

Planning (Regulatory) Committee

Item No.

Report title:	Y/3/2016/3004: Primary School and Nursery Building, London Road, Attleborough.
Date of meeting:	21 October 2016.
Responsible Chief Officer:	Tom McCabe, Executive Director of Community and Environmental Services.
Proposal: New 630 pupil primary school and associated external works and a standalone 52 place nursery building (Director of Children's Services).	

Executive summary

At the meeting on the 15 July 2016 the Planning (Regulatory) Committee agreed to grant planning permission for the new school subject to conditions and a section 106 Legal Agreement in respect of linking the site to the employment application approved by Breckland District Council. Since the meeting and prior to the formal decision notice being issued the applicant has requested that the wording of the condition proposed to control noise is varied because in its current form it would be overly restrictive to the use of the school.

The Environmental Protection Team at Breckland Council are content that the revised condition would satisfy their requirements. Officers therefore consider that the proposed variation would be in accordance with the policies contained within Breckland Council's adopted core strategy DPD.

Recommendation:

- I. Grant planning permission subject to the conditions outlined in section 13 and a Section 106 Legal Agreement in respect of linking this site to the employment application approved by Breckland District Council. The legal agreement will require the employment land to be available and marketed for sale for a 1 year period following commencement of development of the school site, unless otherwise agreed with Breckland District Council.**
- II. To discharge conditions (in discussion with the Chairman and Vice Chairman of the committee) where those detailed above require the submission and implementation of a scheme, or further details, either before development commences, or within a specified date of planning permission being granted.**
- III. Delegate powers to officers (in discussion with the Chairman and Vice Chairman of the committee) to deal with any non-material amendments to the application that may be submitted.**

1. The Proposal

- 1.1 Location : The site has an area of 3.8 hectares and is located within the development boundary of Attleborough on land allocated by Breckland Council for an employment use.
- Type of development : A new 630 pupil primary school and associated external works and a standalone 52 place nursery building
- Access & parking : A new access north from London Road would be created and would link to the southern area of the site.
- Onsite parking provision is being proposed and consists of 83 school parking spaces, 11 nursery parking spaces and a total of 12 cycle storage spaces.
- Landscaping : Hard and soft play areas, sports pitch, attenuation pond for surface water drainage, extensive boundary treatment and planting.

2. Site

- 2.1 The application site is located to the south west of Attleborough and west of London Road. The site measures 3.8Ha and is part of a larger former agricultural field that is currently being developed for housing. The proposed school would share a boundary to the north east and north west with the houses being development. To the south east the site fronts onto London Road, which is a primary route providing access to Attleborough, and to the south west the site shares its boundary with existing residential dwellings and an existing car dealership.
- 2.2 A new footpath and cycleway is proposed immediately adjacent to London Road. This would link to the footpath and cycleway that will form part of the adjacent housing development, and ultimately links to the town centre and existing footpath & cycleway infrastructure.

3. Constraints

- 3.1 The following constraints apply to the application site:
- Agricultural Land Class. 3
- Majority of site within Settlement Boundary
- Majority of site Saved Employment Allocation

4. Planning History

- 4.1 At the meeting on the 15 July 2016 the Planning (Regulatory) Committee agreed to grant planning permission for the new school subject to conditions and a section 106 Legal Agreement in respect of linking the site to the employment application approved by Breckland District Council.

- 4.2 The application site forms part of a larger site that has been subject to the following applications determined by Breckland District Council. The application site broadly accords with the area the subject of the outline element for employment development.

3PL/2012/0958/H: Erection of 375 dwellings with assoc. parking, garages & landscaping (Full) & Outline for Employment Development. Approved subject to S106 agreement December 2012.

3PL/2011/0528/H: Erection of 375 dwellings with assoc. parking, garages & landscaping (Full) & Outline for Employment Development. Refused. Appeal Withdrawn. 2013.

- 4.3 Breckland District Council also approved the following applications:

3PL/2016/0416/O: Erection of 16 dwellings and associated works. On land adjacent to the application site and part of the land the subject of the outline element for employment development referred to above. Approved June 2016.

3PL/2016/0417/O: Outline planning permission for B1, B2 and B8 uses. Pending consideration. On land on the opposite side of London Road and further south. Being proposed as replacement employment development land to mitigate the loss of employment designated land that would result in the school application and housing application are built out. Approved June 2016.

