

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991 and the Planning and Compulsory Purchase Act 2004)

TEMPORARY STOP NOTICE

Served by: Breckland District Council (the “Council”)

To: Owner and The Occupiers of land at Festival Road, Billingford

1. The Council has issued this temporary stop notice alleging that there has been a breach of planning control on the land described in paragraph 4 below.

2. This temporary stop notice is issued by the Council, in exercise of their power in section 171E of the 1990 Act, because they think that it is expedient that the activity specified in this notice should cease on the land described in paragraph 4 below. The Council now prohibits the carrying out of the activity specified in this notice. Important additional information is given in the Annex to this notice.

3. The Reasons for Issuing This Notice

It appears to the Council that a breach of planning control has occurred within the last four years in the form of operational development by the creation of a hardstanding and a material change of use from agriculture to the stationing of caravans for residential occupation within the last ten years.

Planning assessment:

1. The site is situated to the south of residential properties located along Festival Road. It was, until works commenced, a grassed area accessed via a narrow track to the NW of the site. The site also comprises a sewage treatment plant.
2. Along the eastern boundary of the site there are 2no. trees protected under individual TPOs.
3. The site lies within the river catchments for the River Wensum and The Broads Special Area of Conservation.
4. Billingford is a small village with limited local services. The village does not have a settlement boundary defined by the Breckland Local Plan (adopted 2023).

Policy:

5. The Development Plan consists of the Breckland Local Plan. Within the Local Plan the following policies are relevant:

- GEN01 – Sustainable Development in Breckland
- GEN02 – Promoting High Quality Design
- GEN03 – Settlement Hierarchy
- GEN05 – Settlement Boundaries
- HOU02 – Level and Location of Growth
- HOU05 – Small Villages and Hamlets Outside of Settlement Boundaries
- HOU08 – Provision for Travellers and Travelling Showpeople
- ENV02 – Biodiversity Protection and Enhancement
- ENV03 – The Brecks Protected Habitats and Species
- ENV05 – Protection and Enhancement of the Landscape
- ENV06 – Trees, Hedgerows and Development
- COM01 – Design
- COM03 – Protection of Amenity
- TR01 – Sustainable Transport Network
- TR02 – Transport Requirements

6. The following guidance is also considered to be of relevance:

Annex 1 of the Planning Policy for Travellers Sites (PPTS) August 2015

7. The following central government advice is also relevant:

National Planning Policy Framework (NPPF) – 2021
National Planning Practice Guidance (NPPG)

Assessment:

8. The development needs to be considered under Policy HOU 05 which advises that applications for small residential developments may be considered acceptable if they are considered to comprise sensitive infilling and rounding off of a cluster of dwellings with access to an existing highway. The site is located to the rear of a cluster of dwellings which is already rounded off by the siting of the existing dwellings at the end of the cul-de-sac. As such, the proposal would not comply with Policies HOU 05, GEN 03 or GEN 05 of the Breckland Local Plan (adopted 2023). The development is not found to be acceptable in principal when considered against these policies.
9. Given the above, the development would encroach upon the open countryside, extending the build form onto undeveloped land. As such, it would not protect the intrinsic character or beauty of the countryside in accordance with Policy ENV05 of the Breckland Local Plan (2023).
10. It is understood that the site is likely to be used by gypsies or travellers, although no evidence has been provided to assess this or demonstrate that this is the case. When considering such applications, it is necessary to establish whether or not the residents meet the definition of

gypsies and travellers set out at Annex 1 of the PPTS. The definition states that a gypsy and traveller means:

"Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling show people or circus people travelling together as such."

