

PWM1	S14/1316	Target Decision Date:5th August 2014
		Committee Date:12th January 2016

Applicant	Lincolnshire County Council C/O Agent
Agent	Mrs J Robinson Robert Doughty Consultancy 32 High Street Helpringham Sleaford
Proposal	Residential development and use of former school playing field for community uses
Location	Former Aveland High School Birthorpe Road Billingborough Sleaford Lincs NG34 0QS
Application Type	
Parish(es)	
Reason for Referral to Committee	This application has been referred back to committee following resolution of the issues that led to deferral at the 21 July 2014 Committee
Recommendation	Approved conditionally

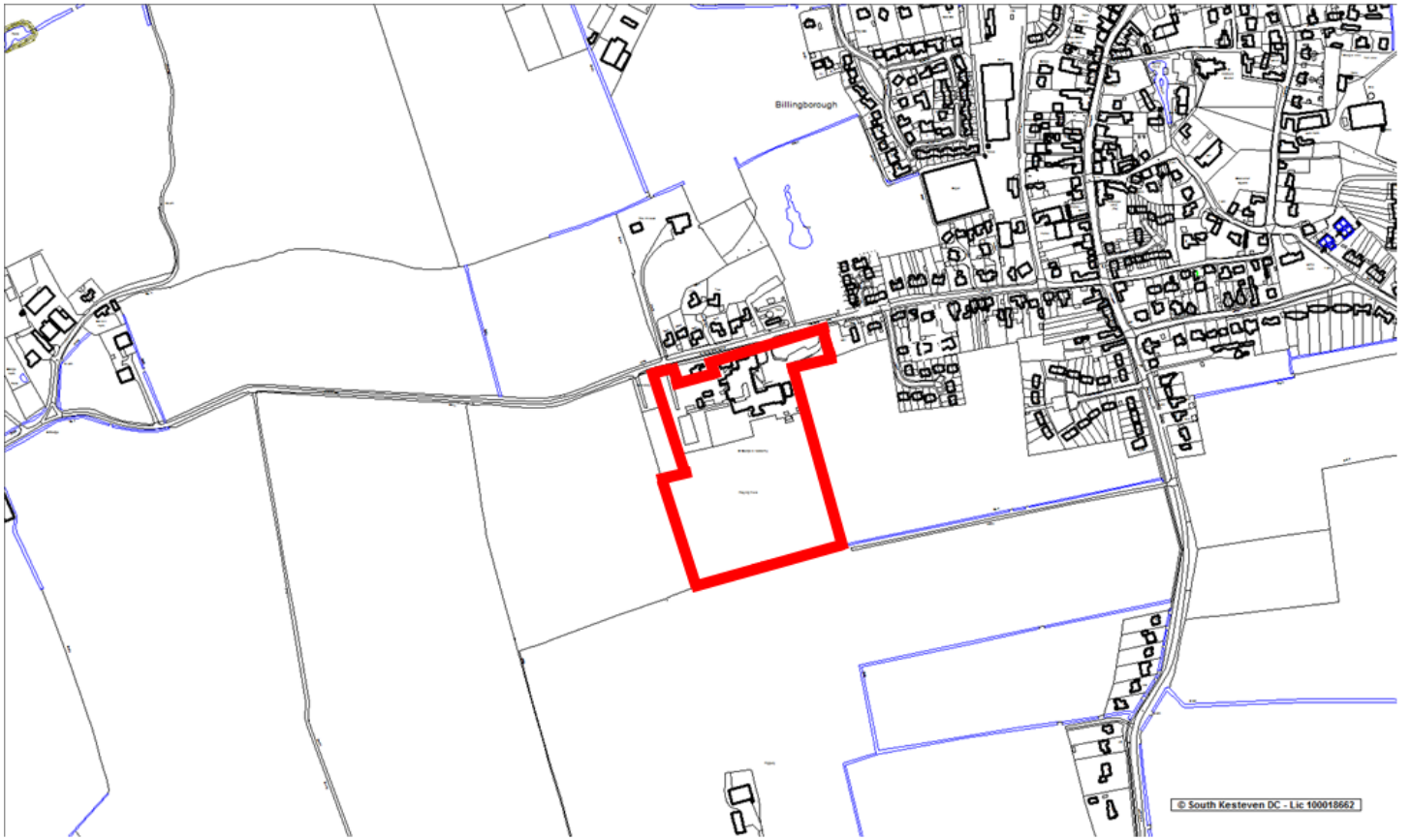
Key Issues

- Principle of development (sustainability)
- Impact on form and character of surrounding area
- Highway safety/traffic
- Drainage
- Viability and Affordable Housing

Technical Documents Submitted with the Application

- Floodrisk Assessment and Drainage Strategy
- Design and Access Statement
- Ecology Report
- Tree Survey
- Transport Statement
- Contamination Report
- Viability Appraisal

Enquires about this report to : Phil Moore Planning Officer 6461 p.moore@southkesteven.gov.uk



Key

-  Application Location
-  Application Boundary

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. © South Kesteven District Council (2015) - Licence No. 100018662

1.0 Update to Committee Report

1.1 Members may recall that this application was deferred at the 21 July 2015 committee in order to allow Billingborough Parish Council (BPC) and Lincolnshire County Council (LCC) to work with SKDC and come to an agreement on transfer of land and upgrading works to the playing field. The minutes of the 21 July Committee meeting are as follows:

To defer the application for a discussion to take place between Billingborough Parish Council, Lincolnshire County Council and South Kesteven District Council to include the Executive Manager for Development and Growth to find a solution towards implementation of basic infrastructure requirements for the proposed community facilities.

- 1.2 The minutes required a solution to be worked out relating to a single specific issue but did not raise any other fundamental concerns about the development. The reasons for deferral whilst not strictly planning considerations have now been resolved. With the agreement of the applicant, some changes have been made to some of the conditions, and an additional condition to ensure provision of affordable housing has been added in place of a section 106 agreement. The application has therefore been brought back to committee with a recommendation for approval.
- 1.3 Since the committee meeting, LCC (the applicant) and BPC (who would take over ownership of the playing field) have taken the initiative and got together to put together an agreement that the land will be transferred to BPC and the upgrade works carried out by LCC within a specified timescale before any further development takes place. BPC have now ratified the agreement. The agreement, whilst not part of the formal planning process, is in line with the VOA's viability assessment and the officer recommendation to approve.
- 1.4 In agreement with the applicant, officers have also made very minor change to an number of conditions - 2, 4 and 5 which would allow separate reserved matters applications to be submitted for the residential development and the works to the playing field. This is intended to allow details of the upgraded access track to be submitted, approved and implemented without the need for a fully worked up scheme for the residential development to be submitted at the same time. Reserved matters for that element would be submitted separately by the developer who buys the land, thereby avoiding LCC and BPC having to incur onerous time/expense as they will not be directly involved in developing the residential part of the site.
- 1.5 In addition, the applicant has requested that the affordable housing be required via a suitably worded condition rather than the S106 agreement originally envisaged. They have cited similar proposals where such conditions have been used in other districts elsewhere in Lincolnshire (including former school sites). Officers have taken expert advice from the Council's legal team who have concluded that whilst a S106 would be the most appropriate method in most cases, a suitably worded condition could be used in this case, particularly as there are no other S106 requirements. As such they are satisfied that the condition as worded (Condition 10) would be appropriate in this case. The Council's Affordable Housing Officer is also satisfied with the use and wording of the condition. It should be noted also that the Planning Inspectorate regularly use such conditions in appeal decisions including those recovered for determination by the Secretary of State.
- 1.6 Officers consider that a workable solution has been found to satisfy Committee's concerns and therefore overcome the reason for deferral and that the use of a condition would be a simpler and less onerous method for provision of affordable housing in this case.
- 1.7 The original Committee report from the 21 July 2015 agenda, as well as the Additional Items Paper from that Committee have been included in full as Appendices 1 and 2.

