

ITEM:		RECOMMENDATION:	APPROVAL
REF NO:	3PL/2021/1265/VAR	CASE OFFICER	Rebecca Collins
LOCATION:	COLKIRK Land off Whissonsett Road	APPNTYPE:	Variation of Cond's
APPLICANT:	Breckland Bridge Ltd 1 Quay Point Station Road	POLICY:	Out Settlemnt Bndry
AGENT:	Bidwells 16 Upper King Street Norwich	CONS AREA:	N
PROPOSAL:	Variation of Condition No's 2, 7 & 8 on 3PL/2017/1354/F - 2 - To amend the approved Site Plan and Arboricultural Method Statement 7 - To amend the tree protection measures 8 - To revise the tree removal details	LB GRADE:	N
		TPO:	N

REASON FOR COMMITTEE CONSIDERATION

The applicant is Breckland Bridge.

KEY ISSUES

Are the variations acceptable?

DESCRIPTION OF DEVELOPMENT

Variation of Condition No's 2, 7 & 8 on 3PL/2017/1354/F -
2 - To amend the approved Site Plan and Arboricultural Method Statement
7 - To amend the tree protection measures
8 - To revise the tree removal details

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.

EIA REQUIRED

No

RELEVANT SITE HISTORY

3PL/2017/1354/F - Erection of 21 dwellings (Approved)

3PL/2021/1266/VAR - Variation of Condition No's 17 & 21 on 3PL/2017/1354/F (Currently under consideration)

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
ENV01	Green Infrastructure
ENV02	Biodiversity protection and enhancement
ENV04	Open Space, Sport & Recreation
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
GEN05	Settlement Boundaries
HOU06	Principle of New Housing
HOU07	Affordable Housing
HOU10	Technical Design Standards for New Homes
INF02	Developer Contributions
NPPF	National Planning Policy Framework (Revised 2021)
NPPG	National Planning Practice Guidance
TR01	Sustainable Transport Network
TR02	Transport Requirements

OBLIGATIONS/CIL

The previous planning permission for application reference 3PL/2017/1354/F had attached a section 106 agreement to secure the following obligations, which would continue to apply if planning permission was granted for this variation. Those obligations include:

- Affordable housing obligations.
- Open space provision.
- Library contribution.

CONSULTATIONS

NORFOLK COUNTY COUNCIL HIGHWAYS

No objection.

Notwithstanding the above, as stated in the applicants covering letter, these trees need to be removed in order to re-align the existing ditch and to provide the required junction visibility. However, the amended site plan (drawing 3627-9-105-G) still shows the existing ditch with a hedge immediately behind it, in its current position and not re-aligned as necessary with the drainage basin to its rear. For the avoidance of doubt, if an amended site plan is to be referenced in the amended conditions it should reflect the access requirements / highway improvements.

TREE AND COUNTRYSIDE CONSULTANT

Please could details of tree planting be provided as replacements for the removal of additional trees, size, species, location.

ECOLOGICAL AND BIODIVERSITY CONSULTANT No Comments Received

COLKIRK P C No Comments Received

REPRESENTATIONS

Six representations have been received, their comments are summarised as follows:

- Three trees have already been removed in May 2021 during the nesting season in contravention of the Wildlife and Countryside Act.
- The removal of a further 4 trees, the landscape impact is considerably higher.
- Whissonsett Road is a typical Norfolk countryside lane. Without these 7 large trees that have been growing along Whissonsett Road for over a hundred years, this part of the road will lose much of its character.
- The developers state that they will plant more trees on the new estate. They do not give details but planting new trees on the new estate does not improve the decimated look of Whissonsett Road.
- 3 years has passed which is more than adequate for the design to be submitted and agreed. These two conditions should still apply as nothing has changed.
- Substantial 1600' SINK HOLE on the Site.
- Please confirm that this development will comply with the new Environmental Law and any variation to the conditions take due regard of this "more onerous responsibility" towards the protection and saving of our future for the next generations to come.

