

|                   |  |                        |                    |
|-------------------|--|------------------------|--------------------|
| <b>ITEM:</b>      |  | <b>RECOMMENDATION:</b> | APPROVAL           |
| <b>REF NO:</b>    | 3PL/2020/1091/F  | <b>CASE OFFICER</b>    | Naomi Minto        |
| <b>LOCATION:</b>  | ATTLEBOROUGH<br>Plot 6 to 10, Gaskin Way   | <b>APPNTYPE:</b>       | Full               |
| <b>APPLICANT:</b> | Anthony & John Gaskin<br>Beech Tree House Sheppard Way                                 | <b>POLICY:</b>         | In Settlemnt Bndry |
| <b>AGENT:</b>     | Jon Venning Architect<br>Hardwick House Ipswich Road                                   | <b>CONS AREA:</b>      | N                  |
| <b>PROPOSAL:</b>  | Proposed Erection of 5no Detached 2 Storey Dwellings With Garage & Associated Parking. |                        |                    |
|                   |  | <b>LB GRADE:</b>       | N                  |
|                   |  | <b>TPO:</b>            | N                  |

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

Application was considered at Chairman's Panel and voted to be determined at Planning Committee, as earlier applications were heard at Planning Committee.

#### **KEY ISSUES**

- Principle of development
- Design and impact on character and appearance of the area
- Impact upon amenity
- Access and highway impact
- Other issues (Contaminated Land - Trees - Ecology - Affordable Housing)

#### **DESCRIPTION OF DEVELOPMENT**

The application seeks consent for the construction of five detached, two storey dwellings with associated garages, parking and amenity space within the application site, as well as a new pedestrian / cycle footpath to link the site with Leys Lane to the north.

It is proposed that two of the dwellings would have three bedrooms and three of the dwellings would have four bedrooms. Access to the site would be from Leys Lane and an existing access is in place. Each property would be served by a garage with private amenity space to the rear. The dwellings would be constructed from brick/block walls with facing brickwork (terca mardale antique) and clay pantiles (Crest Wolds Toscana). Double glazed PVCu windows and doors are also proposed, along with white PVCu fascias and soffits.

#### **SITE AND LOCATION**

The site extends to approximately 0.36 hectares and has been cleared for construction. There is a small nucleus of development in the immediate area and this relates largely to single dwelling houses and commercial business uses located at a converted sawmill to the south, and opposite the site. The application

site is located in Flood Zone 1.

Leys Lane is a rural location, effectively a country lane, although it is in close proximity to Attleborough and its defined settlement boundary. The railway line dissects the lane to the north-west and from this point there is pedestrian/cycle access into the town from the lane. Buckenham Road, to the east of Leys Lane provides a main arterial route into Attleborough.

Planning permission was refused (at Committee), in March 2019 (ref: 3PL/2018/1401/F) for the same proposal, for a number of reasons, including highway safety, amenity, affordable housing and tree considerations. The applicant addressed a number of the reasons for refusal in a subsequent planning application for the same site. However, planning permission was refused again (at Committee), in March 2020 (ref: 3PL/2019/0397/F) for the same proposal due to ongoing highway safety concerns. The current application seeks to address highway safety concerns.

Planning permission was granted (at Committee) in 2017 (ref: 3PL/2017/1528/F) and has been implemented for the erection of five detached two storey dwellings with garages on land directly opposite the current application site and within the same ownership. In addition, planning permission was granted in 2017 (ref: 3PL/2017/0376/F) for the construction of a single dwelling located to the south east of the current application site and adjacent to the site with an extant planning permission for five dwellings. Construction of this dwelling is now complete. Consent was also granted for six Gypsy/Traveller pitches immediately to the west of the site (ref: 3PL/2010/0381/F). Hardstanding to accommodate the pitches has been laid. A band of trees runs along the northern boundary of the site.

**EIA REQUIRED**

No.

