

PLANNING & LICENSING COMMITTEE

29TH JUNE 2021

ADDENDUM REPORT

Report no.	Item no.	Application no.	Applicant	Parish
83/2021	1	2020/1473/MAO	Mr Gareth Ball, Ms Amy Ball and Rosconn Strategic Land	OAKHAM

An email has been received from Councillor Razell as Ward Member

Writing this morning as a Ward member for Oakham South, I wanted to add the views of the residents I represent to oppose the development of the greenfield site heading out of Oakham towards Braunston.

Having met previously with residents, it is clear that the development of this greenfield site is wholly against their wishes and leaves them perplexed with regard to the failure to secure alternative housing development opportunities across brownfield sites within Rutland. They are particularly upset that recent refusals of infrastructure funding for Rutland has accelerated planning applications elsewhere.

The site has tangible evidence of flooding, abuts a woodland trust site and has electricity pylons extending right across the proposed development.

Residents are distressed by the proposal, feel let down by recent opportunity to develop brownfield sites and cannot comprehend how the much needed infrastructure for Oakham has not been put in place before more development is agreed.

On behalf of the residents of Oakham South, I would ask the planning committee to consider residents very real concerns in their deliberations.

Conditions

Following representations by the Agent on the recommended conditions, they are revised as follows:

1. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
Reason – To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
2. No development shall be commenced until plans and particulars of "the reserved matters" referred to in the above conditions relating to the appearance, landscaping (including design and layout of open spaces), layout and scale have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
Reason - The application as submitted does not provide sufficient particulars for consideration of these details.

3. The development shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
Reason – To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
4. The Reserved Matters shall be based upon the following plans and documents:
 - 3646-02A_Parameters Plan;
 - Drainage Strategy Plan SK04A;
 - Proposed Access Junction Layout plan ADC2393-DR-001-P5;
 - The recommendations for biodiversity enhancements in section 4.4 of the Extended Phase 1 Habitat Survey;

and have regard to:

- Illustrative Master Plan Ref. 3646-SK05;
 - Design & Access Statement, December 2020;
- Reason – To ensure that the final development accords with the parameters set out in the outline application, has an acceptable relationship with the adjoining properties, provides adequate open space and a sustainable drainage scheme and in the interests of proper planning.
5. The Reserved Matters shall provide for a maximum of 62 dwellings.
REASON – The provision of a greater number of dwellings would reduce the space available for open space, sustainable drainage, ecological interests and result in a cramped form of development and in accordance with Policies SP5 and SP15.
 6. No development above damp course level shall take place until details of the facing and roofing materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
REASON – To ensure that the materials are compatible with the surroundings in the interests of visual amenity and because no details have been submitted with the application, in accordance with Policies SP5 and SP15.
 7. All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species.
REASON: To ensure that the landscaping is carried out at the appropriate time and is properly maintained, in accordance with Policy SP15.
 8. A reserved matters application for layout or landscaping shall be accompanied by an updated tree retention plan to include details of protective fencing (which is in accordance with BS5837:2012 which is to be approved in writing by the Local Planning Authority.. The approved protective fences shall be retained throughout the duration of building and engineering works in the vicinity of the trees to be protected. Within the areas agreed to be protected, the existing ground level shall be neither raised nor lowered, and no materials or temporary building or surplus soil shall be placed or stored there. If any trenches for services are required in the protected areas, they shall be excavated and back-filled by hand and any tree roots encountered with a diameter of 5cm or more shall be left unsevered.
Reason - The trees are important features in the area and this condition is imposed to make sure that they are properly protected while building works take place on the site, in accordance with Policy SP15.

9. No building shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority, by means of a sustainable drainage system, based on Plan SK04A and the drainage details submitted with this outline application. The submitted details shall:
- include a timetable for its implementation; and
 - provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason: To ensure that the development does not lead to additional risk of flooding in the local area or the nearby strategic highway network, in accordance with Policy SP15 and Chapter 14 of the NPPF.

10. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- the parking of vehicles of site operatives and visitors
 - loading and unloading of plant and materials
 - storage of plant and materials used in constructing the development
 - the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - wheel washing facilities
 - measures to control the emission of dust and dirt during construction
 - a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: To ensure that the development is carried out in a manner that minimises disruption to the highway network, in the interests of highway safety and in accordance with Policy SP15.

11. The landscaping scheme to be submitted as part of the Reserved Matters shall include the recommendations for biodiversity enhancements in section 4.4 of the Extended Phase 1 Habitat Survey submitted with the outline application.
- Reason: To ensure that the layout and landscaping of the site is acceptable in terms of biodiversity, in accordance with policies CS22 and SP19.

12. No development shall take place within the application site until the applicant or developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved, in writing, by the Local Planning Authority.

Reason - To allow proper investigation and recording of the site, which is potentially of archaeological and historic significance in accordance with policies CS22 and SP20.

PLANNING & LICENSING COMMITTEE

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ADDENDUM REPORT

Report no.	Item no.	Application no.	Applicant	Parish
83/2021	2	2020/0172/OUT	MULLER PROPERTY GROUP	WHISSENDINE

Letter received from the Agent 25 June 2021:

Thank you for bringing this matter to committee on the 29 June 2021. We have now read through the Officer's report to committee. It goes without saying that we are obviously disappointed that, ultimately, Officers have decided to recommend refusal given that this site is well related to the existing settlement of Whissendine and, in part, is proposed to be allocated in the emerging Local Plan.