5. Planning Policy

- 5.1 Adopted Core Strategy : DC1 Protection of amenity
and Development Control
Policies Development
Plan (2009)

- 5.2 The National Planning : 8 Promoting healthy communities
Policy Framework (2012)

Attleborough Neighbourhood Plan “pre-draft” plan stage.

6. Consultations

- 6.1 Environmental Health : Demonstrates support for the proposed wording.
Officer Breckland Council

- 6.2 Representations

The original application was advertised by means of neighbour notification letters, site notices, and an advertisement in the Eastern Daily Press newspaper.

- 6.3 The proposed condition originated from comments received from a technical consultee. No comments were received from local residents on this particular point in response to the previous consultation.

7. Assessment

- 7.1 The development was previously considered by the Planning (Regulatory) Committee on 15 July 2016. The decision was made to approve the application subject to conditions and a section 106 agreement. As such the principle of the development has been established, the officer report presented to the committee

in July has been included in appendix 3 of this report. Officers consider that the committee now only needs to be satisfied that the revised wording of the condition proposed to control noise is acceptable and if introduced that the condition will not fundamentally change the development as approved. In considering the variation the issues to be assessed are:

7.2 Principle of the development

A basic principle when assessing planning applications and in this instance a variation to the proposed wording of a permission is outlined in Section 38(6) of the Town and Country Planning Compulsory Purchase Act 2004 which states:

“if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise”.

7.3 In terms of the development plan, the County Planning Authority considers the relevant documents in relation to this proposed revision are the Adopted Core Strategy and Development Control Policies Development Plan Document (2009) and Breckland District Local Plan (2009) Saved Policies. Whilst not part of the development plan, policies within the National Planning Policy Framework are also a further material consideration of significant weight.

7.4 Paragraph 72 of the National Planning Policy Framework states that the government attaches great importance to ensuring that a sufficient choice of school places are available to meet the needs of existing and new communities. As such local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement. Great weight should be given to the need to create, expand or alter schools and work with schools promoters to identify and resolve key planning issues before applications are submitted. The Applicant and Officers have been involved in pre-application discussion regarding this proposal prior to submission of the application.

7.5 Amenity (noise)

7.6 Policy DC 1 “Protection of Amenity” of Breckland’s Core Strategy states that development will not be permitted where there are unacceptable effects on the amenities of the area or the residential amenity of neighbouring occupants, or future occupants of the development site.

7.7 The applicant has requested that the previously agreed condition proposed to control noise is overly restrictive to the function of the school during normal school hours (8am and 6pm Monday to Friday). The condition as currently worded states that the school shall not generate a noise level measured at the nearest residential boundary greater than 5 dB(A) above the existing background level.

- 7.8 The Environmental Health Officer (EHO) for Breckland Council having considered the proposed changes as set out in para 13.28 has demonstrated support for the suggested wording.
- 7.9 Legal advice received since the applicant has made the request to vary the condition concludes that the condition as worded can be considered as unreasonable and as such there is a justification for it being amended.
- 7.10 The varied condition proposes that prior to the first use of the site a noise impact assessment should be carried out and submitted in writing to and approved in writing by the Local Planning Authority. The development shall be constructed and completed in accordance with the approved noise impact assessment and used thereafter in accordance with approved noise impact assessment. The assessment must include:
- a) An assessment of existing background noise levels;
 - b) The noise levels likely to be generated by plant (such as air conditioning / heating) / school bells and alarms and other activities to be carried out outside the normal school day (defined as between 8am and 6pm Monday to Friday) including use of games areas nearest to housing; and
 - c) A scheme of mitigation in the form of a Noise Management Plan (to include the consideration of acoustic barriers / fencing and hours of use (outside normal school hours) to control specific site use or activities i.e. sports use of the field / pitch / formal courts plus school bells or sounders).
- 7.11 Officers considered that the revised wording being suggested is appropriate given that there is residential development planned for the immediate area. The re-worded condition would help to ensure that the proposed development as a whole would be compliant with policy DC 1 "Protection of Amenity" of Breckland Council's Core Strategy.

8. Resource Implications

- 8.1 **Finance:** The development has no financial implications from the Planning Regulatory perspective.
- 8.2 **Staff:** The development has no staffing implications from the Planning Regulatory perspective.
- 8.3 **Property:** The development has no property implication from the Planning Regulatory perspective.
- 8.4 **IT:** The development has no IT implications from the Planning Regulatory perspective.