2.0 UPDATED RECOMMENDATION: that the development is Approved subject to the following conditions

- 1 The development hereby permitted shall be commenced before the expiration of three years from the date of this permission or two years from the approval of the last of the reserved matters, whichever is the latter.

Reason: In order that the development is commenced in a timely manner, as set out in Section 92 of the Town and Country Planning Act 1990 (as amended).

- 2 Details of the reserved matters set out below shall have been submitted to the Local Planning Authority for approval within three years from the date of this permission:

- i. layout;
- ii. scale
- iii. appearance
- iv. access
- v. landscaping

Approval of all reserved matters for each part of the site (a. Residential development b. Community open space and associated access) shall be obtained from the Local Planning Authority in writing before any development in that part of the site is commenced.

Reason: To enable the Local Planning Authority to control the development in detail and in order that the development is commenced in a timely manner, as set out in Section 92 of the Town and Country Planning Act 1990 (as amended).

- 3 The development hereby permitted shall be carried out in accordance with the following list of approved plans submitted as part of the application: 480/25/LP01 received 06 May 2014

Reason: To define the permission and for the avoidance of doubt.

- 4 When application is made for approval of the 'reserved matters' relating to the community open space and associated access, that application shall show details relating to the vehicular access to the public highway, including materials, specification of works and construction method. The approved details shall be implemented on site before the development is first brought in to use and thereafter retained at all times.

Reason: In the interests of safety of the users of the public highway and the safety of the users of the site.

- 5 When application is made for approval of the 'reserved matters' relating to the residential development, that application shall show details of a surface water and foul water drainage scheme (based on the submitted sustainable drainage strategy) has been submitted to and approved in writing by the Local Planning Authority.

The scheme shall:

- a) Provide details of how run-off will be safely conveyed and attenuated during storms up to and including the 1 in 100 year critical storm event, with an allowance for climate change, from all hard surfaced areas within the development into the existing local drainage infrastructure and watercourse system without exceeding the run-off rate for the undeveloped site;
- b) Provide attenuation details and discharge rates which shall be restricted to 6.3 litres per second;
- c) Provide details of the timetable for and any phasing of implementation for the drainage scheme; and
- d) Provide details of how the scheme shall be maintained and managed over the lifetime of the development, including any arrangements for adoption by any public body or Statutory Undertaker and any other arrangements required to secure the operation of the drainage system throughout its lifetime.

The development shall be carried out in accordance with the approved drainage scheme and no dwelling shall be occupied until the approved scheme has been completed or provided on the site in accordance with the approved phasing. The approved scheme shall be retained and maintained in full in accordance with the approved details.

Reason: To prevent the increased risk of flooding in accordance with Policy EN2 of the adopted South Kesteven Core Strategy (July 2010).

- 6 Residential development of the application site shall be restricted to that part of the site which is allocated under policy LSC1a of the South Kesteven Site Allocations and Policies DPD, and shall not be commenced until the details approved under condition 4 have been implemented and the remainder of the application site (including access from Birthorpe Road) has been brought into use as a community facility.

Reason: As this application is in outline form with all matters reserved, this condition is necessary to ensure that the former playing fields are brought into community use as part of the development in accordance with policy LSC1a of the South Kesteven Site Allocations and Policies DPD and to define the permission and for the avoidance of doubt.

- 7 No residential development shall be commenced until an Estate Street Phasing and Completion Plan has been submitted to and approved in writing by the Local Planning Authority. The Estate Street Phasing and Completion Plan shall set out the development phases and the standards that estate streets serving each phase of the development will be completed.

Reason: To ensure that the estate streets serving the development are completed and thereafter maintained to an acceptable standard in the interest of residential/highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the development; and to safeguard the visual amenities of the locality and users of the highway, in accordance with Policies of the Development Plan.

- 8 No residential development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved by the local planning authority. [The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a private management and maintenance company has been established].

Reason: To ensure that the estate streets serving the development are managed and maintained to an acceptable standard in the interest of residential/highway safety in accordance with Policies of the Development Plan.

- 9 No residential development shall commence, unless otherwise agreed in writing by the Local Planning Authority, until there has been submitted to and approved in writing by the Local Planning Authority: A detailed scheme (based on the conclusions of the submitted phase 1 desk study) for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include nomination of a competent person to oversee the implementation of the works. The development shall be carried out in accordance with the approved scheme.

Reason: Previous activities associated with this site may have caused, or had the potential to cause, land contamination and to ensure that the proposed site investigations and remediation will not cause pollution in the interests of the amenities of the future residents and users of the development; and in accordance with Policy EN1 of the adopted South Kesteven Core Strategy (July 2010) and national guidance contained in the NPPF.

- 10 No residential development shall commence until a scheme for the provision of affordable housing (taking into account local housing needs) as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved

scheme and shall meet the definition of affordable housing in Annex 2 of the NPPF or any future guidance that replaces it. The scheme shall include:

- i. the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 28% of the housing units;
- ii. not less than 60% of the affordable housing units to be provided as social/affordable rented units and a maximum of 40% to be provided as shared ownership unless otherwise agreed in writing
- iii. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- iv. the arrangements for the transfer of the affordable housing to an affordable housing provider[or the management of the affordable housing] (if no RP (Register Provider)involved) ;
- v. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- vi. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

Reason: To ensure that a reasonable provision of affordable housing is met as part of the development in accordance with national, regional and local housing policies considered and in accordance with Policy H3 of the adopted South Kesteven Core Strategy (July 2010)and Planning Obligations Supplementary Planning Document June 2012, Section 2 Affordable Housing.

- 11 Pursuant to condition 4, the community facility and associated access shall be retained thereafter for community sports/recreational uses and allotments or other community uses as may be agreed in writing with the local planning authority.

Reason: To define the permission and for the avoidance of doubt.

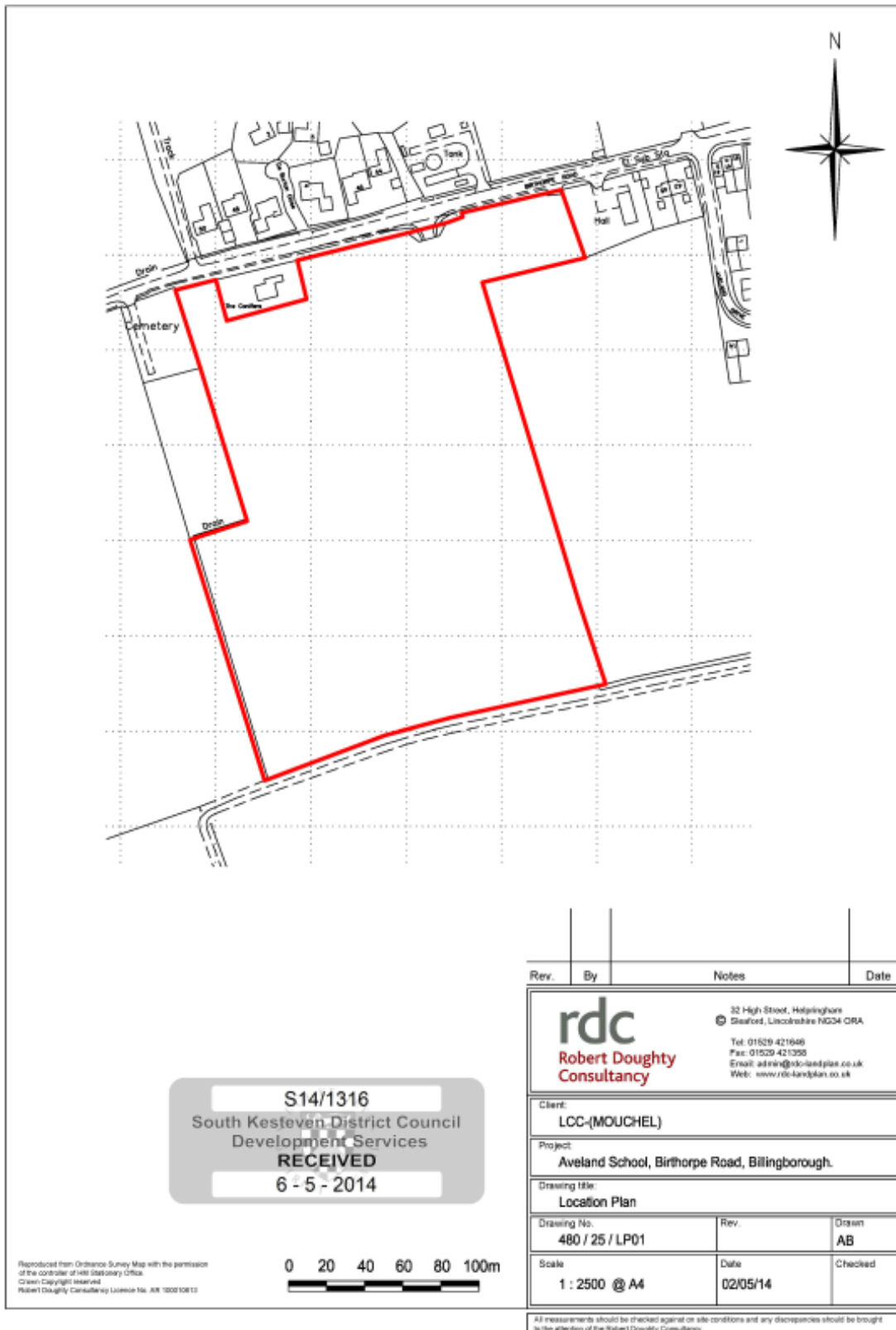
Standard Note(s) to Applicant:

- 1 This site is within 50m of a Land Contamination Concern. Please contact Environmental Protection Services on 01476 406300 for further information.
- 2 You are advised to contact Lincolnshire County Council as the local highway authority for approval of the road construction specification and programme before carrying out any works on site.
- 3 Anglian Water has assets close to or crossing the site or there are assets subject to an adoption agreement. Therefore, the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable, then the sewers will need to be diverted at the developer's cost under section 185 of the Water Industry Act 1991, or in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before the development commences.
- 5 Prior to the commencement of any access works within the public highway, you should contact the Divisional Highways Manager on 01522 782070 for application specification and construction information.

Indicative Site Plan:



Site Location Plan:



S14/1316
 South Kesteven District Council
 Development Services
RECEIVED
 6 - 5 - 2014

Rev.	By	Notes	Date
<p>32 High Street, Helpingsham Seaford, Lincolnshire NG24 0RA Tel: 01529 421648 Fax: 01529 421398 Email: admin@rdc-landplan.co.uk Web: www.rdc-landplan.co.uk</p>			
Client: LCC-(MOUCHEL)			
Project: Aveland School, Birthorpe Road, Billingborough.			
Drawing title: Location Plan			
Drawing No. 480 / 25 / LP01	Rev.	Drawn AB	
Scale 1 : 2500 @ A4	Date 02/05/14	Checked	
All measurements should be checked against on site conditions and any discrepancies should be brought to the attention of the Robert Doughty Consultancy.			

Appendix 1 Original Committee Report from 21 July 2015 Committee

The original Committee report from the 21 July 2015 agenda has been included in full below

1.0 Application Category

1.1 This application is categorised as a major outline application for residential development.

2.0 Reason for Referral to Committee

2.1 This application has been referred to the committee by virtue of the scale of development. It also requires a Section 106 agreement.

3.0 The Site

3.1 The site is the former Aveland School in Billingborough which is approximately 4.45ha in area and is roughly rectangular in shape. It consists of the cleared site of the former school buildings and associated hardstandings adjacent to Birthorpe Road as well as the former playing fields to the rear. There are two existing formal accesses to the former school buildings along Birthorpe Road with a third fenced off informal access further to the west to the playing fields.

3.2 The site is on the south western edge of the built part of the village. The formerly built up part of the site is a continuation of low density ribbon development along Birthorpe Road, whilst the playing field protrudes into open countryside.

3.3 Billingborough is a 'Large Village' designated as a Local Service Centre under Core Strategy Policy SP2. The part of the site formerly occupied by the school buildings (approximately 1.5ha) is allocated for residential development in the Site Allocations and Policies Plan policy LSC1a with the proviso that the remainder of the site (approximately 2.5ha) should be provided as open space for community use (including playing fields and allotments), to be accessed along the track adjacent to the development.

4.0 The Proposal

4.1 This application seeks outline planning permission with all matters reserved for residential development and use of the former school playing field for community uses.

4.2 The indicative plan submitted with the application shows how the site could be developed. The residential development is shown within the allocation boundary on the site of the former school buildings with access via the existing main school access (in accordance with SAP policy LSC1a), and the playing field retained for community use accessed from Birthorpe Road via the track along the western boundary of the site. As this is an outline application, the exact community uses have not been specified but the details submitted suggest it is likely to be used as football pitches and allotments (in accordance with SAP policy LSC1a)

4.3 It is understood that should outline planning permission be granted, the applicant (Lincolnshire County Council) intends to sell the allocated land to a developer and give the remainder of the land to Billingborough Parish Council who will own and maintain this land for community uses.

4.4 The proposal as originally submitted specified 25 dwellings. Officers consider that it is inappropriate to specify a quantity which is significantly below the indicative density in the SAP of 35 dwellings, given that this is an outline application with all matters reserved. It should be noted

that the inspector at the examination in public for the SAP stated: “The PHMM28 Main Modification sets out the indicative capacity of the proposed housing site. I do not consider that this indicative figure should be further reduced. It is only when a detailed layout is drawn up that decisions about the effect of density of development on the surroundings can be determined and that assessments can be made about the actual capacity of the site.” The description has since been amended by the applicant to an unspecified number of dwellings to take account of the above as well expectations of national and local policy and the indicative density of 35 in the SAP allocation and to allow greater flexibility for the future developer at the reserved matters stage.

5.0 Relevant Planning History

5.1 None

6.0 Evaluation

6.1 Main Issues

- Principle of development (sustainability)
- Impact on form and character of surrounding area
- Highway safety/traffic
- Drainage
- Viability and Affordable Housing

6.2 Principle of Development

6.2.1 The thrust of national and local policy is that development should be in sustainable locations wherever possible. The CS has a very clear spatial strategy for the location of new development. CS policies SP1(Spatial Strategy) and H1 (Residential Development) direct the majority of new housing development in the rural area towards the more sustainable villages with a higher level of local services/amenities which have been identified as Local Service Centres (LSCs). Billingborough is designated as an LSC under Core Strategy policy SP2. In LSCs development on allocated sites will be permitted in principle, subject to compliance with other policies.

6.2.2 The site is allocated for residential development under SAP policy LSC1a for an indicative quantity of 35 dwellings subject to the following proviso:

LSC1a (Billingborough): residential development will only be permitted on the previously developed part of the former Aveland High School [approximately 1.5ha]. The remainder of the site [approximately 2.5ha] should be provided as open space for community use (including playing fields and allotments), to be accessed along the track adjacent to the development.

6.2.3 Policy LSC1 of the SAP indicates that allocated sites in LSCs are to be released in 3 phases, the application site being in the first phase proposed for development between 2011- 2016.