Having read through the committee report we have a number of observations which we wish you to report to Members at committee and these are itemised below:

- 1) It is clear that the Application Site must be in a location which the Council considers as appropriate for development. A significant proportion of the site, some 1.03 hectares, is proposed to be allocated in the emerging Plan. We submit that this is not a "small section" as it sets out in the Executive Summary and indeed exceeds the definition of small/medium as set out in the Framework.
- 2) The Government's objective is to boost significantly the supply of housing land. This point does not appear to be addressed in detail in the Officer's report. We understand that Officers consider to have a 5.2 year supply of housing land, although we consider that, in fact, the actual supply is less than 5 years as we have identified in the supporting documents attached to the planning application. We have seen no formal rebuttal of this document which would suggest that our findings are incorrect.
- 3) It is important that the scheme is not minor in scale, but neither is the proposed allocation in the emerging Plan.
- 4) We note that there are urban design comments about the scheme, but this is an outline application, and we are not asking for the illustrative plan to be approved. Therefore, what really needs to be considered is whether or not the scheme is capable of accommodating sufficient areas of green space as well as up to 66 dwellings. The point of applying for "up to 66" dwellings is that this is the maximum number of units which could be accommodated on the site, but at the reserved matters stage the actual figure may be less once various design considerations are taken into place.
- 5) There is a reference to highway safety being an issue amongst the reasons for refusal, but we have not seen any identification of such an issue in the professional Officer's

responses. The RCC Highways response appears to accept that the internal road design is acceptable and can be designed to an adopted standard. Visibility splays can be achieved and links to the village are supported. There is no identification of any issue regarding highway safety. If any junction improvements works are needed this could be controlled by planning condition.

6) Drainage. There is no suggestion that drainage from this particular site would affect flooding elsewhere in the village. The Officer's report at paragraph 108 indicates that previous flooding issues relate to the main street, not in the vicinity of the Application Site. This is a matter which can be controlled by planning condition, and given that this is an outline application, it would be appropriate to place a condition requiring the scheme to demonstrate that drainage and flood issues can be dealt with prior to commencement of development.

7) Ecology. It is reported that the Environment Act will require a 10% increase in biodiversity on new sites when it comes into force. However, it is important to note that the Environment Act has not yet been passed and it is the case that it is expected that there will be a lead-in period before the 10% figure is actually imposed. Notwithstanding this point, having reviewed the Ecology Officers' response, this is not based on any evidential exercise, but simply states that the Officers "feel" there will be net loss. This is clearly not the evidential basis upon which to refuse planning permission. Again, this is a matter which can be controlled by a planning condition requiring a biodiversity calculation to be provided at the reserved matters stage.

In conclusion, we consider that the Applicant's scheme provides much needed housing which will help to fulfil the national strategy of boosting the supply of housing across the country. It will provide mixed tenure development and there is no suggestion that technical or environmental matters cannot be addressed at the reserved matters stage. The whole purpose of an outline application is to establish the principle of development with details of development being worked up via reserved matters and other planning conditions prior to the commencement of development.

We would respectfully request, therefore, that planning permission is granted subject to the completion of a Section 106 Agreement to provide necessary affordable housing and the imposition of relevant planning conditions as outlined above.

PLANNING & LICENSING COMMITTEE

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ADDENDUM REPORT

Report no.	Item no.	Application no.	Applicant	Parish
83/2021	3	2020/0942/OUT	VISTRY HOMES	KETTON

The **applicant** has sent a supporting document to all Committee members together with a copy of the illustrative Masterplan.

The **Ketton and Tinwell Neighbourhood Plan Group** has submitted the following comments:

I am writing to give you comments from the Steering Group for the Ketton and Tinwell Joint Neighbourhood Plan in respect of the proposal for outline planning permission for:

Land off Park Road, Ketton PE9 3SL (Ref 2020/0942/OUT), due to be presented to the Rutland County Council Planning and Licensing Committee on 29th June 2021.

The Steering Group fully endorses the comments made by the Ketton Parish Council Planning Committee.

In addition, the Steering Group would like to make the following points:

Relevance of the Neighbourhood Plan

The papers for the meeting refer to the Ketton and Tinwell Neighbourhood Plan at para 7 (other policies). Whilst the statement made there is factually correct, we should like to point out that the Steering Group has a clear programme to issue a Draft Plan later this year and to submit it in the first quarter of 2022.

It is clear that the proposed site touches on a number of important issues which are perceived as concerns by the community in Ketton, as shown in our Neighbourhood Plan Survey of 2020 (which is extensively referenced by the response from the KPC Planning Committee).

These concerns derive both from policy, and from the actual experience of living and working in Ketton.

Traffic

The community in Ketton is very clear that traffic congestion is an increasing problem, and with the additional three development sites within the village already in process, the amount of traffic movements is going to increase exponentially.

Moreover, the proposals for this site suggest that only one access from the site to Empingham Road is adequate.

We are therefore extremely surprised by the Highways Department's revised view that this proposal is acceptable, bearing in mind the development is likely to involve traffic movements for at least 150 new vehicles each day, together with associated deliveries and amenity vehicles etc, all spilling out onto an already-congested Empingham Road and busy crossroads.

Drainage (surface and foul water)

The position of the site is one where problems of surface run-off have already proved to be acute, and this problem is increasing with the fluctuating weather patterns arising from climate change, and the heavy rainfall that results. The winter of 2020/21 was particularly difficult in this area of Ketton.

We are concerned about the knock-on impact to properties downhill of the proposed site given the drainage issue already extant, and the positioning of a large number of houses and accompanying hard surfaces which will greatly exacerbate the run-off issue.

Also of concern to the community is the adequacy of the sewerage system. It is particularly important to assess the resilience of the sewerage infrastructure given that Ketton is experiencing a number of significant developments all at once. The proposed site would only add to this demand on existing service provision, and the adequacy of that provision needs to be fully tested out.

Landscape character

In response to the Neighbourhood Plan survey, the Ketton community expressed their view that there should be no development outside the Planned Limits (this is referenced within the KPC Planning Committee response). In this respect, the proposed development is not only contrary to Local Plan policy, but also the wishes of Ketton residents.

We would also note the topographical position of the site and its place in the overall landscape. The site is very much on the upslope of the rising land to the north of the village. Whilst the current, relatively compact, form of the Ketton settlement sits well within the Chater valley, built development on the site would represent uncontrolled sprawl into the countryside.