9. Other Implications

- 9.1 **Human rights**
- 9.2 The requirements of the Human Rights Act 1998 must be considered. Should permission not be granted Human Rights are not likely to apply on behalf of the applicant.
- 9.3 The human rights of the adjoining residents are engaged under Article 8, the right

to respect for private and family life and Article 1 of the First Protocol, the right of enjoyment of property. A grant of planning permission may infringe those rights but they are qualified rights, that is that they can be balanced against the economic interests of the community as a whole and the human rights of other individuals. In making that balance it may also be taken into account that the amenity of local residents could be adequately safeguarded by conditions albeit with the exception of visual amenity. However, in this instance it is not considered that the human rights of adjoining residents would be infringed.

- 9.4 The human rights of the owners of the application site may be engaged under the First Protocol Article 1 that is the right to make use of their land. An approval of planning permission may infringe that right but the right is a qualified right and may be balanced against the need to protect the environment and the amenity of adjoining residents.

9.5 **Equality Impact Assessment (EqIA)**

- 9.6 The Council's planning functions are subject to equality impact assessments, including the process for identifying issues such as building accessibility. None have been identified in this case.

- 9.7 **Legal Implications:** There are no legal implications from the Planning Regulatory perspective.

- 9.8 **Communications:** There are no communication issues from a planning perspective.

- 9.9 **Health and Safety Implications:** There are no health and safety implications from a planning perspective.

- 9.10 **Any other implications:** Officers have considered all the implications which members should be aware of. Apart from those listed in the report (above), there are no other implications to take into account.

10. Section 17 – Crime and Disorder Act

- 10.1 It is not considered that the implementation of the proposal would generate any issues of crime and disorder, and there have been no such matters raised during the consideration of the application.

11. Risk Implications/Assessment

- 11.1 There are no risk issues from a planning perspective.

12. Conclusion and Reasons for Granting/Refusing of Planning Permission

- 12.1 The proposal the subject of this application would provide 3,490m² of much needed educational and pre-school accommodation particularly given the recent and planned levels of increased housing provision consisting of 21 classrooms for 630 pupils of primary school age and 52 nursery places.

- 12.2 The buildings being proposed are of a high design standard and incorporate a good specification of sustainability measures and which should generate 10% of the buildings energy demand being delivered from a low zero carbon or renewable source.

- 12.3 The proposed development is considered acceptable subject to a Section 106 Legal Agreement in respect of linking this site to the employment application approved by Breckland District Council. There are no other material considerations why it should not be permitted. Accordingly, full conditional planning permission is recommended.
- 12.4 The proposed development is considered acceptable and there are no other material considerations why it should not be permitted. Accordingly, full conditional planning permission is recommended.

13. Conditions

- 13.1 The development hereby permitted shall commence not later than three years from the date of this permission.
- Reason: Imposed in accordance with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 13.2 The development must be carried out in strict accordance with the application form, plans and documents.
- 13.3 Prior to the commencement of any works on site, details of the type and colour of the brickwork, mortar courses and roofing materials, shall be submitted to, and agreed in writing by, the County Planning Authority. The development shall then be constructed and retained in accordance with the approved details.
- Reason: To ensure the satisfactory appearance of the development.
- 13.4 Prior to the commencement of any works on site, details of the design, materials and colour of the windows, railings and doors, shall be submitted to, and approved in writing by, the County Planning Authority. The windows, railing and doors shall thereby be undertaken and retained in accordance with the approved details.
- Reason: To ensure the satisfactory appearance of the development.
- 13.5 Prior to the commencement of any works on site, details of the colour and finish of the external joinery and rainwater goods, shall be submitted to, and agreed in writing, by the County Planning Authority. The external joinery and rainwater goods shall thereby be undertaken and retained in accordance with the approved details.
- Reason: To ensure the satisfactory appearance of the development.
- 13.6 Prior to the commencement of any works on site, details of the photovoltaic panels, shall be submitted to, and agreed in writing, by the County Planning Authority. The panels once insitu shall be retained in accordance with the approved details.
- Reason: To ensure the satisfactory appearance of the development.
- 13.7 Prior to the first occupation of the development hereby permitted the vehicular (and / or pedestrian / cyclists) crossings over the footway / ditch / watercourse (including School Keep Clear Markings and appropriate pedestrian restraint measures) shall be constructed in accordance with a detailed scheme to be agreed in writing with the Local Planning Authority, in consultation with the

Highway Authority.

