car park would be dedicated to the parish and planted with new tree planting and

hedge screening.

Plot 1 - 3 bedroom, 1.5 storey chalet bungalow with integral garage.

Plot 2 & 3 - 3 bedroom, 1.5 storey chalet bungalow with integral garage.

Plot 4 - 3 bedroom, 1-storey bungalow.

Plot 5 - 4 bedroom, 2-storey, with integral garage and carport.

Plot 6 - 4 bedroom, 2-storey, with integral garage.

Plot 7 - 4 bedroom, 2-storey, with integral garage.

Plot 8 - 4 bedroom, 2-storey, with integral garage and carport.

#### **SITE AND LOCATION**

The application site comprises approximately 0.49ha of land to the south of Larwood Way and Greenwood Way, Shipdham. It is located outside but adjacent to the Settlement Boundary of Shipdham. Residential development is located to the north boundary of the site, to the east is agricultural land, to the south is grassed land and further south more agricultural land. To the west the proposed site would be adjacent to the rear of the village cemetery. The site is bordered by trees along the south east boundary and much of the north west boundary too.

#### **EIA REQUIRED**

No

#### **RELEVANT SITE HISTORY**

No relevant site history.

#### **POLICY CONSIDERATIONS**

The following policies of the Breckland Local Plan, 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

COM01	Design
COM03	Protection of Amenity
ENV02	Biodiversity protection and enhancement
ENV03	The Brecks Protected Habitats & Species
ENV05	Protection and Enhancement of the Landscape
ENV06	Trees, Hedgerows and Development
ENV09	Flood Risk & Surface Water Drainage
GEN01	Sustainable Development in Breckland
GEN02	Promoting High Quality Design
GEN03	Settlement Hierarchy
HOU02	Level and Location of Growth
HOU03	Development Outside of the Boundaries of Local Service Centres

HOU06	Principle of New Housing
NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance
TR01	Sustainable Transport Network
TR02	Transport Requirements

**OBLIGATIONS/CIL**

Not Applicable

**CONSULTATIONS**

**SHIPDHAM P C**

Shipdham Parish Council are in favour of this development but would like the gate access from the car park to be widened for vehicles/digger access.

**NORFOLK COUNTY COUNCIL HIGHWAYS**

It is noted that whilst vehicular access is from Mill Road a private footpath link is being constructed between the site and Larwood Way to provide pedestrian access to village services and amenities including the school. I recommend a condition be imposed to ensure that the footpath remains open and available for use. Whilst I would have preferred vehicular access be gained via Larwood Way, given the inclusion of pedestrian access, I consider it would be difficult to substantiate an objection for this reason.

**CONTAMINATED LAND OFFICER**

I have looked at the application submitted and, based on both the accuracy of the information provided 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 conditions to alleviate any environmental concerns.

**ECOLOGICAL AND BIODIVERSITY CONSULTANT**

The Preliminary Ecological Appraisal (Riverdale Ecology; no date) and Phase 2 Ecological Surveys (Riverdale Ecology; no date) reports submitted in support of this application are fit for purpose. We agree with the proposed mitigation measures outlined in section 4 of the Preliminary Ecological Appraisal (Riverdale Ecology; no date) and section 4.2 of the Phase 2 Ecological Surveys (Riverdale Ecology; no date) to reduce the likelihood of impacts on ecological receptors. With regards to signage (section 4.3.5), we recommend using a general wildlife hazard sign placed along the access road, featuring a picture of a hedgehog rather than a badger. An Ecological Management Plan needs to be produced for the site informed by the findings in the Preliminary Ecological Appraisal (Riverdale Ecology; no date) and Phase 2 Ecological Surveys (Riverdale Ecology; no date). We support the proposed protection of the waste ground to the south of the development for wildlife to provide net gains for nature on the site in accordance with para 170 of the NPPF. Subject to conditions if you are minded to approve this application.

**TREE AND COUNTRYSIDE CONSULTANT**

No objection to the positioning of dwellings. Two mature Oak trees at the site entrance should be retained. Any alterations to the existing access point will require an arboricultural method statement.

**NORFOLK FIRE & RESCUE**

Norfolk Fire and Rescue Service advise a condition and Informative.

## REPRESENTATIONS

Site notice erected from 22/08/2019 to 13/09/2019 and thirteen neighbours have been consulted. Thirteen objections have been received, their comments are summarised below.