The Steering Group assesses that the wider view toward Ketton, taking in the Chater Valley and the Conservation Area, together with Cat's Hill Spinney and the historic Windmill site, is of importance for landscape character and appreciation of the local countryside, all of which are valued highly by the Ketton community (see the Neighbourhood Plan Survey). Development on the proposed site would create a significant and damaging impact on this.

We would further point out that the principles on which the Steering Group is constructing the Neighbourhood Plan reflect the choices made in the Local Plan for the allocated sites, which set out an appropriate but still challenging level of growth for the community and infrastructure of Ketton to absorb. Those existing challenges

mean that the landscape and habitat value of the land to the north-west and west of the Ketton settlement, featuring as they do within the wider Chater and Welland valley systems, take on an additional significance for the community.

Yours sincerely,

Ann Tomlinson

Chair, Ketton and Tinwell Joint Neighbourhood Plan Steering Group

Additional Neighbour Comments

A late objection from a resident of Park Road has been received which sets out concerns relating to those issues already bulleted in the main Report, notably traffic generation, inability to extend schools, flooding, and water supply. He has experienced issues arising after approval in a similar village in Lancashire where he previously lived.

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83/2021	4	2021/0012/FUL	UPPINGHAM HOME COMMUNITY TRUST	UPPINGHAM

A letter with attachments has been received from the applicant's agent stating the following:



1st Floor, 1 Canon Harnett Court, Wolverton Mill, Milton Keynes, MK12 5NF
T: 01908 410422 M: 07494 459871 E: helen@smithjenkins.co.uk

23 June 2021

Mr D Burbeary
Development Management
Rutland County Council
Catmose
Oakham
Rutland
LE15 6HP

Application Ref: 2021/0012/FUL
Our Ref: 647

Dear Mr Burbeary,

Application for the erection of 6 No. affordable apartments/maisonettes with associated access, car parking and landscaping
Land Adjacent to Sewage Works, Seaton Road, Uppingham, Rutland

Further to the publication of the Officer's Report to Committee, ahead of the scheduled meeting of the Planning Committee on Tuesday 29th June 2021, I would be very grateful if you and Members could consider the comments provided here in response to the issues raised and proposed reasons for refusal.

Principle of the Development and setting

As set out within the submitted Planning Statement, the proposed development comprises a rural exception site, which seeks to provide 6 No. affordable homes and does not include any market or private dwellings. The definition of a 'rural exception site' set out within Annex 2 of the NPPF, confirms that these are to be '*small sites used for affordable housing in perpetuity where sites would not normally be used for housing.*' The very nature of rural exception sites are therefore that they are an acceptable form of development on land that would not otherwise be suitable for housing development. The prevention of market housing on rural sites outside of settlements is exactly the reason for the suitability of such sites under the rural exception site approach. By not allowing market driven residential developments, the land values of such sites do not prohibit their delivery for just affordable homes.

There is national policy support for rural exception sites (see Paragraph 77 of the NPPF) and Local Planning Authorities are required to support opportunities to bring such sites forward where these will provide affordable housing to meet identified needs. The detail within the Planning Statement and the very recent Uppingham Housing Needs Survey (which have subsequently been confirmed by the Council's Housing Strategy & Enabling Officer), show that there is a clear unmet need for affordable housing within the area. The proposed development of smaller homes for those unable to compete on the open market, will therefore meet a clear identified local need. The development therefore complies with the requirements of a rural exception site and a failure to support the principle of this development would therefore fall contrary to the requirements of Paragraph 77 of the NPPF.

It is noted that the Planning Policy Officer (and the proposed refusal reason) refer to 'entry-level exception sites', as set out within Paragraph 71 of the NPPF. However, an entry-level exception site is a different entity to a 'rural exception site' and is therefore governed by specific and separate requirements. The application proposes a rural exception site and there is therefore no requirement or need to meet the criteria of an entry-level exception site in addition. In any event, entry-level exception sites will shortly be replaced with 'first homes exception sites', following the recent written Ministerial Statement.

Furthermore, the Policy Officer again refers to Paragraph 79 of the NPPF (and again this is referred to within the proposed reason for refusal) and the desire to prevent isolated homes in the countryside. Again, this is not relevant to this application as the proposals fall within the definition of a rural exception site and are therefore, by their very nature, set apart from existing settlements where other housing development would be likely to come forward. In addition, the proposal would deliver 6 No. homes, which as a combination, cannot be considered isolated. The Court of Appeal case referred to by the Policy Officer confirms that to be considered truly 'isolated' a property would need to be physically separate from others, a functional isolation from services or facilities does not comprise an isolated dwelling. At paragraph 39 of the judgement in *Braintree District Council v Secretary of State for Communities and Local Government, Greyread Ltd and Granville Developments* [2018] EWCA Civ 610, Lord Justice Lindblom states (with reference to Paragraph 55 of the NPPF, which is now Paragraph 79 of the NPPF 2019) that when considering the meaning of 'isolated' that:

'if the proposed development would be either separate or remote from other dwellings or separate or remote from services and facilities, it offends the policy. This would be a strained and unnatural reading of the policy. In my view it is neither necessary nor appropriate to gloss the word "isolated" by reading an additional phrase into paragraph 55 whose effect would be to make the policy more onerous than the plain meaning of the words it actually contains. No such restriction is apparent in the policy, or, in my view, implicit in it.'

It is clear therefore that 'isolated' should only be taken to refer to a dwelling physically separate or remote from any other dwelling. The proposed development will provide 6 No. residential properties and as such none of them can be considered to be physically isolated. The application cannot therefore be determined with regard to Paragraph 79 of the NPPF, as this is of no relevance to the development proposed.