Reason: To ensure construction of a satisfactory access and in the interests of highway safety.

- 13.8 Vehicular and pedestrian (and cyclist) access to and egress from the adjoining highway shall be limited to the access(es) shown on drawing No NPS-DR-A 061 Rev P7 only. Any other access(es) or egresses shall be permanently closed, and the footway / highway verge shall be reinstated in accordance with a detailed scheme to be agreed with the Local Planning Authority in consultation with the Highway Authority, concurrently with the bringing into use of the new access.

Reason: In the interests of highway safety.

- 13.9 The gradient of the vehicular access(es) shall not exceed 1:12 for the first 10 metres into the site as measured from the near channel edge of the adjacent carriageway.

Reason: In the interests of the safety of persons using the access and users of the highway.

- 13.10 Prior to the first occupation of the development hereby permitted any access gate(s), bollard, chain or other means of obstruction shall be hung to open inwards, set back, and thereafter retained a minimum distance of 10 metres from the near channel edge of the adjacent carriageway.

Reason: To enable vehicles to safely draw off the highway before the gate(s) or obstruction is opened.

- 13.11 Prior to the first occupation of the development hereby permitted signs shall be provided and thereafter retained at the means of ingress and egress (onto London Road) in accordance with a one way system scheme to be submitted to and approved by the Local Planning Authority.

Reason: In the interests of highway and site safety and traffic movement.

- 13.12 Prior to the first occupation of the development hereby permitted a visibility splay shall be provided in full accordance with the details indicated on the approved plan. The splay shall thereafter be maintained at all times free from any obstruction exceeding 0.225 metres above the level of the adjacent highway carriageway.

Reason: In the interests of highway safety.

- 13.13 Prior to the first occupation of the development hereby permitted the proposed access / on-site car and cycle parking / servicing / loading, unloading / turning / waiting area shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.

Reason: To ensure the permanent availability of the parking / manoeuvring area, in the interests of highway safety.

- 13.14 Prior to first occupation a scheme for the parking of cycles shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented before the development is first occupied or brought into use and thereafter retained for this purpose.

Reason: To ensure the provision of adequate cycle parking that meets the needs

of occupiers of the proposed development and in the interests of encouraging the use of sustainable modes of transport.

- 13.15 Development shall not commence until a scheme detailing provision for on-site parking for construction workers for the duration of the construction period has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented throughout the construction period.

Reason: To ensure adequate off-street parking during construction in the interests of highway safety.

- 13.16 No works shall commence on site until the details of wheel cleaning facilities for construction vehicles have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority.

Reason: To prevent extraneous material being deposited on the highway.

- 13.17 For the duration of the construction period all traffic associated with the construction of the development permitted will use the approved wheel cleaning facilities provided referred to in condition 16.

Reason: To prevent extraneous material being deposited on the highway.

- 13.18 Notwithstanding the details indicated on the submitted drawings no works shall commence on site unless otherwise agreed in writing until a detailed scheme for the provision of a school time 20 mph speed limit on London Road and pedestrian crossing arrangements have been submitted to and approved in writing by the County Planning Authority in consultation with the Highway Authority.

Reason: 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.

- 13.19 Prior to the commencement of the use hereby permitted the school time 20 mph speed limit on London Road and pedestrian crossing arrangements referred to in condition 18 shall be completed to the written satisfaction of the County Planning Authority in consultation with the Highway Authority.

Reason: To ensure that the highway network is adequate to cater for the development proposed.

- 13.20 Within 12 months of first occupation of the development hereby permitted, the applicant shall instruct and fund the Highway Authority to undertake a Traffic Management review within the vicinity of the site to identify if any further reasonable measures (including waiting restrictions and verge protection) are required to manage traffic associated with the development. Any such measure(s) identified shall be constructed in accordance with a detailed scheme to be agreed in writing with the Local Planning Authority, in consultation with the Highway Authority.

Reason: In the interests of highway safety.

- 13.21 Within 6 months of the first occupation of the development hereby permitted a review of the existing school travel plan shall be submitted to and approved in writing by the County planning Authority in consultation with the Highway Authority. The travel plan shall be implemented in accordance with the timetables

and targets contained therein and shall continue to be implemented subject to any modifications agreed by the County Planning Authority in writing in consultation with the Highway Authority as part of an annual review. The travel plan reviews shall monitor pupil numbers and provide accordingly for the phased development of the future cycle parking (as agreed with the Highway Authority).