- Concerns of the effect on existing wildlife.
- Increase of traffic.
- Previous dumping ground from builders of current estate.
- Concerns regarding the creation of a footpath onto Larwood Way-loss of privacy, security.
- Noise and light pollution during and after construction.
- Shipdham is already struggling with traffic congestion and parking.
- Outside of the development boundary.
- Doctors and school to capacity.
- Car park for cemetery not necessary - already adequate parking.
- Residents being offered high fencing will not stop noise, loss of privacy,
- The proposed entrance to the site is lengthy and this is a massive intrusion into the countryside and wildlife.
- The site hasn't been earmarked for development within the local plan.
- The target for dwellings within the village has already been fulfilled.
- The entrance to the site is outside the 30mph speed restriction on the village.
- Additional traffic will be created along Mill Road.
- At school times access via Pound Lane is dangerous.

## ASSESSMENT NOTES

### 1.0 Principle of development

1.1 This application seeks full planning permission for the construction of eight detached dwellings on land to the south of Larwood Way and Greenwood Way, Shipdham.

1.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan comprises of the Breckland Local Plan (adopted); and any made Neighbourhood Plans. The Government's National Planning Policy Framework (NPPF) is a significant material consideration.

1.3 The Council does have a published 5 year housing land 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.

1.4 Policy GEN 01 of the Breckland Local Plan (adopted) (Sustainable Development in Breckland) seeks to enable development that improves the economic, social and environmental objectives of Breckland through the application of the following national and locally distinctive sustainable development principles.

1.5 Policy HOU 03 of the Breckland Local Plan (adopted) states that any development outside of the boundaries of the Local Service Centres will normally be resisted where the Local Plan housing target (as set in Policy HOU 02) is provided for unless supported by other policies within the Local Plan. Where the Local Plan does not identify sufficient sites to achieve the housing target, then further development will be allowed

subject to being supported by relevant policies within the Development Plan and meeting all of the following criteria:

1. It is immediately adjacent to the settlement boundary;
2. It would not lead to the number of dwellings in the settlement significantly exceeding the identified housing target;
3. the design contributes to conserving, and where possible enhancing, the historic nature and connectivity of communities; and
4. the development avoids coalescence of settlements.

1.6 The proposal is located outside of the settlement Boundary of Shipdham and Policy HOU 02 states that there is a need for an additional 282 dwellings. Initial monitoring indicates a figure in the region of 313 of commitments and completions within the village, the village has therefore already met and exceeded its housing target. Furthermore, the application site is located outside but very close to the Shipdham Settlement Boundary as designated by the Breckland Local Plan (adopted) (Policy GEN 05). However, it is not immediately adjacent to it as required by Policy HOU 03. Policy GEN 03 sets out the settlement hierarchy within Breckland and Shipdham is identified as a Local Service Centre through the locational strategy and it will see 10% growth to 2036 providing an additional 282 dwellings over the plan period to 2036. As such, the proposal does not comply with Policy HOU 02.

1.7 In light of the above, the principle of development is not accepted and conflicts with Policy GEN 01, GEN 03, GEN 05, HOU 02 and HOU 03 of the Breckland Local Plan (adopted).

## 2.0 Impact on character and appearance of area

2.1 Policy GEN 02 requires high quality design in all development within the district which respects and is sensitive to the character of the surrounding area. Policy COM01 requires new development to be designed to the highest possible standards. All new development must achieve a specification of high architectural, urban and landscape design quality and contribute to the distinctive character and amenity of the local area. The Council will promote high quality design in the District by requiring that the design of new development meets specific criteria. Policy HOU 06 sets out the principles of housing and requires the density of development to be at a level which is appropriate and justified for the locality.

2.2 Policy ENV 05 requires development proposals to contribute to and where possible enhance the local environment by recognising the intrinsic character and beauty of the countryside. Development should have particular regard to maintaining the aesthetic and biodiversity qualities of natural and man-made features within the landscape, including a consideration of individual or groups of natural features such as trees, hedges and woodland or rivers, streams or other topographical features.

2.3 The application proposes the erection of eight detached dwellings, a new car park for use by the Cemetery and visitors and a new long access road from Mill Road. It is considered that proposed dwellings and expanse of road to form the new access would result in a harmful and unacceptable visual intrusion into the open countryside by reason of its length, open countryside location and lack of surrounding development, the road would be in an area where the context is open and green and rural.