The Policy Officer concludes that it is likely that affordable housing will come forward as part of housing allocations in Uppingham, however, there is no certainty to this delivery and both locally and nationally there has been a significant under-provision of affordable homes in recent years. The Applicant, as a Community Land Trust, is uniquely placed to be able to provide homes at a rental level below those normally imposed upon affordable homes. This will ensure the genuine affordability of the proposed units to those in housing need. In addition, even if a policy compliant level of affordable housing were to come forward on future allocations, this would not meet the full need for affordable homes across Uppingham and Rutland more generally. Housing delivery figures should not be viewed as a 'ceiling' beyond which additional homes are not required.

Whilst Policy CS11 of the Rutland Core Strategy refers to small sites for affordable housing needing to be set within or adjoining villages, this policy dates from 2011 and therefore pre-dates the NPPF. As Policy CS11 is not consistent with the NPPF in respect of rural exception sites, where no locational criteria are imposed, no weight can be attributed to this aspect of Policy CS11.

In summary therefore, the proposed development seeks to provide 6 No. much needed affordable homes to meet the needs of those who cannot access the private rental or ownership market. The 6 No. homes will assist in meeting the identified need for affordable homes, evidenced through the recent local housing needs survey and confirmed by the Council. The development comprises a rural exception site supported by Paragraph 77 of the NPPF, and fully complies with the definition of such a site set out within the NPPF (Annex 2). The development does not propose an 'entry-level' exception site and would not comprise isolated dwellings in the countryside. The principle of the development must therefore be considered acceptable.

As the proposed development seeks a rural exception site, which by its very nature is required to be located in a countryside situation, the principle of the built form proposed cannot be questioned, particularly given the out-of-date nature of local policies which are stricter and not in accordance with national policy in the NPPF. The proposed development has been sensitively designed to provide a modern style of property whilst utilising traditional forms and materials.

The existing mature trees along the highway verge are to be retained and new planting is proposed within the site. As noted within the Officer's Report, the site lies adjacent to existing development, in the form of the solar farm and water treatment facility and the site at present does not therefore benefit from rural or open surroundings. Small amenity spaces are provided for future residents which are commensurate with similarly sized properties elsewhere. There would be plentiful space for residents to utilise the outdoor spaces, which are designed to encourage a cohesive and inclusive community.

The proposed development would provide much needed affordable homes for those looking for their first property and have been designed to take into account the site surroundings and changes in levels. The Officer's Report makes no reference to issues with the proposed design or height of the buildings and yet these are referred to within the proposed reason for refusal. The change in levels across the site has been utilised by the proposed buildings, with the rearmost block set within the slope and therefore appearing as only single storey in height from the rear (north). This rearmost building (Block B) has been designed with its main windows and habitable spaces set towards the front of the building. There would not therefore be any significant views of or over the solar farm to the north. In addition, there are no side facing windows within this block and as such there would not be views afforded towards the water treatment facility.

Odour and Noise

It is noted that Anglian Water and the Council's Environmental Health Officer have raised concerns in respect of the potential for odour arising from the nearby sewage treatment works (water treatment plant) to cause an impact on the amenity of future residents. You may now also be aware that the Applicant, Uppingham Homes Community Land Trust, have

subsequently, on the advice of the Environment Agency, made a formal request to the Council's Environmental Health department that an Abatement Nuisance Order be served upon Anglian Water as a result of their failure to comply with the Environmental Protection Act. A copy of the formal request is appended to this letter for reference, however, in essence, Anglian Water have confirmed that they are, and have been for some time, unable to control odour emissions from its Seaton Road water treatment plant. Remedial work to upgrade the equipment and facilities at the Seaton Road treatment plant is therefore required in order to ensure that Anglian Water complies with the relevant environmental legislation. These upgrade works will ensure odour emissions are controlled and that no adverse impact on future residents at the application site would arise.

In respect of noise, the Environmental Health Officer has expressed a concern that noise emanating from plant and equipment at the sewage treatment works could cause disturbance to future residents. However, as has been set out within the submitted Noise & Odour Statement prepared by Envision, an appropriate and acceptable background noise environment can be satisfactorily achieved through the proposed attenuation fence along the eastern boundary of the site, and by the use of mechanical ventilation with heat recovery. These elements can be ensured through an appropriate condition.

Trees

The Council's Forestry Officer has confirmed that none of the trees across the application site are worthy of protection by Tree Preservation Order. The trees on the site are not therefore protected, or warrant protection and therefore the provision of a tree survey, tree retention plan and tree protection plan can be appropriately and reasonably controlled through a planning condition. The Applicant would be agreeable to this requiring details to be submitted prior to the commencement of works on site.

Ecology

The application was supported by a Preliminary Ecological Appraisal undertaken by the Sustainable Land Trust. This Appraisal confirmed that there are few trees within the site and that there was no evidence of Badger setts within the site or immediate environs and that it was unlikely to support Great Crested Newts. There is a potential that the site could be used for Badger foraging and by some reptiles, along with birds and bats within trees. The Appraisal therefore recommends that further Badger and reptile surveys be carried out prior to any development taking place, and also that updated bird and bat surveys be conducted immediately prior to works commencing on site.

It is noted that the County Ecologist has commented that the Appraisal should be carried out at an appropriate time of year, however, as the Appraisal provides an assessment of habitats rather than specific individual species, these surveys can appropriately be carried out at any time of year. The Applicant is committed to ensuring no harm to any protected or priority species and a condition requiring a further Badger and reptile survey, along with updated bird and bat surveys can be appropriately conditioned. There is no evidence to suggest that the proposed development would cause harm to populations of protected or priority species, the land may simply be used for foraging or commuting and therefore appropriate measures can be ensured through condition, rather than needing all additional details prior to the determination of the application.

Highways

Following the comments from the Council's Highways Engineer, the tie-in position of the new access has been amended and the Engineer confirmed the acceptability of the access in terms of its width, and the provision of car parking spaces on site. Furthermore, the application includes the provision of an extension to the existing footpath along the northern edge of Seaton Road to connect the application site with the remainder of Uppingham. This will be delivered as

part of the development and can be ensured through either a condition or a suitable legal agreement.