11. In the event that the site is to be used for such purposes, Policy HOU 08 permits 4 additional pitches for Gypsy and Traveller households, of which 1 should be provided in the first five years of the plan and which may be provided by the expansion of existing sites. Additional pitches/ plots for any additional requirements associated with newly confirmed need from unknown households are also allowed via the expansion of the existing sites. Whilst it is accepted that there is an unmet need for traveller pitches within the district the Council is currently undertaking a Gypsy and Traveller Needs Assessment to inform its ongoing review of the Local Plan.
12. Policy HOU08 of the Local Plan sets out 5 criteria which need to be met in respect of gypsy and traveller pitches:
 - a) The site is otherwise suitable for residential development and the associated necessary infrastructure requirements will be made available as part of the development proposal;
 - b) The site will have safe access to the highway and will not result in any unacceptable impact on the capacity and environment of the highway network;
 - c) The site is in a sustainable location in reasonable proximity to relevant services and facilities including but not limited to transport, education, healthcare and other community infrastructure provision;
 - d) The ability to achieve neighbourliness can be demonstrated in relation to the living conditions of current or future residents of the site and interaction with immediate neighbours and the wider settled community neighbourhood; and
 - e) The site is sensitive to local character and does not have an adverse visual impact on the character and appearance of the surrounding landscape.
13. The site lies adjacent to residential properties and as such would have access to the necessary utilities infrastructure. However, due to the restricted width of the access and restricted visibility, the existing access is unlikely to be sufficient to meet the requirements of the Highway Authority and provide for safe access for the intensified use of the site contrary to policy HOU08 of the Breckland Local Plan and paragraphs 110 and 111 of the NPPF.
14. Billingford has very limited local services and facilities which would mean a heavy reliance upon private vehicle to access services and therefore would not promote sustainable development. No detail is available with regards to how the development would interact with the local community.

15. The area in which the site is located is considered to be rural in character and the presence of caravans, the construction of significant areas of hardstanding is considered to have an adverse impact on the character and appearance of the surrounding landscape together with isolating the residents from the local community. This latter point is also contrary to paragraph 26 (d) of the PPTS. The development would therefore be contrary to criteria b - e inclusive of policy HOU08 of the Breckland Local Plan.
16. Section 15 of the NPPF and policy ENV02 of the Breckland Local Plan (adopted 2019) require the protection and enhancement of biodiversity. Development has resulted in the loss of vegetation and habitats on site. No evidence or assessment has been submitted to enable the impacts of this on protected and priority species, flora and fauna to be properly assessed. In the absence of such information it has not been possible to conclude that the development has appropriately mitigated for its impacts on wildlife and ecology, and has not provide for biodiversity net gain as required by policy ENV02 of the adopted Breckland Local Plan and paragraph 174 of the NPPF.
17. Following the advice of Natural England with regards to Nutrient Neutrality issued in March 2022, this development has been assessed against the conservation objectives for the protected habitats of the River Wensum Special Area of Conservation (SAC) and the Broads Special Area of Conservation (SAC) and Ramsar site concerning nutrient pollution in accordance with the Conservation of Species and Habitats Regulations 2017 (as amended) (Habitats Regulations).
18. The site also lies within the Nutrient Neutrality catchment for the River Wensum Special Area of Conservation (SAC). The Habitat Regulations require Local Planning Authorities to ensure that new development does not cause adverse impacts to the integrity of protected habitats such as the River Wensum SAC or The Broads SAC prior to granting planning permission. The development involves the creation of additional overnight accommodation and as such, it has been assessed as likely to lead to a significant effect as it would involve a net increase in population and nutrient loads in the catchment. On this basis, the development has been screened, using a precautionary approach, as likely to have a significant effect on the conservation objectives either alone or in combination with other projects. In the absence of evidence to the contrary the Local Planning Authority is not able to conclude that the integrity of these Habitat Sites would be maintained or that mitigation would be secured and delivered to ensure that upon occupation of the development the integrity and status of the affected Habitat Sites would be maintained. Accordingly the development is contrary to paragraphs 174 and 180 of the NPPF (2023) and the provisions of the Conservation of Species and Habitats Regulations 2017 (as amended) (Habitats Regulations).
19. In respect of the recreational impact of the development on Natura 2000 Designated Protected Habitat Sites within Norfolk e.g. the Brecks, North Norfolk Coast and the Broads; as described in the Norfolk Green Infrastructure and Recreational Impact Avoidance Mitigation Strategy, (GIRAMS) Breckland District Council, along with all other Norfolk Local Authorities, require a one off tariff of £210.84 per dwelling/unit for any development where additional recreational impact is likely to be generated. This would go towards recreation

impact avoidance and mitigation measures to mitigate the effects of recreational disturbance on the Habitat Sites in Norfolk.