6.2.4 NPPF sections 3 and 8 as well as CS policy SP2 and SAP policy SAP1 all support the retention and enhancement of existing community facilities and open spaces. Therefore future community use of the playing fields is supported by these policies as well as being a community benefit identified in SAP policy LSC1a. Sport England initially objected to loss of part of the playing field to allotments on the grounds that it would not comply with NPPF para 74. However, the use of part the land for this purpose would not be development requiring planning permission and has been specified in SAP policy LSC1a as an appropriate use. In any case no part of the land would

be built on and the majority of the land would continue to be used as sports pitches. There is therefore no conflict with the NPPF.

6.2.4 Taking the above into account, the principle of development is in accordance with the NPPF, CS policies SP1 and SP2 and SAP policies LSC1a and SAP1. As the application is in outline form and the plans are indicative only, for the avoidance of doubt, conditions have been attached to ensure that residential development is restricted to that area specified in the allocation policy, and is not commenced before the community facility is provided. In addition this is necessary to ensure that the playing fields are retained for community uses and that they are capable of being accessed from Birthorpe Road via the track to the west as required by the allocation policy.

6.3 Impact on Form and Character of the Area

6.3.1 The application is in outline form with all matters reserved and does not specify the number of dwellings. However, that part of the site allocated for residential development has already been assessed through the Local Plan site allocations process as being capable of accommodating an indicative density of around 35 dwellings. This is a low density which ensures an efficient use of the land whilst being in keeping with the village context and allows a suitably designed development to be well integrated with the form and character of the area. It is expected that the final design will have a lower density along the Birthorpe Road frontage with the trees retained to reflect the existing character of the streetscene. However the detailed design and layout of the development, including final number of dwellings will be included in a future reserved matters application which will be assessed on its own merits at that stage. The granting of outline permission does not tie a future reserved matters application to 35 dwellings. However, a significantly higher or lower density will require robust justification.

6.3.2 The character and appearance of the playing field (and access track) would not change significantly and would continue as an open green area on the edge of the village.

6.3.3 The Council's tree officer considers that some of the trees on site are worthy of a Tree Preservation Order, particularly those along the street frontage. In the event that the trees are designated, a suitable layout could be achieved which would ensure that buildings on site are sufficiently separated from any trees to ensure that roots are not damaged and that residential amenity is not unduly compromised.

6.3.4 Taking the above into account the development is appropriate and would not compromise the form and character of the area in accordance with the NPPF and CS policy EN1.

6.4 Residential Amenity

6.4.1 The detailed layout, scale and appearance will be determined at reserved matters stage where detailed issues of neighbours' amenities will be assessed. However, it is considered that the site is sufficiently large to accommodate an indicative quantity of 35 appropriately designed and sited dwellings without compromising the residential amenities of future occupiers or occupiers of neighbouring dwellings. Some concern has been raised about the potential for noise and disturbance from use of the playing fields. Playing fields are not incompatible with a residential area and any noise generated is not likely to be significantly over and above the previous school use and in any case would be well within acceptable limits for a residential area. It is considered that adequate separation distances from adjacent dwellings can be achieved in order to maintain current levels of privacy and ensure that the development would not be overbearing or otherwise detrimental to the residential amenities of the occupiers of adjacent properties in accordance with the NPPF and CS policy EN1.

6.5 Highways Matters

6.5.1 The position of the access has not been included as a matter for consideration as part of this planning application. However the site has already been assessed through the Local Plan site

allocations process as being acceptable in principle for development in highway terms. The indicative plan shows the residential development served by the existing main school access. The playing field is shown as being accessed from Birthorpe Road via the existing track to the west of the site in accordance with SAP policy LSC1a. The detailed position and specification of the accesses will be included in a future reserved matters application which will be assessed on its own merits at that stage.

6.5.2 As the application is in outline form and the plans are indicative only, for the avoidance of doubt, conditions have been attached to ensure that the access to the playing fields from Birthorpe Road is in place before the residential development starts and that roads within the estate are of adequate construction and have appropriate management and maintenance regimes in place. There is sufficient space within the playing field land for provision of a passing space and parking/turning areas. LCC Highways do not object subject to the above conditions and the proposal would not therefore be detrimental to highway safety or traffic capacity in accordance with the NPPF, CS policy SP3 and SAP policy LSC1a.

6.6 Drainage

6.6.1 The NPPF and CS seek to direct residential development to areas with the least probability of flooding and implementation of SuDS drainage where possible to minimise surface water runoff. The site is not in a high flood risk zone and has already been assessed through the Local Plan site allocations process as being acceptable in principle for development in flood risk and drainage terms. The applicant has submitted an amended flood risk assessment and indicative drainage strategy following concerns raised by consultees including the Environment Agency. At the time of writing consultee comments are still awaited but it is expected that their concerns will have been overcome by the committee date and that it will be shown in sufficient detail that the site is capable of accommodating an adequate SuDS drainage system. Furthermore, the development would result in a net reduction in hard surfaces which would reduce the run off rate and risk of flooding beyond the site. Any comments received will be reported in the Additional Items Paper. In this respect (subject to no adverse comments) the proposal is in accordance with the NPPF and CS policy EN2.

6.7 Ecology

6.7.1 The submitted phase 1 habitat survey shows that ecology would not be adversely affected. Retention of trees and hedges as well as additional landscaping which could be secured by condition at the reserved matters stage would result in an enhancement to biodiversity in accordance with the NPPF and CS policy EN1.

6.8 Viability and Affordable Housing

6.8.1 CS Policy H3, read in conjunction with recent PPG guidance, requires developments of 6 or more dwellings in the rural area to provide 35% affordable housing, which on a development of this size and type would be expected to be provided on site. For this site with an indicative quantity of 35 units it is expected that 12 would be affordable units. The site is allocated for development and has already been assessed through the Local Plan site allocations process as being viable in principle. A developer would be expected to provide the full 35% unless there is clear evidence that there are exceptional development costs.

6.8.2 Notwithstanding the above, it is important to consider how any section 106 contribution would affect the viability and deliverability of the development. The NPPF in para 205 states that:

Where planning obligations are being sought, local planning authorities should take account of market conditions over time, and wherever appropriate, be sufficiently flexible to prevent planned development being stalled.

6.8.3 The PPG gives the following advice on viability:

Decision-taking on individual applications does not normally require consideration of viability. However, where the deliverability of the development may be compromised by the scale of planning obligations and other costs, a viability assessment may be necessary. This should be informed by the particular circumstances of the site and proposed development in question. Assessing the viability of a particular site requires more detailed analysis than at plan level.

A site is viable if the value generated by its development exceeds the costs of developing it and also provides sufficient incentive for the land to come forward and the development to be undertaken.

6.8.4 It goes on to say

Where an applicant is able to demonstrate to the satisfaction of the local planning authority that the planning obligation would cause the development to be unviable, the local planning authority should be flexible in seeking planning obligations.

6.8.5 The PPG -Viability Guidance also provides detailed advice about viability in decision making, including how to determine development costs and land values and makes it clear that in all cases the residual value of land should reflect policy requirements and Planning Obligations.

6.8.6 The applicant has submitted a viability appraisal concluding that the site would not be viable if it were to provide any affordable housing or other planning obligations. It is acknowledged that as well as normal industry average build costs; there are some additional development costs involved in this proposal including unforeseen costs of asbestos removal from the school buildings during demolition and provision of the access and track which is reasonably necessary to allow the playing fields to be provided for community uses. It is also reasonable to include the existing use value of the playing field land as a cost of development in the appraisal, as the applicant intends to give this land to Billingborough Parish Council in order that it can be provided for community uses in accordance with SAP policy LSC1a. Notwithstanding the above, in this case the applicant's viability assessment does not adequately demonstrate that the additional costs are so high that no affordable housing can be justified.

6.8.7 Officers have sought the advice of an external viability consultant - the Valuation Office Agency (District Valuer Services) to confirm whether or not whether the applicant's appraisal is robust and stands up to scrutiny and whether the proposed 0% affordable housing can be justified. The VOA have concluded that taking into account the additional costs, the development would be viable with a slightly reduced 28 % affordable housing requirement, which for a development of 35 dwellings would equate to 10 affordable units.