As has been set out previously, the location of the proposed dwellings should be considered acceptable in principle, given the rural exception site nature of the development. In addition, the new homes on the application site would be no more distant from facilities and services within Uppingham than other existing residential properties and allocations located around the periphery of the settlement. Indeed the allocated Bloor Homes site along Leicester Road is more distant from the centre of Uppingham and its facilities (for example the Co-op store) than the application site. Future residents of the application site would therefore have a reasonable and attractive option to access these services by means other than private car. The site is therefore sustainably located despite its slight separation from the defined edge of the settlement.

Drainage

The proposed development will ensure that it is appropriately drained in terms of surface water and that any on-site attenuation required to ensure a 2l/s discharge rate will be incorporated. This can be appropriately controlled by condition and the Applicant is agreeable to a suitably condition requiring a detailed surface water drainage scheme to be submitted and approved by the LLFA prior to any above ground works commencing on site.

The details set out within the application submission, together with the additional information provided here, demonstrates the compliance of the application with both national and local planning policy (where these are not to be considered out-of-date). The Applicant would welcome the opportunity to commence work on drafting a legal agreement to ensure the provision of the proposed dwellings as affordable homes and to commit to the Deposit Builder Trust Fund to enable those in housing need a genuine opportunity to take their first step on the housing ladder whilst still being able to save a deposit for their future.

It is therefore respectfully requested that the Officer Report be amended to recommend approval, and Members be advised of the contents of this letter at the forthcoming Planning Committee meeting. Please do not hesitate to contact me at this office should you require any further information. Yours sincerely



Helen Lowe MRTPI
Associate Director



Mr C Howat BSc (Hons) MCIEH
10.6.2021
Senior Environmental Health Officer
Public Protection Section
Rutland County Council
Catmose
Oakham
Rutland
LE15 6HP

Dear Sir,
Request to Issue an Abatement of Nuisance Notice

Uppingham Homes Community Land Trust is registered with the Financial Conduct Authority under the Cooperative and Community Benefit Societies Act 2014 as a Community Benefit Society. I write on behalf of its board of directors who, acting on the advice of the Environment Agency, request that the County Council support The Society in ensuring compliance with the Environmental Protection Act by Anglian Water (AW).

We find it necessary to write seeking urgent legal action by RCC as the relevant enforcement agency owing to the astonishing admission by AW that it has for many years been unable to control the odour emissions from its Water Treatment Plant in Seaton Road, Uppingham, Rutland and will continue to be unable to do so despite a recent announcement of more capital expenditure at the plant.

Having taken expert advice, The Society is advised that the main issue appears to be a design fault in the layout of the plant that means the incoming waste pipe terminates in the open air immediately inside the plant boundary and is uncovered, as are its settlement tanks. Despite site meetings to identify the cause, accepted by the A W site manager, AW has chosen to put a blight on the area, including neighbouring land owned by Uppingham Homes. This is currently being worked on by volunteers preparing the site for a £1.5M community project.

Elsewhere in the UK water authorities have been required by their local planning authority to physically cap similar open developments such that no odour is emitted. Hence there are many successful and attractive community projects and housing developments adjacent to water treatment plants around the country. This of course requires capital expenditure to execute and The Society believes this lies at the heart of AW's failure to act.

Some years ago, a former owner of our site requested that RCC serve an Abatement Nuisance Order on AW which allegedly responded by stating that no odour existed. Following an enquiry from The Society, AW is indicating it can now measure the air pollution it generates more precisely and that an unlawful odour will indeed blight our site and that part of the Uppingham

neighbourhood for the foreseeable future. Clearly this is not acceptable to community representatives here, hence our approach to you for action to ensure such a potential danger to our local habitat and our land is removed.

The Society believes that environmental law may be being flouted for commercial convenience. It requests that you authorise an appropriate officer to investigate the alleged emission of harmful odours and require AW to undertake such remedial work as is required to make the neighbourhood safe.

The Society's youth project in Seaton Road has been a story of positive collaboration and community engagement so far. It has attracted national attention and support. Locality, Homes England, GSS Architects, the local community, Rotary, Uppingham in Bloom, The Uppingham Neighbourhood and Business Forums, and the town's community partnership Uppingham First, are all supporters of The Society's objectives.

We would very much appreciate the help of the county council in tackling this threat to public health. Clean air and a healthy surrounding environment should be a priority for every water authority. AW appears to be confirming that our volunteers and the community are being put at risk. The Society looks forward to the County Council's response.

Ron Simpson
Ron Simpson BEM
Secretary and Director
Uppingham Homes CLT

Attachments Letter 2 dated 21 June 2021



Andrew Woodhouse BSc (hons), MSc, MCIEH
21.6.2021 Environmental Protection Officer
Rutland County Council
Catmose
Oakham
Rutland LE15 6HP

Copy to interested parties and partners

Dear Andrew

Request to Issue an Abatement of Nuisance Notice – Seaton Road Water Treatment Plant

Thank you for your e-mail of June 17th 2021 (appended) in which you acknowledge, on Clean Air Day 2021, the county council's legal duty to protect the air quality standards prevalent in the area of the Seaton Road Water Treatment Plant operated by Anglian Water. Our advisors and our board are pleased that the county council has agreed to investigate this potential public

health hazard which, according to evidence readily available to you through the county council's own website, planning portal and correspondence records, should not present too great a challenge to ascertain the facts and the need for urgent action. We note that it is Anglian Water themselves who have flagged up the potential matter of odours in their response made via your planning portal.

I note you seek to limit your enquiries to the impact on nearby homes. However, I would draw your attention to the fact that Section 79 of the Environmental Protection Act 1990 makes it clear that the right of safe enjoyment of one's land, whatever its use, is covered by the legislation. The Society understands that it is correct procedure for the Council to seek evidence to establish whether there is air pollution emanating from the water treatment plant. Ironically, your own department has already indicated it believes this to be the case when commenting upon a recent planning application.