Reason: To ensure that the development is as sustainable as possible, in accordance with.

13.22 No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:

- i. proposed finished levels or contours;
- ii. means of enclosure;
- iii. hard surfacing materials;
- iv. soft landscape works, including plans and sections of tree planting in hard surfaces;
- v. minor artefacts and structures (specifically lighting, dipping platform, refuse or other storage units);
- vi. proposed sustainable drainage features (to include levels, profiles, inlets/outlets, minimum, average and maximum water depths, substrates and linings, etc.);
- vii. proposed and existing functional services above and below ground including drainage, power, communications cables, pipelines etc. indicating lines, manholes);

Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; implementation programme.

Reason: To ensure the satisfactory appearance of the development.

13.23 No development shall take place until a Flood Risk Assessment and a Drainage Strategy have been submitted to and approved in writing by the County Planning Authority. The Flood Risk Assessment and a Drainage Strategy shall demonstrate that there will be no increase in offsite flood risk and that there is a viable drainage route between the outfall and Internal Drainage Board watercourse.

Reason: To prevent environmental and amenity problems arising from flooding.

13.24 No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the County Planning Authority.

Reason: To prevent environmental and amenity problems arising from flooding.

13.25 No demolition/development shall take place/commence until a Written Scheme of Investigation (archaeological) has been submitted to and approved by the local

planning authority in writing. The scheme shall include an assessment of significance and research questions; and

1. The programme and methodology of site investigation and recording
2. The programme for post investigation assessment
3. Provision to be made for analysis of the site investigation and recording
4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
5. Provision to be made for archive deposition of the analysis and records of the site investigation
6. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation

No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved.

Reason: To ensure adequate time is available to investigate any features of archaeological interest.

- 13.26 The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 25 and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To ensure adequate time is available to investigate any features of archaeological interest.

- 13.27 Demolition and construction work shall not begin until a scheme for protecting the nearby sensitive receptors from noise, vibration and dust from the demolition and construction activities has been submitted to and approved by the local planning authority; all works which form part of the approved scheme shall be implemented.

Reason: To protect the amenities of residential properties and the surrounding area.

- 13.28 Prior to the first use of the site hereby permitted, a noise impact assessment must be carried out and submitted in writing to and approved in writing by the Local Planning Authority. The development shall be constructed and completed in accordance with the approved noise impact assessment and used thereafter in accordance with approved noise impact assessment. The assessment must include:

- a) An assessment of existing background noise levels;
- b) The noise levels likely to be generated by plant (such as air conditioning / heating) / school bells and alarms and other activities to be carried out outside the normal school day (defined as between 8am and 6pm Monday to Friday) including use of games areas nearest to housing; and
- c) A scheme of mitigation in the form of a Noise Management Plan (to include the consideration of acoustic barriers / fencing and hours of use (outside normal

school hours) to control specific site use or activities i.e. sports use of the field / pitch / formal courts plus school bells or sounders)

All measurements, where necessary, to be taken with a sound level meter of IEC 651 Type 1, or BS EN 61672 Class 1, standard (or the equivalent relevant UK adopted standard in force at the time of the measurements) set to measure using a fast time weighted response. This should be calibrated in accordance with the procedure specified in BS 4142: 2014 (or the equivalent relevant UK adopted standard in force at the time of the measurements).

Reason: In the interest of the amenities of nearby residents

- 13.29 Before the school hereby permitted is first occupied the cycle/footpath shall be constructed, fully surfaced and linked to the surrounding network in accordance with drawing reference NPS-DR-A061, rev P7, unless otherwise approved in writing by the County Planning Authority in consultation with the Highway Authority.

Reason: In the interests of highway and site safety and traffic movement.

Background Papers

The National Planning Policy Framework (NPPF) (2012)

<http://planningguidance.planningportal.gov.uk/>

Planning Practice Guidance (2014)

<http://planningguidance.planningportal.gov.uk/>

Adopted Core Strategy and Development Control Policies Development Plan Document (2009)

[Adopted Core Strategy and Development Control Policies Development Plan Document \(2009\)](#)

[Saved Policies Breckland District Local Plan \(2009\)](#)

Officer Contact

If you have any questions about matters contained in this paper or want to see copies of any assessments, eg equality impact assessment, please get in touch with:

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