6.8.8 The applicant has accepted the VOA's conclusion and has agreed to enter into a section 106 agreement to this effect. Taking the above into account, in this respect the proposal accords with CS policy H3 and SAP policy LSC1a.

6.9 Other Issues

6.9.1 The impact on property values is not a material consideration and has not been taken into account in this assessment.

7.0 **Section 106 Heads of Terms**

7.1 The Section 106 requirements that (subject to viability) would be required for this development are as follows:

- Provision of 0.24ha of outdoor sports space either on site or via financial contribution

- 35% affordable housing (12 affordable dwellings for a development of 35 dwellings) to be provided on site.

7.2 It is accepted that provision of the full amount of affordable housing would make the development unviable in the current circumstances and in accordance with the recommendations of the VOA, a reduced quantity of 28 % to be secured via a section 106 agreement is considered acceptable.

7.3 The proposal includes retention of the former school playing fields for community use. Technically, no further planning permission is required to continue use of the land for the community uses envisaged as there would be no material change of use from the previous school playing field use. Allotments do not require planning permission as they are classed as agriculture and therefore not development. Planning permission would however be required to change the use of the land to any other use, which under current policies is unlikely to be granted. As this is an outline application, the exact uses have not been specified but the details submitted suggest it is likely to be used as football pitches and allotments (in accordance with SAP policy LSC1a). The area of the playing field is 2.5ha, which is significantly in excess of the 0.24ha that the residential development requires to be provided using the formula in the Council's Planning Obligation SPD. Taking the above into account, it is considered that the requirement for additional outdoor sports space would be satisfied by the continued use of the playing field for community use which can be secured by condition and that there is no need for this requirement to be included in a section 106 agreement.

8.0 Crime and Disorder

8.1 It is considered that the proposals would not result in any significant crime and disorder implications.

9.0 Human Rights Implications

9.1 Articles 6 (Right to fair decision making) and Article 8 (Right to private family life and home) of the Human Rights Act have been taken into account in making this recommendation.

9.2 It is considered that no relevant Article of that act will be breached.

10.0 SUMMARY OF REASON(S) FOR APPROVAL

10.1 It is considered that the redevelopment of the former school site for residential and the continued use of the playing field for community uses, within a sustainable local service centre is in accordance with the sustainability aims of national, and local policy. It is considered that the proposal would result in a form of development which is appropriate and compatible with the surrounding area and would not increase the risk of flooding or be detrimental to highway safety or neighbours' amenities.

10.2 It is therefore considered that the current proposal is in accordance with the National Planning Policy Framework (Section 3 - Supporting a prosperous rural economy, Section 6 - Delivering a wide choice of high quality homes, Section 7 - Requiring good design and Section 4 - Promoting sustainable transport) policies SP1, SP2, SP4, H1, H3, E1, EN1 & EN2 of the South Kesteven Core Strategy, and policies SAP 1 and LSC1a of the South Kesteven Site Allocations and Policies Plan and that there are no material considerations that indicate otherwise, although conditions have been attached.

10.3 In reaching the decision the Council has worked with the applicant in a positive and proactive manner in resolving drainage and viability issues and by determining the application without

undue delay. As such it is considered that the decision is in accordance with paras 186 -187 of the National Planning Policy Framework.

11.0 RECOMMENDATION:

11.1 Defer to Chairman and Vice Chairman in consultation with the Business Manager for Development Management and Implementation for approval subject to the signing of a section 106 agreement and in accordance with the conditions set out below. Where the section 106 agreement has not been concluded prior to the Committee a period not exceeding six weeks post the date of the Committee shall be set for the completion (including signing) of the agreement.

11.2 In the event that the agreement has not been concluded within the six week period and where in the opinion of the Business Manager for Development Management and Implementation acting in consultation with the Chairman of the Development Control Committee, there are no extenuating circumstances which would justify a further extension of time, the related planning application shall be refused on the basis that the necessary criteria essential to make what would otherwise be unacceptable development acceptable have not been forthcoming.

1. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission or two years from the approval of the last of the reserved matters, whichever is the later.

Reason: To comply with Section 92 (as amended) of the Town and Country Planning Act 1990.

2. Details of the reserved matters set out below shall be submitted to the Local Planning Authority for approval within three years from the date of this permission:

- (a) layout;
- (b) scale;
- (c) appearance;
- (d) access; and
- (e) landscaping.

Approval of all reserved matters shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 (as amended) of the Town and Country Planning Act 1990.

3. The development hereby permitted shall be carried out in accordance with the following list of approved plans submitted as part of the application: 480/25/LP01 received 06 May 2014

Reason: To define the permission and for the avoidance of doubt.

4. Residential development of the application site shall be restricted to that part of the site which is allocated under policy LSC1a of the South Kesteven Site Allocations and Policies DPD, and shall not be commenced until the remainder of the application site (including access from Birthorpe Road) has been brought into use as a community facility.

Reason: As this application is in outline form with all matters reserved, this condition is necessary to ensure that the former playing fields are brought into community use as part of the development in accordance with policy LSC1a of the South Kesteven Site Allocations and Policies DPD and to define the permission and for the avoidance of doubt.

5. Pursuant to condition 4, the community facility shall be retained thereafter for community sports/recreational uses and allotments or other community uses as may be agreed in writing with the local planning authority.

Reason: To define the permission and for the avoidance of doubt.

6. No residential development shall be commenced until an Estate Street Phasing and Completion Plan has been submitted to and approved in writing by the Local Planning Authority. The Estate Street Phasing and Completion Plan shall set out the development phases and the standards that estate streets serving each phase of the development will be completed.

Reason: To ensure that the estate streets serving the development are completed and thereafter maintained to an acceptable standard in the interest of residential/highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the development; and to safeguard the visual amenities of the locality and users of the highway, in accordance with Policies of the Development Plan.

7. No residential development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved by the local planning authority. [The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a private management and maintenance company has been established].

Reason: To ensure that the estate streets serving the development are managed and maintained to an acceptable standard in the interest of residential/highway safety in accordance with Policies of the Development Plan.

8. When application is made for approval of the 'reserved matters', that application shall show details relating to the community facility vehicular access to the public highway, including materials, specification of works and construction method. The approved details shall be implemented on site before the development is first brought in to use and thereafter retained at all times.

Reason: In the interests of safety of the users of the public highway and the safety of the users of the site.

9. When application is made for approval of the 'reserved matters', that application shall show details of a surface water and foul water drainage scheme (based on the submitted sustainable drainage strategy) has been submitted to and approved in writing by the Local Planning Authority.

The scheme shall:

a) Provide details of how run-off will be safely conveyed and attenuated during storms up to and including the 1 in 100 year critical storm event, with an allowance for climate change, from all hard surfaced areas within the development into the existing local drainage infrastructure and watercourse system without exceeding the run-off rate for the undeveloped site;

b) Provide attenuation details and discharge rates which shall be restricted to 6.3 litres per second;

c) Provide details of the timetable for and any phasing of implementation for the drainage scheme; and

d) Provide details of how the scheme shall be maintained and managed over the lifetime of the development, including any arrangements for adoption by any public body or Statutory Undertaker and any other arrangements required to secure the operation of the drainage system throughout its lifetime.

The development shall be carried out in accordance with the approved drainage scheme and no dwelling shall be occupied until the approved scheme has been completed or provided on the site in accordance with the approved phasing. The approved scheme shall be retained and maintained in full in accordance with the approved details.

Reason: To prevent the increased risk of flooding in accordance with Policy EN2 of the adopted South Kesteven Core Strategy (July 2010).