20. The relevant Habitat sites (European sites) in Norfolk comprise: Breckland SPA & Breckland SAC; The Broads SAC & Broads SPA; Breydon Water SPA; North Norfolk Coast SAC; North Norfolk Coast SPA; The Wash and North Norfolk Coast SAC; Norfolk Valley Fens SAC; The Wash SPA; The Wash Ramsar.
21. The Norfolk GIRAMS identifies recreational disturbance impacts from the following types of development:
 1. All new dwellings of 1+ units in current site allocations and windfall (excludes replacement dwellings and extensions)
 2. Houses in Multiple Occupancy e.g. hotels, guest houses and lodges;
 3. Student Accommodation
 4. Residential care homes and residential institutions (excludes nursing homes)
 5. Residential caravan sites/mobile homes/park homes;
 6. Gypsies, travellers and travelling show people plots;
and in addition to Natural England's Advice we recommend including:
 7. Residential moorings, holiday caravans, touring pitches and campsites.
22. The development involves additional development identified above and therefore has the potential to result in recreational pressure on the above European sites. In light of this it has not been possible to screen out likely significant effects on Habitat Sites from recreational disturbance resulting from the development either alone or in combination with other projects.
23. Accordingly, an Appropriate Assessment as required by the Conservation of Habitats and Species Regulations (2017) would need to be undertaken by the Council as competent authority if permission were sought for the development. The development when acting alone or in combination with other projects has the potential to cause adverse impacts on the integrity of the above European sites from additional recreational disturbance. In order to mitigate for this recreational disturbance resulting from the development mitigation is required in the form of the County wide tariff. Without the payment of this tariff, or the provision of other appropriate forms of mitigation, the Council would not be able to conclude that the development and its occupation would maintain the integrity of the above Habitat Sites and therefore the development would be contrary to paragraph 174 of the NPPF (2023).
24. It is therefore considered that planning permission is likely to be refused.

Reasons for Refusal:

1. The proposed development is contrary to the provisions of the Adopted Breckland Local Plan (2023) in particular policies: GEN01, GEN02, GEN03, GEN05, HOU02, HOU05, HOU08,

COM01, ENV02, ENV05, and TR02 as well as the National Planning Policy Framework. The development conflicts with criteria b – e (inclusive) of policy HOU08, and it has not been demonstrated that the applicant(s) meet the definition of gypsies and travellers as set out at Annex 1 of the Planning Policy for Travellers Sites (PPTS) August 2015 and is therefore contrary to the guidance set out within that document.

2. The introduction of built form in this location would encroach upon the open countryside which would detrimentally alter the appearance of the area and does not preserve or enhance the intrinsic character and beauty of the countryside. It is therefore contrary to Policies GEN 02, COM 01 & ENV05 of the Breckland Local Plan (2023), as well as the National Planning Policy Framework (2023) and PPTS (2015).
3. The unclassified road serving the site is considered to be inadequate to serve the development proposed, by reason of its restricted width, restricted visibility, turning head availability and parking provision. The development would likely increase traffic along Festival Road, and in particular movements of large vehicles along a narrow highway. The proposal, if permitted, would be likely to give rise to conditions detrimental to highway safety and is contrary to policy TR02 of the adopted Breckland Local Plan (2023) and the NPPF (2023).
4. The proposal is remote from local service centre provision conflicting with the aims of sustainable development, the need to minimise travel, and the ability to encourage walking, cycling, use of public transport and reduce the reliance on the private car as represented in national and local policy. It is therefore contrary to policy TR02 of the adopted Breckland Local Plan (2023), the National Planning Policy Framework and Policy 5 of Norfolk's 3rd Local Transport Plan, entitled Connecting Norfolk.
5. Insufficient information has been provided in respect of the ecological implications of the development and whether the development would provide net gains to biodiversity. Therefore, the proposals fail to demonstrate how they will preserve and enhance ecology in accordance with Policy ENV02 of the adopted Breckland Local Plan (2023), as well as Section 15 of the National Planning Policy Framework (2023).
6. A suitable Unilateral Undertaking or alternative package of mitigation measures in relation to the Norfolk GIRAMS to mitigate the recreational impact of the development on European / Habitat sites has not been provided and therefore the development fails to mitigate the impact of this development on Habitat Sites contrary to Policies ENV02 and ENV03 of the Breckland Local Plan (Adopted 2019), paragraph 174 of the NPPF (2023) and The Conservation of Habitats and Species Regulations (2017). The granting permission for the project would be contrary to the provisions of the Habitat Regulations which require the integrity of the above Habitat sites to be maintained or it be demonstrated that the three derogation tests are complied with.