2.4 The agent has more recently stated that as the site is an active registered landfill site the impacts of the development would be acceptable, however, officers consider that while the site is a former landfill site, this was only for inert builder's rubble and soils (with the original planning permission dating from 1990) and this is not considered to alter the recommendation because the site now has the physical appearance of a

greenfield site and is open in nature and contributes to the soft green edge to the village.

2.5 In light of the above, it is considered that the proposals would be detrimental to the existing character of the area. Therefore, the proposals conflict with Policy GEN 02, COM 01 and ENV 05 of the Breckland Local Plan (adopted) and paragraph 127 of the NPPF (2019).

### 3.0 Amenity impact

3.1 Policy COM03 of the Breckland Local Plan (adopted) requires all new development to give consideration to general amenity impact issues, especially living conditions. Development will not be permitted which causes unacceptable effects on the residential amenity of neighbouring occupants, or does not provide for adequate levels of amenity for future occupants. In assessing the impact of development, especially on the living conditions of occupants, regard will be had to overlooking, overbearing impact/visual dominance, overshadowing, loss of light, odour, noise, vibration or other forms of nuisance and any forms of pollution.

3.2 The impact the development would have on the site and its surroundings is considered to fall within acceptable parameters. There would be no direct adverse effects as a result of loss of privacy, light or overbearing impact. Windows have been positioned on the proposed dwellings so as to avoid direct overlooking. It is concluded that the proposal will maintain an acceptable level of residential amenity for existing residents and future occupants of the site, consistent with Policy COM03 of the Breckland Local Plan (adopted).

3.3 In conclusion, it is considered that the proposals comply with Policy COM03 of the Breckland Local Plan (adopted) and Paragraph 127 of The NPPF (2019).

### 4.0 Highway safety

4.1 Policy TR 01 (Sustainable Transport Network) of the Breckland Local Plan (adopted) seeks to promote a safe, efficient and convenient sustainable transport system. Development should seek to minimise the need to travel, promote opportunities for sustainable transport modes, not adversely impact on the operation or safety of the strategic road network, improve accessibility to services and support the transition to a low carbon future.

4.2 Policy TR 02 (Transport Requirements) of the Breckland Local Plan (adopted) seeks to ensure that developments should be of high quality, sustainable in design, construction and layout as well as offering maximum flexibility in the choice of travel modes for all potential users. Proposals will be permitted that integrate satisfactorily into existing transport networks, mitigate impacts on the local or strategic highway networks arising from the development itself, or the cumulative effects of development, through the provision of, or contributions towards, any relevant transport improvement deemed to be necessary, including those secured by legal agreement, protect, and where possible enhance, access to public rights of way, provide safe, suitable and convenient access for all users, including appropriate parking and servicing provision in terms of amount, design and layout and avoid inappropriate traffic generation and do not compromise highway safety.

4.3 The Norfolk County Council Highways Officer has been consulted and commented that it is noted that whilst vehicular access is from Mill Road, a private footpath link is being constructed between the site and Larwood Way to provide pedestrian access to village services and amenities including the school. They recommend a condition be imposed to ensure that the footpath remains open and available for use. Whilst they would have preferred vehicular access be gained via Larwood Way, given the inclusion of pedestrian access, they consider it would be difficult to substantiate an objection for this reason.

4.4 In light of the above, the proposals comply with Policy TR 01 and TR 02 of the Breckland Local Plan (adopted) subject to conditions.

#### 5.0 Impact on trees

5.1 Policy ENV 06 of the Breckland Local Plan (adopted) requires the protection of trees and hedgerow and says that they should be retained as an integral part of the design of development except where their long-term survival would be compromised by their age or physical condition, or there are exceptional and overriding benefits in accepting their loss. Development requiring the loss of a protected tree or hedgerow (including preserved trees, protected hedgerows, trees in Conservation Areas, ancient trees, aged and veteran trees and trees classified as being of categories A or B in value (BS5837:2012) will only be permitted where it would allow for a substantially improved overall approach to the design and landscaping of the development that would outweigh the loss of any tree or hedgerow. Where the loss of such features is demonstrably unavoidable, adequate replacement provision, preferably by native species will be sought. Where the loss of a tree is accepted in these circumstances, developers will be required to ensure that the loss will be suitably compensated for, taking into account the size and condition of the tree.