To be helpful to your enquiries, and prior to any scientific atmospheric measurement which your department will no doubt wish to commission in the public interest, The Society can confirm the following evidence:-

- 1) Your department was notified in writing on July 3rd 2009 of a statutory nuisance odour by the former owner of the Seaton Road Orchard site, a private leisure facility, which lies adjacent to the water treatment plant. The Society holds a copy of the letter which clearly states that working on the land was untenable due to a continuous pervasive odour. Whatever action was taken at that time by your department was assumed to have been successful as, on May 25th 2010, Anglian Water wrote to the same landowner advising that there was no further requirement for odour management treatment on the plant and offered the landowner a sewer connection for the purpose of building a detached property. A subsequent planning appeal raised no concerns about air quality.
- 2) Anglian Water has recently indicated in private correspondence with the current owner of the Seaton Road Orchard (The Society) and subsequently to the RCC Planning Department, that it now believes its 2010 assessment was incorrect and that more sophisticated measuring equipment confirms that odours are being emitted from their plant to the detriment of neighbouring landowners and the passing general public (A popular local walk and a public highway pass right by the plant). Worryingly, the water authority has also advised The Society and the RCC Planning Department that the emission of odours will get worse due to current expansion work at the plant and will undoubtedly blight the economic potential and social enjoyment of neighbouring land such as ours. This is a clear breach of the 1990 Act admitted in writing.
- 3) Prior to requesting the issue of an Abatement of Nuisance Notice, The Society took advice from a local expert water engineer and plant examiner who is an ex senior employee of Anglian Water. He facilitated a number of joint meetings on the site with a view to identifying the source of the odour problem and appropriate rectification. It was agreed that a design/construction error whereby the plant's incoming waste water supply pipe had been terminated in open air, very close to the site boundary without the usual distancing strip, was the principal culprit. Emissions from the pipe, instead of settling on water authority land are therefore able to creep in certain weather conditions over the boundary and blight the neighbourhood. It was proposed that a cost effective solution would be to cap the pipework in question for a few metres, a solution that has been executed elsewhere with great success. Indeed, a guest Chief Planning Officer from a neighbouring authority has confirmed that many planning authorities would require such an atmospherically sealed solution when land on the boundary of a water treatment plant is threatened in this way. Anglian Water have declined to address the problem, presumably in the belief that no action will be taken by Rutland County Council; hence The Society's recent correspondence with the Environment Agency and now Environmental Health.
- 4) The immediate neighbours of the water treatment plant are our own site (the orchard), a farm house on Seaton Road at the other side of the plant at which the owner recently died, and the new solar farm. Each have volunteers, local residents or employees working on them on a regular basis. The landowners' contact details will be on the council's own databases. I will be instructing for The Society in any required legal or court proceedings from the address below. At a recent town council debate on a planning application to build affordable homes for local young people on the orchard site, several councillors born in the

town confirmed Anglian Water's failure over many years to address the pollution created by their plant and asked that this be drawn to the attention of the county council in writing. This has been done.

In summary, there is substantial written evidence already with the county council to inform prompt action by public health authorities to protect the Uppingham community. As a safeguard The Society has withdrawn its volunteers from the site and informed the media of the situation. Time is money and The Society's onsite work has been halted until enforcement action has been taken. Almost £100,000 of public funds have so far been invested in our orchard affordable housing project. The Society's Board, its volunteers, and the nearby community would appreciate your urgent attention.

Ron Simpson
Ron Simpson BEM
Secretary and Director
Uppingham Homes CLT

Please address all correspondence to the Secretary of the Uppingham Homes Community Land Trust at

7 Hawthorn Drive Uppingham Rutland LE15 9TA Tel: 01572 823465 Mobile: 07710 328469 E-mail: rons@clara.net

The Uppingham Homes Community Land Trust is registered with the Financial Conduct Authority under the Co-operative and Community Benefit Societies Act 2014 as a Community Benefit Society. Registered Office: The Falcon Hotel, Market Place, Uppingham, Rutland LE15 9PY Registration number 8155

Appendix – Complaint and Response

Mr C Howat BSc (Hons) MCIEH
10.6.2021
Senior Environmental Health Officer
Public Protection Section
Rutland County Council
Catmose
Oakham
Rutland
LE15 6HP

Dear Sir,

Uppingham Homes Community Land Trust is registered with the Financial Conduct Authority under the Cooperative and Community Benefit Societies Act 2014 as a Community Benefit Society. I write on behalf of its board of directors who, acting on the advice of the Environment Agency, request that the County Council support The Society in ensuring compliance with the Environmental Protection Act by Anglian Water (AW).

We find it necessary to write seeking urgent legal action by RCC as the relevant enforcement agency owing to the astonishing admission by AW that it has for many years been unable to control the odour emissions from its Water Treatment Plant in Seaton Road, Uppingham, Rutland and will continue to be unable to do so despite a recent announcement of more capital expenditure at the plant.

Having taken expert advice, The Society is advised that the main issue appears to be a design fault in the layout of the plant that means the incoming waste pipe terminates in the open air immediately inside the plant boundary and is uncovered, as are its settlement tanks. Despite site meetings to identify the cause, accepted by the A W site manager, AW has chosen to put a blight on the area, including neighbouring land owned by Uppingham Homes. This is currently being worked on by volunteers preparing the site for a £1.5M community project.

Elsewhere in the UK water authorities have been required by their local planning authority to physically cap similar open developments such that no odour is emitted. Hence there are many successful and attractive community projects and housing developments adjacent to water treatment plants around the country. This of course requires capital expenditure to execute and The Society believes this lies at the heart of AW's failure to act.

Some years ago, a former owner of our site requested that RCC serve an Abatement Nuisance Order on AW which allegedly responded by stating that no odour existed. Following an enquiry from The Society, AW is indicating it can now measure the air pollution it generates more precisely and that an unlawful odour will indeed blight our site and that part of the Uppingham neighbourhood for the foreseeable future. Clearly this is not acceptable to community representatives here, hence our approach to you for action to ensure such a potential danger to our local habitat and our land is removed.