Insufficient information is available for the Local Planning Authority to adequately assess the impact of the development in respect of nutrient pollution to the River Wensum Special Area of Conservation (SAC) and The Broads Special Area of Conservation (SAC) and Ramsar site, and safely conclude that their integrity is maintained. As a result, the proposal conflicts with paragraphs 174 and 180 of

the National Planning Policy Framework, which indicates that development should protect sites of biodiversity value and contribute to and enhance the natural environment having regard to water quality and pollution. This precautionary approach is in line with the requirements of The Conservation of Habitats and Species Regulations (2017), and the granting permission for the project would be contrary to the provisions of the Habitat Regulations which require the integrity of the above Habitat sites to be maintained or it be demonstrated that the three derogation tests are met.

Due to the potential for significant impacts on local amenities, interference with the peaceful enjoyment of neighbouring properties and harm to good community relations the Council considers it is expedient to issue this notice having taken into account the costs and benefits of doing so weighed against the needs of the occupants.

Whilst an application for planning permission for the change of use has been submitted it is the opinion of the Council that such a change of use would not be supported for the reasons set out above and issue of this notice is reasonable and proportionate due to the immediate impacts of the development on the surrounding area.

In making this decision and imposing the requirements, the Council has also considered the European Convention on Human Rights, in particular, Article 1 – Protection of property, and Article 8 - Right to respect for private and family life, and finds that the protection of amenity and the environment is proportionate and a legitimate aim in respect of such rights.

The Council has also considered its duties under section 149 of the Equality Act 2010 and in making its decision it has had regard to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by or under the Act as well as the need to advance equality of opportunity and good relations between people who share relevant protected characteristic and those who do not.

4. The Land to Which the Notice Relates

Land at Festival Road, Billingford shown edged red on the attached plan.

5. The Activity to Which This Notice Relates

Without planning permission, the carrying out of a material change of use from agriculture to the stationing of caravans for residential occupation and operational development associated with the material change of use.

6. What You Are Required to Do


- Immediately cease all operational development being carried out on the Land associated with the change of use for the stationing of caravans for residential occupation.
- Immediately cease the residential occupation of the Land.

- Immediately cease the unlawful use of the Land for the stationing of caravans for residential occupation.

7. When This Notice Takes Effect

This notice takes effect on *08/11/2023* when all the activity specified in this notice shall cease. This notice will cease to have effect on *06/12/2023*.

Dated: *08/11/2023*

Signed: 

Rob Walker
Deputy Chief Executive
For and on behalf of:
Breckland District Council
Elizabeth House
Walpole Loke
Dereham
Norfolk
NR19 1EE

ANNEX

WARNING

THIS NOTICE TAKES EFFECT ON THE DATE SPECIFIED IN PARAGRAPH 7.

**THERE IS NO RIGHT OF APPEAL TO THE FIRST SECRETARY OF STATE
AGAINST THIS NOTICE.**

It is an offence to contravene a temporary stop notice after a site notice has been displayed or the temporary stop notice has been served on you. (Section 171G of the 1990 Act). If you then fail to comply with the temporary stop notice you will be at risk of **immediate prosecution** in the Magistrates' Court, for which the maximum penalty is £20,000 on summary conviction for a first offence and for any subsequent offence. The fine on conviction on indictment is unlimited. If you are in any doubt about what this notice requires

you to do, you should get in touch **immediately** with the Council's enforcement officer on 01362 656387. If you need independent advice about this notice, you are advised to contact urgently a lawyer, planning consultant or other professional adviser specialising in planning matters. If you wish to contest the validity of the notice, you may only do so by an application to the High Court for judicial review.

Festival Road, Billingford