ASSESSMENT NOTES

1.0 Principle

1.1 The principle of development was established by the granting of planning application 3PL/2017/1354/F.

1.2 Only the matters of variation applied for can be considered as part of this planning application.

2.0 Is the variation acceptable?

2.1 The applicant is seeking to vary condition's Variation of Condition No's 2, 7 & 8 on 3PL/2017/1354/F as follows:

2 - To amend the approved Site Plan and Arboricultural Method Statement

7 - To amend the tree protection measures

8 - To revise the tree removal details

2.2 Condition 2 states:

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.

2.3 Condition 7 states:

Prior to the commencement of any work on the site, the trees shown on Tree Protection Plan in the Arboricultural Method Statement reference 2015.235.5_TPP_Colkitk and Appendix 1 by Norfolk Wildlife Services and dated 11.04.19 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.

2.4 Condition 8 states:

No trees or hedges shall be cut down, uprooted destroyed, lopped or topped, other than in accordance with the Tree Survey and Report prepared by Norfolk Wildlife Trust and dated 18.04.19, 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.

2.5 The applicant has stated the following with regards to the reason(s) for seeking to vary these conditions:

'During the course of the detailed design work following the grant of planning permission, it has become apparent that it will be necessary to remove an additional four trees from the site, over and above those already agreed for removal in the approved Tree Survey and Report prepared by Norfolk Wildlife Trust dated 18.04.19. Trees TG35-38 need to be removed in order for the roadside ditch to be culverted, which is necessary to accommodate the required off-site highways works. These four trees are category B and C, and whilst their removal is regrettable it is necessary to facilitate the development. In order to mitigate their loss, a number of replacement trees are proposed to be planted elsewhere within the site.'

2.6 The Tree Officer has been consulted and initially requested further information. This information has been received and the further comments of the Tree Officer are in general agreement with the removal, as planning permission has been granted and as the trees to be removed are not considered exceptional.

2.7 The Highways Authority have been consulted and raise no objections to the proposals. The applicant has provided an amended plan to show the works to the ditch, as requested.

2.8 The Tree's to be removed are two category C trees (T37 and T38), and two category B trees (T35 and T36). Policy ENV06 of the Breckland Local Plan seeks to retain significant trees and hedgerows and the removal of two category B trees is considered contrary to this policy. However, the variation would allow for the lawful commencement of development, which was deemed acceptable under application reference 3PL/2017/1354/F, this permission being a material planning consideration. The proposal would contribute to the delivery of housing in accordance with Paragraph 11 and Section 5 of the NPPF, contributing to the Council's five year housing land supply.

2.9 The proposal would also improve access, visibility and highways safety in this location and that is considered to accord with Policies TR01 and TR02 of the Breckland Local Plan (adopted 2019).

2.10 Sixteen replacement trees are proposed to be planted, the details of which are considered acceptable by the Tree Officer.

2.11 Despite the proposal being considered contrary Policy ENV06 of the Breckland Local Plan (adopted 2019), given the proposed replacement planting, which can be secured via a suitably worded planning condition, and given the improvements to access and highway safety, as well as facilitating the development of 21 dwellings, which already has planning permission, then in this instance the proposal is considered to be acceptable on balance.

3.0 Other Matters

3.1 Since the previous permission has been granted the Breckland Local Plan has been adopted (2019). It is not considered that the adoption of this document would significantly alter the recommendation for approval for this application, taking into consideration the earlier consent. Conditions will however be updated to reflect the proposals, existing adopted policies within the Breckland Local Plan and any discharged conditions.

3.2 Reference has been made in the public representations received regarding the removal of trees. However, the applicant has confirmed that only trees with consent to be removed, have been removed. Of consideration in this variation of condition application is the additional four trees proposed for removal rather than those already consented for removal. Also, any works undertaken, were undertaken in accordance with conditions 8 and 14 of the outline planning permission, which allows for tree works to be carried out during birds nesting season whereby the works were authorised by an competent ecologist.