5.2 The Tree and Countryside Consultant has been consulted and advise that they have no objection to the positioning of dwellings. Two mature oak trees at the site entrance should be retained. Any alterations to the existing access point will require an arboricultural method statement.

5.3 Therefore, the proposals have the ability to comply with Policy ENV 06 of the Breckland Local Plan (adopted).subject to conditions.

#### 6.0 Ecological Impact

6.1 Policy ENV02 seeks to protect and enhance Biodiversity and requires the highest level of protection to be given to European Sites, with development only permitted where the proposal is in accordance with the requirements of the Conservation of Habitats and Species Regulations 2017. Where measures to mitigate for potential adverse effects on European sites are required the proposed mitigation measures must be justified as fit for purpose with appropriate evidence, to inform the Council's Habitats Regulations Assessment. Development likely to have an adverse effect (either directly or indirectly) on a site of national, regional or local biodiversity, or geological interest, as identified on the Policies Map, will not be permitted unless:

#### 6.2 Policy ENV03 - The Brecks Protected Habitats and Species:

- a. it can be clearly demonstrated that there are reasons for the proposal that outweigh the need to safeguard the special ecological / geological interest of the site, and;
- b. it has been demonstrated, where development would result in significant harm, that it cannot be reasonably located on an alternative site that would result in less or no harm, and;
- c. residual harm, after all measures to prevent and adequately mitigate have been applied , will be adequately compensated for.

6.3 The Council requires that a Habitats Regulations Assessment is undertaken on all proposals for development that are likely to have a significant effect on The Breckland Special Protection Area (SPA) which is classified for its populations of Stone Curlew, Woodlark and Nightjar, and/or Breckland Special Area of Conservation (SAC), which is designated for its heathland habitats. Development will only be permitted where it can be demonstrated that the proposal will not adversely affect the integrity of the SPA or the SAC.

6.4 The Natural Environment Team has been consulted and advised that the Preliminary Ecological Appraisal (Riverdale Ecology; no date) and Phase 2 Ecological Surveys (Riverdale Ecology; no date) reports submitted in support of this application are fit for purpose. They agree with the proposed mitigation measures outlined in section 4 of the Preliminary Ecological Appraisal (Riverdale Ecology; no date) and section 4.2 of the Phase 2 Ecological Surveys (Riverdale Ecology; no date) to reduce the likelihood of impacts on ecological receptors. With regards to signage (section 4.3.5), they recommend using a general wildlife hazard sign placed along the access road, featuring a picture of a hedgehog rather than a badger. An Ecological Management Plan needs to be produced for the site informed by the findings in the Preliminary Ecological Appraisal (Riverdale Ecology; no date) and Phase 2 Ecological Surveys (Riverdale Ecology; no date). They support the proposed protection of the waste ground to the south of the development for wildlife to provide net gains for nature on the site in accordance with para 170 of the NPPF.

6.5 In light of the above, the proposals could comply with Policy ENV 02 of the Breckland Local Plan (adopted) and the NPPF (2019), subject to the imposition of conditions.

## 7.0 Contamination

7.1 Paragraph 178 of the NPPF (2019) says that development sites need to be suitable for their proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation).

7.2 The Contaminated Land Officer has been consulted and advised that based on both the accuracy of the information provided and the current records of contaminated land issues they hold to date, have no objections providing the development proceeds in line with the application details and subject to conditions to alleviate any environmental concerns.

## 8.0 Flood Risk and drainage

8.1 Policy ENV 09 of the Breckland Local Plan (adopted) requires development to be located to minimise the risk of flooding, mitigating any such risk through design and implementing sustainable drainage (SuDS) principles. Also to incorporate appropriate surface water drainage mitigation measures to minimise its own risk of flooding and should not materially increase the flood risk to other areas. Particular care will be required in relation to habitats designated as being of international importance in the area and beyond which are water sensitive, as well as habitats designated of regional or local importance.

8.2 Paragraph 163 of the NPPF (2019) stipulates that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as appropriate) it can be demonstrated that:

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
- b) the development is appropriately flood resistant and resilient;
- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;

d) any residual risk can be safely managed; and

e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

8.2 The application site is located within Flood Zone 1 and is, therefore, within an area at lowest risk of flooding from various sources including that from rivers, tidal, reservoir and canal sources. The site is also in a very low risk zone for surface water flooding.