10. No residential development shall commence, unless otherwise agreed in writing by the Local Planning Authority, until there has been submitted to and approved in writing by the Local Planning Authority: A detailed scheme (based on the conclusions of the submitted phase 1 desk study) for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include nomination of a competent person to oversee the implementation of the works. The development shall be carried out in accordance with the approved scheme.

Reason: Previous activities associated with this site may have caused, or had the potential to cause, land contamination and to ensure that the proposed site investigations and remediation will not cause pollution in the interests of the amenities of the future residents and users of the development; and in accordance with Policy EN1 of the adopted South Kesteven Core Strategy (July 2010) and national guidance contained in the NPPF.

12.0 BACKGROUND INFORMATION - Consultations

12.1 Billingborough Parish Council:

No objection in principle as they promoted the site through the local plan allocations process. Consider that the indicative plan fits well with the village context. Confirm that Billingborough PC would own and manage the playing fields and allotments.

12.2 LCC Highway Authority:

No objection subject to conditions requiring details of phasing, specification, management and future maintenance of estate roads and details of access to community facility.

12.3 Sport England:

Object on the grounds that it has not been demonstrated that loss of part of the playing field to allotments would conflict with NPPF para 74.

12.4 Natural England:

No statutory sites affected. Refer to their standing advice

12.5 Environment Agency:

Holding objection to initial drainage strategy and flood risk assessment. Awaiting comments on amended strategy which will be reported in the additional items paper

12.6 Anglian Water:

There is sufficient capacity in the sewerage network for this development. Request informative relating to AW assets adjacent to the site.

12.7 Black Sluice Internal Drainage Board:

Holding objection to initial drainage strategy and flood risk assessment. Awaiting comments on amended strategy which will be reported in the additional items paper

12.8 SKDC Drainage Officer:

Holding objection to initial drainage strategy and flood risk assessment. Awaiting comments on amended strategy which will be reported in the additional items paper

- 12.9 SKDC Viability consultant (Valuation Office Agency – District Valuer Services):**
Taking into account the additional development costs identified, the development is viable with 28% affordable housing.
- 12.10 Environmental Protection:**
Request conditions to ensure that any contamination of the land is adequately dealt with.
- 12.11 NHS:**
No contribution towards healthcare required
- 12.12 Lincolnshire CC Education:**
No contribution towards education required
- 12.13 South Kesteven DC Open Space Officer:**
There is a need for more outdoor sports space in Billingborough as evidenced in the SK open space study. The development is looking to offer 2.5ha of outdoor sports space, which is well in excess of the total recreational land required (0.24ha) following guidance in the SPD.
- 12.14 South Kesteven DC Streetscene (Refuse Collection):**
Advise that the indicative layout is not particularly good from a refuse collection perspective.
- 12.15 Lincolnshire Fire and Rescue:**
Do not wish to make any comments
- 12.16 South Kesteven DC Tree Officer:**
Suggests that the trees along the street frontage have considerable visual merit and are worthy of designation under a tree preservation order. Also suggests that the horse chestnut within the site could be incorporated within a future layout.
- 12.17 South Kesteven DC Affordable Housing Officer:**
35% on site affordable housing required to be provided through a section 106 agreement. A reduced amount will only be acceptable if it can be demonstrated that provision of the full amount would make the development unviable.
- 13.0 BACKGROUND INFORMATION - Representations**
- 13.1 The application has been advertised in accordance with the Councils adopted Statement of Community Involvement relevant to this type of planning application.
- 13.2 Neighbours have been notified of the application and a site notice posted. A further public consultation was carried out following the amendment to the description. The period for receipt of comments expired on 11 July 2014.
- 13.3 6 representations had been received raising the following concerns:
- Bats – although this letter appears to relate to an application elsewhere in Billingborough with the wrong application reference quoted.
 - Highway safety and traffic concerns
 - Noise/disturbance
 - Potential anti social behaviour
 - Billingborough already has football pitches
 - Adequate off road parking must be provided for community facility
 - Trees along frontage should be retained
 - Drainage/flooding concerns
 - Reduction in property values

14.0 BACKGROUND INFORMATION - Policy Framework

Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Relevant national and local policies in respect of the proposed development are as follows:

14.1 National Planning Policy Framework (NPPF)

- 14.1.1 Achieving Sustainable Development (paras 6 – 10) – Defines the NPPF’s role and the 3 key elements of sustainable development i.e. economic, social and environmental, making it clear that these 3 elements should not be considered in isolation. It stresses the need to improve the quality of the built, natural and historic environment through among other things, better design, improving living conditions, widening the choice of homes.
- 14.1.2 Presumption in Favour of Sustainable Development (paras 11 – 16) - This summarises the key principle of the NPPF that a positive approach to decision taking should be taken and that development that complies with the NPPF and the adopted local plan should be approved without delay.
- 14.1.3 Core Planning Principles (para 17) – Sets out the overarching principles of sustainable development that should be followed in decision taking. Those relevant to this application include, promoting patterns of development that encourage use of public transport, walking and cycling, promoting sustainable economic development and ensuring that developments are appropriate to their context.
- 14.1.4 Section 1: Building a strong competitive economy (paras 18 -22) – Emphasises the government’s commitment to economic growth and that the planning system should encourage economic growth rather than be an impediment to it. Local planning authorities should plan proactively to meet the development needs of business and business investment should not be overburdened by planning policy expectations. This applies to housing development as well as commercial.
- 14.1.5 Section 3: Supports the retention and development of local services and community facilities including sports venues in rural areas.
- 14.1.6 Section 4: Promoting sustainable transport (paras 29-30, 34-35, 37-39) – supports the location of development in sustainable locations which maximises the opportunities for safe access by public transport, walking and cycling, whilst recognising the different solutions that will be necessary in urban and rural areas.
- 14.1.7 Section 6: Delivering a wide choice of high quality homes (paras 47 – 50) – Makes clear that LPAs should significantly boost the supply of housing by identifying the full objectively assessed housing needs of the district and ensuring provision through suitable allocated sites and windfall sites in their local plan. LPAs should have a 5 year supply of housing land with a 5% buffer. LPAs are also encouraged to set out their own approach to density to reflect local circumstances.
- 14.1.8 Section 7: Requiring good design (paras 56, 58, 60, 64) – Requires new development to be of high quality design which is appropriate for the character of the area and the way it functions and makes use of all available opportunities to enhance it. Whilst local distinctiveness is encouraged, planning decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative. It is emphasised that good design goes beyond the visual appearance of individual buildings and includes among other things, connections between people and places, and integration with the historic, built and natural environment.