4.0 Conclusion

4.1 On balance, the proposal is considered acceptable and the application recommended for approval, despite being contrary to Policy ENV06 of the Breckland Local Plan. The other material planning considerations of the earlier consent, replacement planting and the delivery of houses, as well as compliance with Policies TR01 and TR02 in terms of providing an improved access and visibility, would when looking at the Development Plan as a whole, on balance, be compliant. The proposal is recommended for approval, subject to conditions, which have been updated accordingly to reflect these proposals, existing adopted policies within the Breckland Local Plan and discharged conditions.

RECOMMENDATION

The application is recommended for approval, subject to the following conditions.

CONDITIONS

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

The development must be begun in accordance with the timescales as set out in application reference 3PL/2017/1354/F.

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 application reference 3PL/2017/1354/F and at 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**

The materials shall accord with the details approved under the discharge of condition reference 3DC/2021/0199/DOC, unless otherwise first agreed in writing by the Local Planning Authority.

Reason for condition:-
To ensure the satisfactory appearance of the development, in accordance with Policies GEN02 and COM01 of the Breckland Local Plan (adopted 2019).

This condition will require to be discharged
- 4 Contaminated Land (Full)**

The details regarding contamination shall accord with the details approved under the discharge of condition 4 reference 3DC/2021/0199/DOC, part C shall be discharged, as follows:

C. Implementation of Approved Remediation Scheme

The approved remediation scheme shall 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:-
Details are required prior to commencement 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 in accordance with Section 15 of the NPPF.

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 in accordance with Section 15 of the NPPF.

This condition will require to be discharged

6 Landscaping scheme to be submitted - hard and soft

The details of the hard and soft landscaping for the development shall accord with the details approved under the discharge of condition application reference 3DC/2021/0199/DOC, unless otherwise first agreed in writing by the Local Planning Authority.

Reason for condition:-

In the interests of the satisfactory appearance of the development in accordance with Policy ENV06 of the Breckland Local Plan (adopted 2019).

This condition will require to be discharged

7 Fencing protection for existing trees

Prior to the commencement of any work on the site, the trees shown on Tree Protection Plan in the updated Arboricultural Method Statement reference 2015.253.5_AMS dated 06.09.2021 by Norfolk Wildlife Services 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 ENV06 of the Breckland Local Plan (adopted 2019).

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 updated Tree Survey and Report prepared by Norfolk Wildlife Trust reference 2015.253.5_AMS and dated 06.09.2021, 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 by 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 are and the satisfactory appearance of the development in accordance with Policy ENV06 of the Breckland Local Plan (adopted 2019).

This condition will require to be discharged

9 Planting scheme

A detailed scheme for planting, in accordance with the submitted planting plan 2132-WWA-ZZ-GF-GA-L-0300 PL01 shall be submitted to and approved in writing prior to first occupation of any of the units hereby approved. The works shall take place in the first planting season November/March following approval of the planting scheme. Any trees or hedges which are removed or die within the first five years shall be replaced during the next planting season November/March with trees of the same size and species or as agreed in writing by 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 are and the satisfactory appearance of the development in accordance with Policy ENV06 of the Breckland Local Plan (adopted 2019).

10 Boundary treatment/screening to be agreed

The means of boundary treatment for the development shall accord with the details approved under discharge of condition reference 3DC/2021/0199/DOC, unless otherwise first agreed in writing by the Local Planning Authority.

Reason for condition:-

In the interests of the satisfactory appearance of the development in accordance with Policies GEN02 and COM01 of the Breckland Local Plan (adopted 2019).

This condition will require to be discharged

11 Construction Method Statement

No development shall take place, in accordance with the approved Construction Method Statement, approved under discharge of condition application reference 3DC/2021/0216/DOC.

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 in accordance with Policies TR01, TR02 and COM03 of the Breckland Local Plan (adopted 2019).

This condition will require to be discharged

12 Precise details of surface water disposal

Prior to the commencement of any works 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:-

The details are required to minimise the possibilities of flooding from the outset of the development. This condition is imposed in accordance with Policy ENV09 of the Breckland Local Plan (adopted 2019).

This condition will require to be discharged

13 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 Policy ENV09 of the Breckland Local Plan (adopted 2019).