**RELEVANT SITE HISTORY**

|                 |            |          |  |
|-----------------|------------|----------|--|
| 3PL/2009/0604/F | Withdrawn  | 15-09-10 | C/U to inc. standing of caravans for 6 no. res. gypsy pitches with utility/day room buildings & hardstanding |
| 3PL/2010/0381/F | Permission | 03-06-10 | C/U to 6 residential gypsy pitches, each pitch with a utility/day room building and hard standing            |
| 3PL/2017/1528/F | Permission | 28-03-18 | Erection of 5 detached two storey dwellings with garages   |
| 3PL/2018/1401/F | Refusal    | 13-03-19 | Proposed Erection of Five Detached two storey dwellings with garages and associated parking                  |
| 3PL/2019/0397/F | Refusal    | 10-03-20 | Proposed Erection of Five Detached two storey dwellings with garages and associated parking                  |

**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 |
| ENV06 | Trees, Hedgerows and Development        |
| GEN02 | Promoting High Quality Design           |
| GEN03 | Settlement Hierarchy                    |
| GEN05 | Settlement Boundaries                   |
| HOU01 | Development Requirements (Minimum)      |
| HOU06 | Principle of New Housing                |
| HOU07 | Affordable Housing                      |
| NP    | Neighbourhood Plan                      |
| NPPF  | National Planning Policy Framework      |
| NPPG  | National Planning Practice Guidance     |
| TR01  | Sustainable Transport Network           |
| TR02  | Transport Requirements                  |

#### **OBLIGATIONS/CIL**

A section 106 is required to secure affordable housing provision.

#### **CONSULTATIONS**

##### **ATTLEBOROUGH TC**

No objections.

##### **NORFOLK COUNTY COUNCIL HIGHWAYS**

No objections, subject to conditions.

##### **TREE AND COUNTRYSIDE CONSULTANT**

No objection, subject to conditions.

##### **CONTAMINATED LAND OFFICER**

No objection, subject to conditions.

#### **REPRESENTATIONS**

A site notice was erected on 8 October 2020 and seventeen neighbours consulted. No responses were received.

## **ASSESSMENT NOTES**

This application is a re-submission of application 3PL/2019/0397/F, which was refused permission at Planning Committee, in March 2020. The main differences with the latest application are;

- The inclusion of an Access Review report to address one of the reasons attached to the previous refusal.
- Inclusion of a footpath / bicycle path (within the red line) to be retained for future use. Applicant is in process of purchasing this strip of land.
- S106 Agreement for provision of affordable housing.

### **1.0 Principle of the Development**

1.1 The site lies within the defined Settlement Boundary of Attleborough where the principle of residential development is acceptable, in accordance with Policies HOU 06, GEN 03 and GEN 05 of the Breckland Local Plan (adopted 2019) (BLP), the Neighbourhood Plan, as well as being supported through the NPPF (2021). Two previous applications, which were considered at Planning Committee, were refused residential development on site (3PL/2018/1401/F and 3PL/2019/0397/F). The current application has sought to address concerns raised by the Local Planning Authority in respect of the previous application, which was refused on highway safety grounds.

### **2.0 Design and impact on character and appearance of the area**

2.1 Chapter 12 of the NPPF and GEN 02 and COM 01 of the of the BLP seek to promote high quality design.

2.2 Policy GEN 02 of the BLP states that the Council will require high quality design in all new development within the District. New development proposals are expected to meet a number of key tests that; respect and are sensitive to the character of the surrounding area and make a positive architectural and urban design contribution to their context and location; contribute positively to the public realm and public spaces, protecting the high levels of amenity and quality of life making Breckland an attractive, successful and vibrant place for residents, workers and visitors; create high quality, safe and sustainably designed buildings, places and streets; and maximise connectivity within and through a development and to the surrounding areas, including the provision of high quality and safe pedestrian and cycle routes.

2.3 Policy COM 01 of the BLP provides further detail in respect of key criteria that all new development proposals should meet, in order to achieve high quality design within the District. Paragraph 130 of the NPPF (2021) also provides key considerations in terms of design, including (but not limited to) requiring developments to be sympathetic to local character and history, including the surrounding built environment and landscape setting; and they should also be visually attractive as a result of good architecture, layout and appropriate and effective landscaping.

2.4 The application proposes five detached two storey dwellings. Two are to be three bedroom dwellings with single garages and three are proposed to be a four bedroom dwelling with single garages. It is acknowledged that land on the same site, to the east, has two planning permissions for six dwellings. The proposed scheme would provide a similar offering when taking into account the scale and style of the dwellings already approved.

2.5 Materials proposed to be used in the construction of the dwellings include brick/block walls with facing brickwork (terca mardale antique) and clay pantiles (Crest Worlds Toscana) over a timber construction.