- 14.1.9 Section 8: Promoting healthy communities (paras 69-70) – Promotes development of housing in locations where it is well integrated with economic uses and community facilities and services. Also supports creation and retention of community sports and recreational facilities. There is a presumption against building on such open spaces unless strict criteria are met.
- 14.1.10 Section 10: Meeting the challenge of climate change, flooding and coastal change (paras 99-104) - directs development away from high flood risk areas and seeks to ensure that adequate drainage and flood risk mitigation is put in place for new development. Whilst development of allocated sites is not required to apply a sequential test, opportunities should be taken to reduce the causes and impacts of flooding elsewhere by reducing run off through implementation of SuDS drainage systems wherever possible.
- 14.1.11 Section 11: Conserving and enhancing the natural environment (paras 111, 118, 120-121, 123) – Encourages the effective reuse of brownfield land, and requires remediation of contaminated land. States that planning decisions should avoid significant adverse effects from noise whilst recognising that all development will often create some noise.
- 14.1.12 Section 12: Conserving and enhancing the historic environment (paras 128-129, 131-132) – Requires local planning authorities to take into account the significance of any heritage assets affected and the impact on their settings. If harm is identified the relevant tests should be applied. The desirability of development providing an enhancement to the historic environment is also emphasised.
- 14.2 South Kesteven Local Plan - Core Strategy 2010:
- 14.2.1 Policy SP1: Spatial Strategy - This policy supports new developments in sustainable locations including allocated sites within local service centres (LSCs)
- 14.2.2 Policy SP2: Sustainable Communities- This policy defines Billingborough as a local service centre (LSC) and directs development to LSCs where localised service use is already strong. Proposals that retain or enhance existing community facilities are supported.
- 14.2.3 Policy SP3: Sustainable Integrated Transport – This policy directs developments to locations which encourage greater use of public transport, walking and cycling to access facilities such as LSCs.
- 14.2.4 Policy SP4: Developer Contributions – Requires appropriate section 106 contributions to facilitate sustainable development including in this case affordable housing, and enhancements to existing sports facilities.
- 14.2.5 Policy EN1: Protection and Enhancement of the Character of the District – Requires that development must be appropriate to the character and significant natural, historic and cultural attributes and features of the landscape within which it is situated, and contribute to its conservation, enhancement or restoration.
- 14.2.6 Policy EN2: Reducing the Risk of Flooding – Directs development away from areas identified in the South Kesteven Strategic Flood Risk Assessment and seeks to ensure that adequate drainage and flood risk mitigation is put in place for new development. In particular details of how surface water is to be managed, including the use of SuDS wherever possible are required as part of a planning application.
- 14.2.7 Policy H1: Residential Development – Sets out the spatial distribution of new housing development over the plan period including sites in LSCs
- 14.2.8 Policy H3 (read in conjunction with PPG): Affordable Housing – Requires residential developments of 6 or more dwellings in rural areas to provide a target of 35% affordable housing,

preferably on site unless viability or other constraints would justify an off site financial contribution towards affordable housing elsewhere in the district or a reduced contribution.

14.3 South Kesteven Local Plan - South Kesteven Site Allocations & Policies DPD 2014

14.3.1 Policy SD1: Presumption in Favour of Sustainable Development – This policy reflects the emphasis of the NPPF towards a positive approach to approving appropriate policy compliant development without delay

14.3.2 Policy LSC1: Housing Allocations in the Local Service Centres – The site (LSC1b) is allocated for residential development within the 2011-2016 phase of the plan. It has an indicative density of 35 and an indicative expectation that 12 affordable dwellings would be provided. The policy also states that “residential development will only be permitted on the previously developed part of the former Aveland High School [approximately 1.5ha]. The remainder of the site [approximately 2.5ha] should be provided as open space for community use (including playing fields and allotments), to be accessed along the track adjacent to the development.”

14.3.3 Policy SAP10: Open Space Provision – Sets out types and amounts of open space provision that is expected for new residential developments. Off site provision or enhancement of existing facilities is supported where appropriate.

14.4 Supplementary Planning Documents/Guidance

Planning Obligations Supplementary Planning Document – This documents sets out the thresholds and formulas used to calculate S106 contributions.

14.5 SKDC Corporate Priorities

14.5.1 The Council’s Corporate Priorities are to:

Grow the economy

- Support & facilitate the growth of business
- Enable delivery of attractive retail & leisure offer
- Easy to do business with – look to say yes
- Promote infrastructure to support growth
- Skills – high value employment
- Attract as a destination for investment

Keep SK clean, green and healthy

- Enable development of our parks and open spaces
- Clean and attractive street scene
- Sustain high levels of recycling
- Reduce the Carbon footprint of our organisation
- Encourage active & healthy lifestyles
-

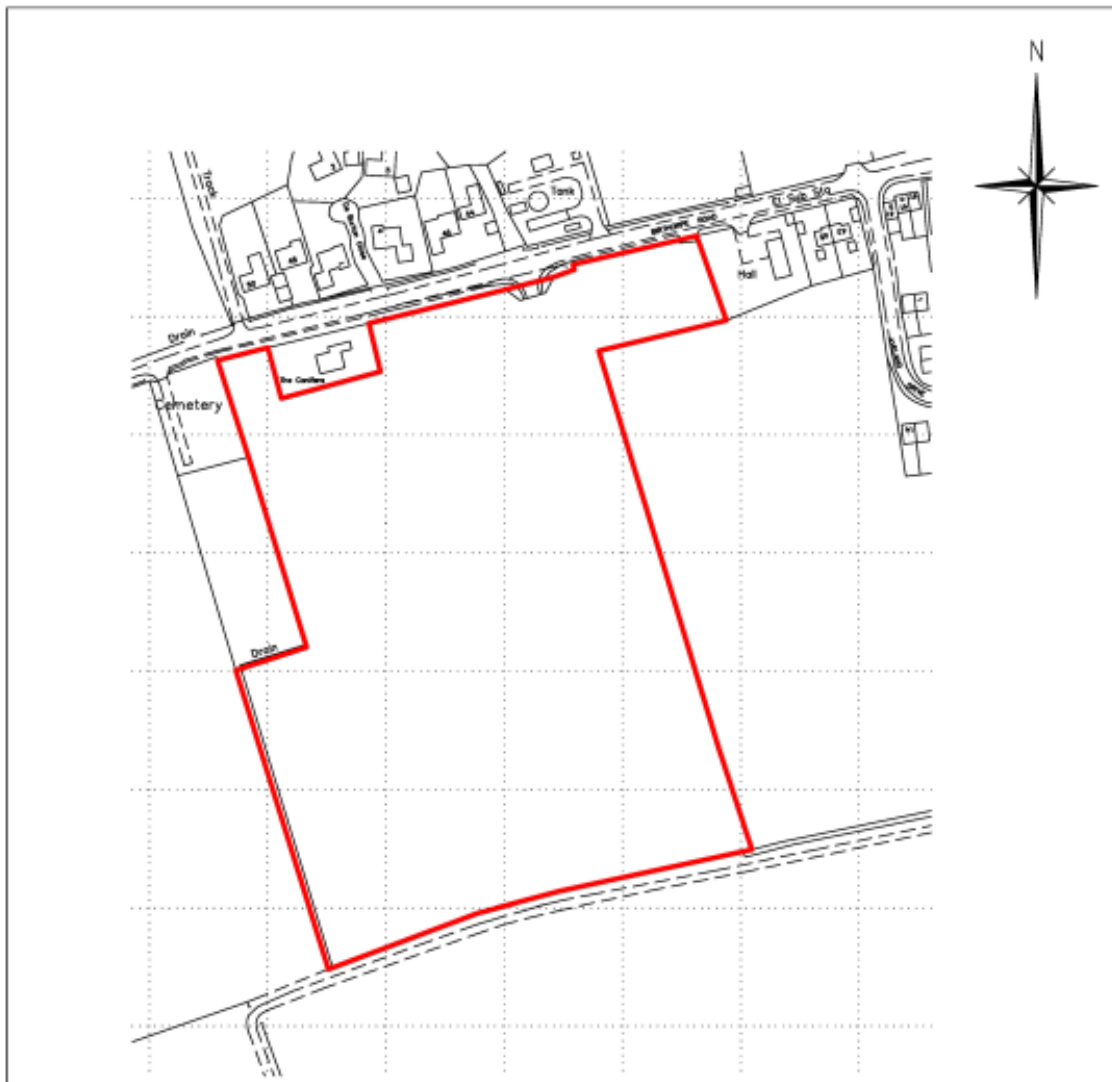
Promote leisure, arts and culture

- Support and enable development of a diverse economy – daytime & evening
- Enable wide ranging leisure opportunities
- Enable access to a balanced culture & arts programme
- Promote our heritage & tourism

Support good housing for all

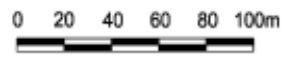
- Ensure the right mix of housing meets local needs
- Enlarge the development of lifetime homes
- Support the creation of neighbourhoods
- Reduce fuel poverty
-

14.5.2 This application supports all strands of the Council's priorities by providing new good quality homes in a sustainable location whilst respecting the streetscene and providing new community sports facilities. The occupiers would contribute to the local economy through support for local businesses and shops.