This condition will require to be discharged

14 Ecology - GCN

The details regarding the method statement for dealing with Great Crested Newts shall accord with the details approved under condition 13 on the discharge of condition application reference 3DC/2021/0199/DOC, unless otherwise first agreed in writing by the Local Planning Authority.

Reason for condition:-

Details are required prior to commencement to protect and enhance ecology in accordance with Policy ENV02 of the Breckland Local Plan (adopted 2019).

15 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 ENV02 of the Breckland Local Plan (adopted 2019).

16 ECMP

The development shall accord with the Ecological Management Plan details approved under discharge of condition reference 3DC/2021/0199/DOC, unless otherwise first agreed in

writing by the Local Planning Authority.

Reason for condition:-

Details are required prior to commencement to protect and enhance ecology in accordance with Policy ENV02 of the Breckland Local Plan (adopted 2019).

17 Full details of external lighting

No external lighting shall be erected unless full details have first been submitted to and agreed in writing with the Local Planning Authority. The details shall include a lighting plan indicating luminance levels both on the site and beyond, and a schedule of equipment including mounting heights. Such lighting shall be kept to the minimum necessary for the purposes of security and site safety and shall prevent upward and outward light radiation. The lighting shall be installed, maintained and operated in accordance with the approved details unless otherwise agreed by the Local Planning Authority.

Reason for condition:-

In the interests of the amenities of the area and local residents and to minimise light pollution in accordance with Policies COM03 and ENV09 of the Breckland Local Plan (adopted 2019).

This condition will require to be discharged

18 Standard estate road conditions

Prior to commencement of development above slab level, detailed plans of the roads, footways, cycleways, street lighting, foul and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. All construction works shall be carried out in accordance with the approved plans.

Reason for condition:-

This needs to be a pre-commencement condition to ensure fundamental elements of the development that cannot be retrospectively designed and built are planned for at the earliest possible stage in the development and therefore will not lead to expensive remedial action and adversely impact on the viability of the development in accordance with Policies TR01 and TR02 of the Breckland Local Plan (adopted 2019).

This condition will require to be discharged

19 Standard estate road conditions

Prior to first occupation of the final dwelling, hereby approved, all works shall be carried out on roads, footways, foul and surface water sewers in accordance with the approved details.

Reason for condition:-

To ensure satisfactory development of the site and to ensure estate roads are constructed to a standard suitable for adoption as public highway in accordance with Policies TR01 and TR02 of the Breckland Local Plan (adopted 2019).

20 Standard estate road conditions

Prior to first occupation of any of the dwellings hereby approved, the road(s) and footway(s) shall be constructed to binder course surfacing level from the dwelling to the adjoining County road in accordance with the details to be first submitted to and approved in writing by the Local Planning Authority.

Reason for condition:

To ensure satisfactory development of the site in accordance with Policies TR01 and TR02 of the Breckland Local Plan (adopted 2019).

21 Provision of visibility splays - condition/approved plan

Prior to the first occupation of any of the dwellings hereby approved, the permitted visibility splays measuring 2.4 x 43 metres (to the north) and 2.4 x 59 metres (to the south) shall be provided to each side of the access where it meets the highway. The splay(s) shall thereafter be maintained at all times free from any obstruction exceeding 0.225 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 in accordance with Policies TR01 and TR02 of the Breckland Local Plan (adopted 2019).

This condition will require to be discharged

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Highway improvements - off-site

Notwithstanding the details indicated on the submitted drawings, prior to the commencement of development, except for below slab level works to Plot 8, detailed drawings for the off-site highway improvement works shown indicatively on Drawings 47226-C-021 & 47226-C-022 shall be submitted to and approved in writing by the Local Planning Authority (for the avoidance of doubt these off site works include pedestrian provision along alongside the west/south side of Whissonsett Road between School Road to the north and the Allotments Access to the south).

Prior to the first occupation of any of the dwellings hereby permitted the off-site highway improvement works shall be completed, unless otherwise first agreed in writing by the Local Planning Authority.

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 TR01 and TR02 of the Breckland Local Plan (adopted 2019).

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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.