The Society believes that environmental law may be being flouted for commercial convenience. It requests that you authorise an appropriate officer to investigate the alleged emission of harmful odours and require AW to undertake such remedial work as is required to make the neighbourhood safe.

The Society's youth project in Seaton Road has been a story of positive collaboration and community engagement so far. It has attracted national attention and support. Locality, Homes England, GSS Architects, the local community, Rotary, Uppingham in Bloom, The Uppingham Neighbourhood and Business Forums, and the town's community partnership Uppingham First, are all supporters of The Society's objectives.

We would very much appreciate the help of the county council in tackling this threat to public health. Clean air and a healthy surrounding environment should be a priority for every water authority. AW appears to be confirming that our volunteers and the community are being put at risk. The Society looks forward to the County Council's response.

Ron Simpson
Ron Simpson BEM
Secretary and Director
Uppingham Homes CLT

Response Received by e-mail

From: Andrew Woodhouse <AWoodhouse@rutland.gov.uk>
Sent: 17 June 2021 17:01
To: rons@clara.net
Cc: Craig Howat <CHowat@rutland.gov.uk>
Subject: FW: Abatement of Nuisance Notice, Seaton Road, Uppingham

Dear Mr Simpson

Thank you for your email and attached letter. Local Authorities do investigate potential Statutory Nuisances, which can include issues such as malodours arising from Sewage Treatment Works (STW), where it affects resident(s) at their home(s). If you could send me the addresses of the

homes affected by the STW and ideally the name(s) of the of the occupiers, including yourself if applicable, I will contact them regarding opening an investigation in to the issue you have raised. Thank you.

Yours sincerely

- Andrew Woodhouse BSc (hons), MSc, MCIEH | Environmental Protection Officer
- Rutland County Council
- Catmose, Oakham, Rutland, LE15 6HP
- Telephone: 01572 720977
- mobile : 07900 138224
- e mail: awoodhouse@rutland.gov.uk
- www.rutland.gov.uk

Please address all correspondence to the Secretary of the Uppingham Homes Community Land Trust at

7 Hawthorn Drive Uppingham Rutland LE15 9TA Tel: 01572 823465 Mobile: 07710 328469 E-mail: rons@clara.net

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In Response further comments have been received from

- **Environmental Protection**

We received Mr Simpson's letter in the afternoon of Tuesday 22nd June 2021 (as attached). It does not affect Mr Howat's comments made on 11th February 2021, that I reiterated on 15th June 2021, regarding the above application.

- **Planning Policy**

Please find the following comments in response to the applicant's letter regarding the proposal for 6 dwellings on land adjacent to the sewage works, Seaton Road, Uppingham:

1. There is no reason that CS11 is out of date – it is still the Council's adopted planning policy with respect to rural exceptions and remains consistent with the NPPF.

The National Planning Policy Framework (the 'NPPF') was revised in February 2019 and is a material consideration in decision making from the day of its publication. Paragraph 213 is clear however, that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the revised NPPF. Due weight should be given to them according to their degree of consistency with the Framework; the closer the policies in the plan to the policies in the Framework; the greater weight that may be given. It is considered that Policy CS11 is sufficiently aligned with the provision of the 2019 NPPF that full weight can be attached to it in the decision making process.

Policy CS11 is supportive of rural exception sites to meet identified needs and NPPF paragraph 77. NPPG 'Rural Housing' states assessing housing need and allocating sites

should be considered at a strategic level and through the Local Plan and/or neighbourhood plan process.

2. With regard to the Submitted Local Plan, Policy SD2 Allocations of land will provide for new homes and employment opportunities in accordance with the intentions of the existing and emerging revised Neighbourhood Plan. This approach is appropriate to need the requirement for market and affordable housing in Uppingham

It is our view that existing commitments along with the expected provision from current planning applications and the level of housing proposed for Uppingham in the Submitted Local Plan will deliver affordable housing to adequately meet local needs, specifically via the Neighbourhood Plan process in accordance with NPPG. To date, 31 affordable dwellings have been completed in Uppingham over the last 3 years; a further 55 affordable homes are likely to be delivered on existing sites under construction or through a current application on a site allocated in the made Uppingham Neighbourhood Plan; and up to 60 additional affordable homes should be delivered through the expected allocations to be made in the revised Uppingham Neighbourhood Plan.

A number of sites have been identified through the Council's Strategic Housing Land Availability Assessment (SHLAA) process that have the potential to meet the needs within or adjoining Uppingham and this should be a material factor. The fact that a number of sites have been actively promoted through the SHLAA and through the Neighbourhood Plan 'call for sites' shows it is unlikely there will be a barrier to sites coming forward to meet the identified need to justify the release of this exception site which is poorly related to Uppingham between a solar farm and a sewerage treatment works. The NPPG does state all settlements can play a role in delivering sustainable development in rural areas. It is our view that this site is by definition is in open countryside, not adjoining Uppingham and therefore is considered to be unsustainable development and would result in isolated housing in the countryside. It is our view there are realistic alternative sites that could deliver the same benefits in more sustainable locations well related to the town.

3. Isolated development we refer to *City & Country Bramshill Ltd v Secretary of State for Housing, Communities and Local Government [2021] EWCA Civ 320*. In this case, the High Court determined that a proposed development of 235 dwellings would constitute isolated housing in the countryside.

This case refers to paragraph 79 of the NPPF that planning decisions should avoid the development of isolated homes in the countryside unless a listed exemption applies. Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
- b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
- c) the development would re-use redundant or disused buildings and enhance its immediate setting;
- d) the development would involve the subdivision of an existing residential dwelling; or
- e) the design is of exceptional quality

None of these circumstances apply in this case.