S14/1316
 South Kesteven District Council
 Development Services
RECEIVED
 6 - 5 - 2014

Reproduced from Ordnance Survey Map with the permission
 of the controller of Her Majesty's Stationery Office.
 Crown Copyright reserved.
 Robert Doughty Consultancy Licence No. JR 100010813



Rev.	By	Notes	Date

<small> 32 High Street, Helpingsham Stamford, Lincolnshire NG34 6RA Tel: 01529 421646 Fax: 01529 421356 Email: admin@rdc-landplan.co.uk Web: www.rdc-landplan.co.uk </small>		
Client: LCC-(MOUCHEL)		
Project: Aveland School, Birthorpe Road, Billingborough.		
Drawing title: Location Plan		
Drawing No.: 480 / 25 / LP01	Rev.: 	Drawn: AB
Scale: 1 : 2500 @ A4	Date: 02/05/14	Checked:

All measurements should be checked against site conditions and any discrepancies should be brought to the attention of the Robert Doughty Consultancy.

THIS DRAWING IS FOR THE PURPOSE OF OBTAINING PLANNING PERMISSION ONLY



Reproduced from Ordnance Survey Map with the permission of the Controller of Her Majesty's Stationery Office. Crown Copyright reserved. Robert Doughty Consultancy Licence No. 458 100210013

KEY

- Proposed hedge
- Existing trees
- Site boundary
- Proposed Residential

S14/1316
South Kenton District Council
Development Services
RECEIVED
6 - 5 - 2014

Rev.	By	Notes	Date

rdc
Robert Doughty Consultancy

12 High Street, Huddersfield
© 2014. Licensed under CC BY-NC-SA
1st Floor, 12 High Street
Huddersfield, West Yorkshire, HD1 1TA
Tel: 01484 575555
Fax: 01484 575556
Email: info@rdc-consultancy.co.uk
Web: www.rdc-consultancy.co.uk

Client: LCC(MOUCHEL)

Project: Airedale School, Bithorpe Road, Bilingborough.

Drawing title: Indicative Layout

Drawing No:	480254L02	Rev:		Drawn:	AB
Scale:	1:500 @ A2	Date:	09/05/14	Checked:	RJCD

All measurements should be treated as approximate and any discrepancies should be brought to the attention of the client immediately.

THIS DRAWING IS FOR THE PURPOSE OF OBTAINING PLANNING PERMISSION ONLY



Reproduced from Ordnance Survey Map with the permission of the Controller of Her Majesty's Stationery Office. Crown Copyright reserved. Robert Doughty Consultancy Licence No. 458 100210013

KEY

- Proposed hedge
- Existing trees
- Proposed Residential

S14/1316
South Kenton District Council
Development Services
RECEIVED
6 - 5 - 2014

Rev.	By	Notes	Date

rdc
Robert Doughty Consultancy

12 High Street, Huddersfield
© 2014. Licensed under CC BY-NC-SA
1st Floor, 12 High Street
Huddersfield, West Yorkshire, HD1 1TA
Tel: 01484 575555
Fax: 01484 575556
Email: info@rdc-consultancy.co.uk
Web: www.rdc-consultancy.co.uk

Client: LCC(MOUCHEL)

Project: Airedale School, Bithorpe Road, Bilingborough.

Drawing title: Indicative Layout

Drawing No:	480254L01	Rev:		Drawn:	AB
Scale:	1:500 @ A2	Date:	09/05/14	Checked:	RJCD

All measurements should be treated as approximate and any discrepancies should be brought to the attention of the client immediately.

Appendix 2 – Additional Items Paper from 21 July 2015 Committee

The Additional Items Paper from the 21 July 2015 Committee has been included in full below

Agenda Number: PWM2
Application Number: S14/1316
Proposal: Residential development and use of former school playing field for community uses of site for residential purposes

Summary of issues raised:

Section 106 Agreement

Members have requested that the S106 agreement include payment of a financial contribution towards works that are reasonably necessary to enable the former playing field to be used as community open space including upgrades to the access and track.

Such an approach has been carefully considered by officers, in consultation with the Council's legal team. It has been concluded that it will not be possible for the following reasons:

- The starting point is the adopted Local Plan SAP policy SAP LSC1a:

LSC1e(Billingborough): residential development will only be permitted on the previously developed part of the former Aveland High School [approximately 1.5ha]. The remainder of the site [approximately 2.5ha] should be provided as open space for community use (including playing fields and allotments), to be accessed along the track adjacent to the development.

- Whilst there is no specific requirement for any upgrade to the community land or access written into this policy, or who should own or maintain it, officers have taken the view that works reasonably necessary to enable the land to be brought into that use, including improvements to the access and track etc, as well as the existing use value of the land (that LCC would have obtained from selling it on the open market) are costs of the development as a whole (to enable it to comply with policy LSC1a above) and therefore have been factored into the viability assessment carried out by the Council's viability consultant (the VOA). These and other additional development costs as well as the need to ensure a competitive return to the landowner and developer, mean that a reduced number of affordable houses (28% reduced from 35%) can be justified. In that sense the estimated costs are already included in the S106 as proposed.
- Government guidance is very clear that conditions should be the preferred option where they can be used instead of S106. NPPF para 204 states:

Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

- NPPF para 205 states:

Planning obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;*
- directly related to the development;*
- and fairly and reasonably related in scale and kind to the development.*

- In addition, the NPPF policy tests above are enshrined as statutory tests in the Community Infrastructure Levy Regulations 2010 (As Amended):

A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is—

(a) necessary to make the development acceptable in planning terms;

(b) directly related to the development; and

(c) fairly and reasonably related in scale and kind to the development.

- Conditions 4, 5 & 8 are intended to ensure that detailed specification of the upgrading works is submitted to and approved by the Council, and that the works are subsequently carried out and the land brought into community use before the residential development is commenced. Therefore the developer of the residential part of the development is obliged to carry out these works before they can build the houses. In addition, this application is in outline form with all matters reserved so although indicative details have been submitted, all costs are necessarily based on estimates and it is not known at this stage what the final specification of the works or exact uses of the playing field will be or proportion of land divided between different uses. The costs of any upgrading works cannot be specified exactly or based on a formula in the Councils Planning Obligation SPD as they arise from the allocation policy SAP LSC1a in the SAP rather than a direct consequence of a quantified need that allowing the residential development would provoke. All reserved matters have to be approved before any development can start in accordance with condition 2. The application site is in single ownership and includes both the residential and playing field areas so it is explicitly an application for a single development rather than 2 separate entities so the use of conditions in this way is considered reasonable.
- Lincolnshire County Council as landowner and applicant and Billingborough Parish Council as potential future landowner of the playing fields are competent public bodies so there is no reason to believe that the proposed arrangements for transferring the land to the PC or carrying out the works will not be carried out as proposed. It is understood that both councils have worked on this project proactively together and have an understanding that this would happen.

Taking the above into account, it is considered that the recommended conditions are sufficient to ensure compliance with planning policy and that a fixed contribution in the S106 would meet neither the statutory tests of Section 122 of the Community Infrastructure Levy Regulations 2010 (As Amended), or government guidance on the use of planning obligations.

Notwithstanding the above, for the avoidance of doubt, officers have asked the applicant to provide evidence that the community open space will be provided in the manner set out in the application. Such evidence is expected to be submitted before the application is signed off by the Chairman and Vice Chairman in consultation with the Business Manager for Development Management and Implementation.

Drainage

Following submission of an updated floodrisk assessment and drainage strategy, the Environment Agency (as statutory consultee) has withdrawn their holding objection. Subject to the details required by condition 9, the proposal is therefore acceptable in flood risk and surface water drainage terms

Changes to recommendation: No change