8.3 In conclusion, the proposals are not in an area at risk of flooding from any sources, therefore, compliant with Policy ENV 09 of the Breckland Local Plan (adopted) and paragraph 163 of the NPPF (2019).

9.0 Other matters - Agent's Response:

9.1 The Agent has made comments upon the Officer's conclusions and these comments are set out here (summarised):

1. The application has been prepared over the last 18 months. The current appearance of the land is green because landfill use has paused during this period and no waste has been dumped /-/. The site is currently a registered landfill site.
  
2. The report makes no reference to NPPF Brownfield (para 117, 119C) where substantial weight is given to Brownfield sites. This land change of use is a material aspect of the submission and should be considered.
  
3. The site will continue this landfill use if this application is not approved, or cease permanently if approved. In 'visual intrusion' terms referenced in the reasons for refusal this represents a choice between a landfill site (builder materials, rubble and infill) on the edge of the village, or an area of wildlife with a housing development. The current physical condition of the site which you rightly assess in the report as green is a preview of what we are trying to achieve permanently if a landfill use is ceased. We would argue this represents a planning gain via visual enhancement of the site, again not mentioned.
  
4. Housing targets are only minimums (not mentioned) and this application for 8 would not significantly increase the numbers and offers specific community benefits.
  
5. Evidence for the parish car park need. There is no cemetery car park at present or access for vehicles. Parish noted their support for the carpark and scheme. See Local Plan page 49 3.22 & 3.23 Evidence could comprise: Demonstration of local support e.g. the views of the parish council.
  
6. The Site and Location description at the start of the report fails to mention the current land use, however does describe the surrounding land use. We believe this omission should be corrected. The site at present is a land fill site of made ground.
  
7. The present site access is existing. Highways have no objections to the access being re used. Impact from an unadopted road could be minimised through surfacing and would not necessarily be tarmac. The road could potentially be 'green' and we would consider conditions to this effect. This access location reduces impact on adjoining estate roads and residents.
  
8. The scheme promotes use of walking cycling for day to day trips to the nearby shops and services rather

than reliance on cars.

9.2 These comments are all noted but do not change the overall planning balance, as set out above.

9.3 The brownfield status is acknowledged and the fall back position but the scheme is otherwise contrary to policy and is visually green and pleasant and contributes to the soft green edge to the village.

## 10.0 Conclusion

10.1 As Shipdham have met their allocated housing targets for the plan period, Policy HOU 03 does not apply. Therefore, the principle of development is not accepted and conflicts with Policy GEN 01, GEN 03, GEN 05, HOU 02 and HOU 03 of the Breckland Local Plan (adopted).

10.2 The proposal requires a new long access road from Mill Road which would result in a harmful and unacceptable visual intrusion into the open countryside by reason of its length, open countryside location and lack of surrounding development. The road would be in an area where the context is open and green and rural which would be detrimental to the existing character of the surrounding area. It is also considered to be an inappropriate site as it cannot be accessed from the estate roads in the village. Therefore, the proposals conflict with Policy GEN 02, COM 01 and ENV 05 of the Breckland Local Plan (adopted) and paragraph 127 of the NPPF (2019).

10.3 It is acknowledged that there is a public benefit from the proposed cemetery car park, although no evidence that this is essential has been submitted and therefore does not outweigh the harm already identified.

## RECOMMENDATION

That Planning Permission be REFUSED for the following reasons:

## REASON(S) FOR REFUSAL

- 1 Non-standard housing reason for refusal**

The proposal is located outside of the settlement Boundary of Shipdham and as Shipdham has a level of housing provision and allocations which meets the local plan target of allocated housing targets for the plan period, Policy HOU 03 does not allow for new development outside of the settlement boundary. Therefore, the principle of development is not accepted and conflicts with Policy GEN 01, GEN 03, GEN 05, HOU 02 and HOU 03 of the Breckland Local Plan (adopted).
- 2 Unwarranted intrusion into landscape**

The construction of the proposed access from Mill Road to this site would in the opinion of the Local Planning Authority result in an unwarranted visual intrusion into this rural landscape to the detriment of the character and visual amenities of the area. The proposal would create an inappropriate expanse of road to access the development which would be detrimental to the existing character of the surrounding area, it is also considered to be an inappropriate site as it cannot be accessed from the estate roads in the village. This would be contrary to Policy GEN 02, COM 01 and ENV 05 of the Breckland Local Plan (adopted) and paragraph 127 of the NPPF (2019).