Double glazed PVCu windows and doors are also proposed. These are considered to be in keeping with existing dwellings within the locality.

2.6 Furthermore, it is considered that the form of the proposed dwellings are sympathetic to the area. Whilst it is acknowledged that the proposal will be visible from public and private vantage points, therefore having an impact on the character and appearance of the immediate area, it is considered that the positive attributes of these new dwellings, in character with existing development, would not harm the intrinsic character and beauty of the countryside. The design of the dwellings is therefore considered acceptable in planning terms, in this instance.

### **3.0 Impact upon amenity**

3.1 Policy COM 03 of the BLP states that 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. Consideration will be had to a number of factors including (but not limited to); the protection of adequate areas of usable and secluded private amenity space for the occupiers of existing dwellings; the provision of adequate areas of usable and secluded private amenity space for the occupiers of proposed dwellings, in keeping with the character of the immediate surrounding areas; overbearing impact / visual dominance and overshadowing of private amenity space.

3.2 The submitted Layout Plan proposes a linear form of dwellings extending into the site. The scheme retains appropriate separation distances to existing residential development to the south and east, as well as the traveller pitches to the west. In that respect, it is considered that there would be no loss of light, over dominance or adverse impact on privacy with regards to existing / future neighbours and future occupants of the proposed dwellings.

3.3 Furthermore, the proposal provides adequate private amenity space for future occupiers and each dwelling would have suitable levels of amenity. It is therefore concluded that the application complies with the aims and objectives of Policy COM 03 of the BLP.

### **4.0 Access and highway impact**

4.1 Paragraph 110 of the NPPF (2021) states that applications for development should ensure that;

- appropriate opportunities to promote sustainable transport modes can be (or have been) taken up, given the type of development and its location;
- safe and suitable access to the site can be achieved for all users;
- the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and,
- any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

4.2 Paragraph 111 of the NPPF (2021) 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.

4.3 Policy COM 01(m) states that new development should not compromise highway safety. In addition, it should enable safe access for vehicles and for walking and cycling. Policy COM 01(n) states that new development must provide adequate parking as outlined in TR 01 and consideration of safe storage for bicycles.

4.4 The Highways Officer advised that they have been consulted in respect of a number of applications for multiple dwellings adjacent to this site and they have consistently raised objections concerning the suitability of Leys Lane to serve residential development of this scale based on its restricted width, poor alignment and lack of suitable pedestrian refuge.

4.5 They acknowledge that the current submission includes a new footpath between the site and the northern section of Leys Lane, which it is understood the applicant is in the process of acquiring the necessary land. The Local Planning Authority is advised that the footpath needs to be dedicated under S25 of Highways Act 1980, rather than be a Permissive Right Of Way (PROW), to ensure its availability in perpetuity since private rights can be withdrawn at any time. The Local Highway Authority has advised the applicant of the necessary process to achieve dedication.

4.6 The Highway Officer advised that the creation of the PROW is fundamental to the highway objection being withdrawn and it would be preferable for its dedication, and provision, to be secured before a decision is issued. However, it is considered that this would be an unreasonable request and therefore the Highway Officer recommended a Grampian style condition to be imposed, to ensure that that the way is made available prior to works commencing on site.

4.7 The Local Highway Authority advised that subject to the PROW being created, and made available in perpetuity and given the localised widening of Leys Lane which has been carried out over the last few years together with the number of units already constructed / approved under planning applications 3PL/2010/0381 and 3PL/2017/1528, they consider it may be difficult to maintain a highway objection.

4.8 They also noted during their site inspection that Gaskin Way has been surfaced but no provision has been made to prevent surface water from the private road discharging onto the public highway. This will therefore need to be addressed as part of the current submission and a condition has been recommended to this effect. The local Planning Authority is further advised that Gaskin Way will not be considered for adoption and therefore a condition regarding its future maintenance is recommended.

4.9 Given that the Local Highway Authority have raised no objection to the proposal, subject to the inclusion of conditions and in light of the submitted plans, which show sufficient on-site parking provision and safe cycle storage, the proposal is considered to be compliant with the aims of the BLP and the NPPF (2021), relating to highway safety.

