

ITEM:		RECOMMENDATION:	APPROVAL
REF NO:	3PL/2022/0132/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 22 of planning permission 3PL/2021/1265/VAR - to vary the wording to enable works to continue up to slab level across all plots, in advance of this condition being discharged		
		LB GRADE:	N
		TPO:	N

DEFERRED REASON

This application deferred from Planning Committee on 12th April 2022. The Council has sought an update from Norfolk County Council Highways Authority, which will be shared with Members of the Planning Committee at the Committee meeting. No other amendments have been made to the Officer report, which follows.

REASON FOR COMMITTEE CONSIDERATION

The applicant is Breckland Bridge.

KEY ISSUES

Are the variations acceptable?

DESCRIPTION OF DEVELOPMENT

Condition 22 - To amend the trigger point to prior to the commencement of development above slab level.

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 Permission 18-09-19

Erection of 21 dwellings

3PL/2021/1265/VAR Permission 10-11-21

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

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.

A Unilateral Undertaking is required with this application for GIRAMs payment.

CONSULTATIONS

COLKIRK P C

This just makes a mockery of the whole planning process and raises concerns about the real motive behind this application. The Parish Council have strong concerns that the powers of the highways authority will be undermined if this application is given approval and a precedent will be set for future developments that require Highways approval.

The Parish Council also object to the cutting down of more trees before the Highways Authority make their final decision.

TREE AND COUNTRYSIDE CONSULTANT

No objection.

REPRESENTATIONS

One letter of representations has been received, their comments are summarised as follows:

- The Colkirk end of Whissonsett Road is extremely busy especially with heavy duty farm traffic. There is no pedestrian walkway and the road itself is very narrow, often requiring one-way only traffic. I do not believe this road could safely sustain the use of heavy building equipment, cement mixers, large delivery vehicles etc. Please ensure that the highways improvements are complete before such traffic is allowed to the site.

ASSESSMENT NOTES

1.0 Principle

1.1 The principle of development was established by the granting of planning application 3PL/2017/1354/F and 3PL/2021/1265/VAR.

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

2.0 Is the variation acceptable?

Condition 22 - To amend the trigger point to prior to the commencement of development above slab level.

2.2 Condition 22 states:

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).

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

'Condition 22 relates to off-site highway works. At present, this condition requires, details of the off-site highways improvement works to be submitted and approved prior to the commencement of development, apart from below slab level works to Plot 8. Whilst these plans have been submitted, Norfolk County Council have advised that they will not be able to recommend discharge of this condition until the separate s278 agreement has been approved. This has been a lengthy process, with the s278 submitted in May 2021 still not agreed by Highways.

It is proposed to vary the wording to enable works to continue up to slab level across all plots, in advance of this condition being discharged. We therefore request the condition is amended to read:

Notwithstanding the details indicated on the submitted drawings, prior to the commencement of development, above slab level, 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'.

2.4 The Highways Authority have objected to the application for the following reason(s):

'Whilst the normal wording of planning conditions relating to the design for the off-site highway works would normally allow commencement of development up to slab level. You will be aware the County Council had significant concerns that the approved scheme would not pass the technical / safety audit process and would not be buildable due to the impact on third party land. As a consequence we required the condition's trigger to be prior commencement of any works (except on plot 8), to ensure we had a buildable scheme to mitigate the impact of the development. However, as you will be aware the approval for the off-site highway improvements has still not been granted. Therefore, the position of the County Council remains unchanged and I could not support the proposed relaxation of condition 22 of 3PL/2021/1265/VAR'.

2.5 Despite the Highways Authority objection, it is important to note that the site already has planning permission.

That the technical / safety audit process, is not part of planning regulations and affects works to the highway. Any works undertaken by the developer would be at their own risk (i.e. in the event the technical / safety

audit process was not acceptable). This process is causing delays to the delivery of development.

2.6 As the proposal would facilitate the delivery of 21 dwellings, which already has planning permission and prevent unnecessary further delays, then in this instance the proposal is considered to be acceptable on balance.

2.7 Comments received with regards to highway safety are noted. However, the access and development already has planning permission for 21 dwellings in this location. The concerns of the Highways Authority are also noted but these can be adequately dealt with by the technical / safety audit process and the Highways Authority directly. This latter process is not a planning requirement and does not affect the granting of the earlier consent.

3.0 Other Matters

3.1 Ecology

Since the granting of the earlier planning permission, Breckland District Council, along with all other Norfolk Local Authorities have adopted the Norfolk Green Infrastructure and Recreational impact Avoidance and Mitigation Strategy (GIRAMs) meaning any development where additional recreational impact is likely to be generated, will be required to pay a one off tariff of £185.93 per dwelling/unit to go towards the Norfolk Recreation Impact Avoidance Mitigation Strategy. This is because evidence from the Norfolk Green Infrastructure and Recreational Impact Avoidance and Mitigation strategy shows that schemes which create additional recreational impact (in combination with other development), in the zone of influence of European Protected wildlife site, will likely have a significant effect through recreation impact i.e. visiting sites for recreational purposes. On this basis, a Unilateral Undertaking will be required to ensure payment of the GIRAMs.

3.2 Trees

The Parish Council have referred to the removal of trees. However, the applicant has confirmed that only trees with consent to be removed, have been removed. 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.

3.3 Other matters such as design, amenity, flood risk are not affected by the proposed amendment(s). Conditions will however be updated to reflect the proposals, existing adopted policies within the Breckland Local Plan and any discharged conditions.

3.3 Nutrient Neutrality

This site has the potential to cause adverse impacts with regard to nutrient pollution, the exact implications of which and potential mitigation are yet to be agreed. For these reasons, officers are requesting delegation of this matter for further consideration and subject to appropriate assessment, if required, to add conditions/refuse planning permission if the proposal would result in adverse impacts to the integrity of protected habitats.

4.0 Conclusion

4.1 As the proposal would facilitate the delivery of 21 dwellings, which already has planning permission and will prevent unnecessary further delays, then the proposal is considered to be acceptable on balance. Matters of the off-site highway works can be adequately dealt with by the County Council through the technical / safety audit process. The proposal is therefore recommended for approval, subject to conditions (which have been updated accordingly to reflect these proposals) and a Unilateral Undertaking for GIRAMs

payment.

4.2 Delegation is also sought with regards to nutrient pollution and impacts to the integrity of protected habitats.

RECOMMENDATION

The application is recommended for approval, subject to the following conditions and a Unilateral Undertaking and delegation is also sought with regards to nutrient pollution and impacts to the integrity of protected habitats.

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 and 3PL/2021/1265/VAR.

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

The replacement planting proposed shall take place in accordance with the submitted planting plan 2132-WWA-ZZ-GF-GA-L-0300 PL01. 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

The development shall take place, in accordance with the approved Construction Method Statement, approved under discharge of condition application reference 3DC/2021/0216/DOC, unless otherwise first agreed in writing by the Local Planning Authority.

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

22 Highway improvements - off-site

Notwithstanding the details indicated on the submitted drawings, prior to the commencement of development, above slab level, 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).

26 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>

28 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.