In determining whether a particular proposal was for "isolated homes in the countryside", the decision-maker had to consider whether the development would be physically isolated, in the sense of being isolated from a settlement. What constituted a

"settlement" and whether the development would be "isolated" from it were both matters of planning judgement for the decision-maker on the facts of each case.

It is our view that this proposal would form isolated homes in the countryside and would be isolated from Uppingham. We have reached this conclusion based on certain principles extracted from the judgements from case law which should be considered when seeking to understand if a dwelling can be treated as an "isolated house" and therefore, whether paragraph 79 can be applied to a case, namely:

1. whether or not it is located within the settlement boundary;
2. proximity to other dwellings;
3. proximity to local services and facilities;
4. access to public transport services;
5. physical and visual separation from the settlement.

Our judgement that the proposed development would constitute isolated homes in the countryside is based on consideration of all above five principles.

4. It is implicit that exception sites are not likely to be required for Uppingham and Oakham because the identified local affordable housing need will be met by strategic allocations in accordance with the spatial strategy.

In conclusion, on a matter of principle the proposal does not constitute sustainable development, notwithstanding that there are other planning issues such as site suitability, scale, design, amenity etc. to be considered and addressed.

The principle of development in this location is contrary to National and Local Plan Policy. The site is in an unsustainable location with poor access, in particular by walking to access the services and facilities in Uppingham and would lead to a reliance on motor vehicles for transport.

The proposal doesn't meet the requirements for an exception site as set out in Policy CS11 or the requirements set out in either of paragraphs 71 and 79 of the NPPF. Whilst the Council accepts there is a 'need' for affordable housing generally in Uppingham, this particular site is not suitable and it is likely other affordable housing will come forward through current commitments, outstanding planning applications to be determined and as part of housing allocations in the revised Uppingham Neighbourhood Plan. These will adequately provide for the local need determined with the housing survey (which is based on a low rate of return from households).

- **Senior Planning Ecologist**

Regarding the ecology comments in the rebuttal letter, and as discussed, protected species cannot be conditioned. The Ecological Appraisal report (Sustainable Land Trust, February 2020) states that 'Further surveys should be undertaken prior to development if the debris mounds have not been removed before the main mating season (April to June), and at the optimal time of year (April – June) and potentially September'. In addition, the report states 'a full badger survey was not undertaken' and 'therefore, where development proposals are delayed there may be a requirement to conduct a new badger survey to ensure that badger setts will not be affected'. With regard to bats section 4.2.2. of the report states 'there was occasional evidence of deadwood, crevices, cracks and holes that may provide roosting or hibernation cover.'

Please note that ODPM Regulations require protected species surveys to be submitted prior to determination of a planning application. It is also essential that the extent that they may be affected by the proposed development is established before the planning permission is granted. (Reference: Paragraph 99 of ODPM Circular 06/2005)

(Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System).

My previous recommendations still apply; if this information cannot be supplied, I recommend that this application is withdrawn or refused, on the grounds of inadequate information about protected species.

In addition, the Phase 1 Habitat Survey was carried out at a suboptimal time of year so a further survey is required as previously recommended. Please see section 3.5 of the report: 'The site was surveyed in December 2019 which is a sub optimal month for conducting ecological surveys. A single visit to a site at any time of year will only identify a proportion of the species present. Therefore, the results of the surveys should not be considered complete'.

I had a meeting set up with the ecologist this morning at 10:30. Unfortunately, she didn't turn up so I have been unable to discuss the survey requirements with her.

- **Highways**

Objection

Access – No objection can be conditioned

Footpath – Highways do not accept the comment provided by the applicant "that the application includes the provision of an extension to the existing footpath along the northern edge of Seaton Road"

The applicant has proposed a very narrow footpath that would not allow 2 pedestrians to pass one another

The minimum footpath that highways would accept would be 2m wide.

The applicant has also not provided any construction details. The verge on the northern side of Seaton Road is approx. 1ft higher than the existing carriageway and has a steep bank. The applicant might have to provide retaining walls along this length of road – but again has not provided any details.

- **LLFA Objections**

The applicant has not provided suitable information to mitigate the concerns raised by the LLFA

This section of Seaton Road becomes flooded during heavy rainfall, due to this issue the drainage cannot be dealt with by condition and must be dealt with before approval

At present the surface water for the site would stay on the site and infiltrate into the ground, with only a small amount entering the highway ditch. The applicant is proposing an outfall of 2l/s which would cause additional flooding on the road

The applicant also not provided any details of the ditch where the outfall is going, or where the ditch runs to (including a full survey to see whether the system can take the flows)

The LLFA therefore still object to this application due to flood risk on the highway

PLANNING & LICENSING COMMITTEE

29TH JUNE 2021

ADDENDUM REPORT

Report no.	Item no.	Application no.	Applicant	Parish
83/2021	5	2021/0380/FUL	MR C NIX	OAKHAM

Further neighbour representation

The applicant provided a response to the office objection, and in turn the objector has offered a rebuttal to those comments.

Opening hours clarification

Following clarification from the applicant regarding opening day/times (as there was a discrepancy between the Licensing application and the planning application), the applicant has clarified their preferred opening times as 12.00 to 23.00 - Tuesday to Saturday inclusive. The site would be closed Sundays and Mondays, however they have requested to be open on bank holiday Mondays.

The openings hours themselves (12:00-23:00) would remain as originally specified, and while open on bank holidays, cumulatively the site would be open less days overall over the year. Public Protection have offered no objection to these amended hours, and on this basis, and with the noise condition in place, it is considered that this is acceptable, and the condition has been amended accordingly.

Amended condition 3 (opening hours)

3. The premises shall not be used for the purposes approved other than between the hours of 12:00 and 23:00 Tuesday to Saturday, and not open for customers at all on Sundays and Mondays, apart from Bank Holidays, which shall adhere to the same 12:00-23:00 opening hours.

Reason: To ensure that as far as possible the proposed use does not become a source of annoyance to the nearby residents.