## **5.0 Other issues - (Contaminated Land - Trees - Ecology - Affordable Housing)**

5.1 No objection has been raised from the Contaminated Land Officer, subject to the inclusion of a condition relating to unexpected contamination and an informative relating to extensions. The proposal is therefore considered to be in accordance with the aims of the NPPF (2021).

5.2 Policy ENV 06 of the BLP states that trees and significant hedge and shrub masses form part of the green infrastructure and should be retained as an integral part of the design of development. A Tree Survey has been submitted in support of the application. It states that the development can be accommodated on site with minimal impact on the arboricultural interest of the site. The Tree and Countryside Officer has raised no objection to the proposal, subject to the inclusion of conditions. On that basis, the application is

considered to be compliant with Policy ENV 06.

5.3 Policy ENV 02 of the BLP is concerned with the natural environment and seeks to ensure that all new development should demonstrate how net gains for biodiversity are being secured as part of the development, proportionate to the scale of development and potential impacts. This is further reiterated in paragraph 174 of the NPPF (2021).

5.4 The applicant has not submitted an ecology report or enhancement measures with the current application. However, it is accepted, that the site was cleared for construction some time ago and therefore is only likely to have limited ecology value at present. It is also accepted that the site is not considered to be of national, regional, local biodiversity, or geological importance, i.e. not in a protected area. The Natural Environment Team have not provided comments on the application. Therefore, it is considered that the requirement for net gains could be conditioned as part of any forthcoming planning approval. The application is therefore considered to be compliant with Policy ENV 02 of the BLP, subject to condition.

5.5 As part of the consideration of the previous planning application (ref: 3PL/2019/0397/F), the applicant sought to address the affordable housing reason for refusal (attached to 3PL/2018/1401/F). The requirement for affordable housing was triggered following an assessment of the application cumulatively, having regard to the wider development site as a whole, which included consideration of previous planning permissions by the same developer that overall would result in a total of eleven new dwellings.

5.6 During the last application, the applicant submitted a Viability Assessment and Economic Viability Analysis for consideration. This was subsequently reviewed by the District Valuer, an independent party with relevant expertise in this area. It was determined that there would be scope for affordable housing provision on site.

5.7 As part of the current application, a S106 Agreement has been prepared to secure the provision of affordable housing on site. The Agreement is dated 23 August 2021. Following completion of the S106 Agreement, the Local Planning Authority is content that the proposal is now compliant with Policy HOU 07 of the BLP and paragraph 64 of the NPPF (2021).

## **6.0 Conclusion**

6.1 Taking into account the overall planning balance of the scheme, it is acknowledged that the proposed development is located in a sustainable location in relation to its close proximity to services and facilities and would not harm the intrinsic character and beauty of the countryside. It is also accepted that highway safety matters and affordable housing provision have now been addressed to the satisfaction of the Local Planning Authority. In addition, it is accepted that the proposal will not have an adverse impact when having regard to character and appearance, amenity, ecology, tree and contamination considerations. Given that the proposal accords with the Development Plan and relevant parts of the NPPF (2021), as set out above, the application is accordingly recommended for approval, subject to conditions and complying with the Section 106 Agreement, which seeks to secure affordable housing provision.

### **RECOMMENDATION**

Recommended for APPROVAL, subject to the following conditions;

### **CONDITIONS**

**1 Full permission 3 year time limit**

The development hereby permitted shall be begun before the expiration of THREE YEARS from the date of this permission.

Reason for condition:-

To comply with section 91 of the Town & Country Planning Act 1990 (as amended).

**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, in accordance with Policy COM 01 of the Breckland Local Plan (adopted 2019).

**3 External materials as approved**

The development hereby permitted shall be constructed using the materials specified on the planning application form and / or submitted drawings.

Reason for condition:-

To enable the Local Planning Authority to ensure the satisfactory appearance of the development, as required by Policies COM 03, GEN 02 and COM 01 of the Breckland Local Plan (adopted 2019).

**4 Implementation of submitted boundary treatment**

The boundary treatment shown on the plans and particulars hereby approved shall be constructed in the manner shown and completed before the dwellings are first occupied.

Reason for condition:-

In the interests of the satisfactory appearance of the development in accordance with Policies GEN 02 and COM 01 of the Breckland Local Plan (adopted 2019).

**This condition will require to be discharged**

**5 Landscaping scheme to be submitted - hard and soft**

Prior to the commencement of development above the laying of foundations, full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. 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 policies GEN 02 and COM 01 of the Breckland Local Plan (adopted 2019).



**This condition will require to be discharged**

**6 No dwelling shall be occupied until details of the proposed**

Prior to first occupation of the development hereby approved, details of the proposed arrangements for future management and maintenance of the proposed streets within the development shall be submitted to and approved in writing by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as a private Management & Maintenance Company has been established.

Reason for condition:-

To ensure safe, suitable and satisfactory development of the site and to ensure estate roads are managed and maintained thereafter to a suitable standard in accordance with Policies TR 01 and TR 02 of the Breckland Local Plan (adopted 2019).

**7 Prior to the commencement of the use hereby permitted**

Prior to the first occupation of the development hereby approved arrangements shall be made in accordance with a scheme to be agreed in writing with the Local Planning Authority for surface water drainage to be intercepted and disposed of separately so that it does not discharge from the private road onto the public highway carriageway.

Reason for condition:-

To ensure construction of a satisfactory access and to avoid carriage of extraneous material or surface water from or onto the highway in the interests of highway safety and traffic movement in accordance with Policies TR 01 and TR 02 of the Breckland Local Plan (adopted 2019).

**8 Prior to the first occupation/use of the development hereby**

Prior to the first occupation of the development hereby permitted, the proposed access parking and communal turning area 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 Policies TR 01 and TR 02 of the Breckland Local Plan (adopted 2019).

**9 Notwithstanding the details indicated on the submitted**

No works shall commence on site until details for the creation of the proposed public right of way have been first approved in writing with the local Planning Authority. Such details shall include its availability and maintenance in perpetuity. No property shall be occupied until the public right of way has been constructed and made available for use.

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 Policies TR 01 and TR 02 of the Breckland Local Plan (adopted 2019).

**10 Net Gain in Biodiversity**

Prior to first occupation of the dwellings hereby approved, a scheme demonstrating how net gains for biodiversity are being secured as part of the development, shall be submitted to

and approved in writing by the Local Planning Authority. This could include bird/bat boxes, swift bricks and hedgehog holes for example. The development shall be carried out in accordance with the approved details, prior to first occupation.

Reason for condition:-

To ensure a net gain in biodiversity in accordance with Policy ENV 02 of the Breckland Local Plan (adopted 2019).

**11 Precise details of surface water disposal**

Prior to commencement of development above the laying of foundations, 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:-

To minimise the possibilities of flooding from the outset of the development, in accordance with Policy COM 03 and ENV 09 of the Breckland Local Plan (adopted 2019).

**This condition will require to be discharged**

**12 Non-standard condition**

Operations on site shall take place in complete accordance with the approved Arboricultural Impact Assessment (AIA), Tree Protection Plan (TPP) and Arboricultural Method Statement (AMS) prepared by BH Trees and Woodland dated May 2019. No other operations shall commence on site in connection with the development until the tree protection works and any pre-emptive tree works required by the approved AIA or AMS have been carried out and all tree protection barriers are in place as indicated on the TPP. Works shall not commence until written confirmation has been obtained from the appointed arboriculturalist to confirm that tree protection is in place as specified. The protective fencing shall be retained in a good and effective condition for the duration of the construction of the development and shall not be moved or removed, temporarily or otherwise, until all site works have been completed and all equipment, machinery and surplus materials removed from site, unless the prior written approval of the local planning authority has been sought and obtained.

Reason for condition:-

In accordance with Policy ENV 06 of the Breckland Local Plan (adopted 2019).

**13 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 Section 15 of the National Planning Policy Framework.

**14 No PD for classes A B C D & E**

Notwithstanding the provisions of the Town and Country Planning (General Permitted

Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) (with or without modification), no extensions, roof alterations, porches or ancillary buildings as defined within Classes A, B, C, D and E of Part 1 of Schedule 2 of that Order shall be erected or brought onto the land unless an appropriate planning application is first submitted to and approved in writing by the Local Planning Authority.

Reason for condition:-

In the interests of the satisfactory appearance of the development and/or the amenities of adjoining residents in accordance with Policy COM 03 of the Breckland Local Plan (adopted 2019).

**17 Note non standard re: S106**

This planning permission has an associated S106 legal agreement dated 23rd August 2021.

The S106 includes requirements for: affordable housing.

**20 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.