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Rutland County Council

Catmose,
 Oakham,
 Rutland
 LE15 6HP

Application:	2021/0794/MAF	ITEM 1	
Proposal:	Erection of 84 dwellings, including public open space, landscaping, a pump station and associated infrastructure		
Address:	Land Off Uppingham Road, Oakham		
Applicant:	Davidsons Development Ltd	Parish	Oakham
Agent:	Pegasus Group	Ward	Oakham South
Reason for presenting to Committee:	Major application with policy considerations		
Date of Committee:	8 March 2022		
Determination Date:	17 Sept 2021		
Agreed Extension of Time Date:	28 March 2022		

EXECUTIVE SUMMARY

This site was allocated for development in the withdrawn Replacement Local Plan. It has been assessed as being suitable and deliverable and is in a sustainable location. The layout and design is acceptable and there are no technical reasons for refusing planning permission. Due to the shortage of a 5 year housing land supply following withdrawal of the Local Plan Review, Para 11(d) of the NPPF is engaged and planning permission should be granted.

RECOMMENDATION

APPROVAL, subject to the completion of a S106 Agreement to deliver affordable housing and the provision and maintenance of open space, and the following conditions:

1. The development shall be begun before the expiration of three years from the date of this permission.
Reason – To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.
2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers n1251 001B, n1251 008L, n1251 009E, n1251 400B, n1251 600B, n1251 700C, GL1112 14C, GL1112 15C, GL1112 16C, ADC1841-DR-001 P4, ADC1841/DR/050 P4, The Travel Plan ADC Ref ADC1841-RP-F, House Packs 1-3, Garage Pack.(All subject to confirmation)
Reason - For the avoidance of doubt and in the interests of proper planning.
3. All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details, approved in Condition 2 above, 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.
4. No development shall take place until the existing trees on the site, agreed with the Local Planning Authority for inclusion in the scheme of landscaping / shown to be

retained on the approved plan, have been protected by the erection of temporary protective fences in accordance with BS5837:2012 and of a height, size and in positions which shall previously have been agreed, in writing, with the Local Planning Authority. The 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.

5. The development hereby permitted shall not commence until full details of the design, implementation, maintenance and management of a surface water drainage scheme have been submitted to and approved in writing by the local planning authority. Those details shall include:

6.

- Full survey of adjacent ditches to establish any works required to ensure full capacity is achieved;
- Review of outlet from western swale;
- Review of area discharged to swales;
- Review of use of permeable paving and other sustainable forms of drainage as part of the detailed design;
- Surface water drainage calculations;
- Detailed design block plan;
- Means of access for maintenance;
- Full details of any works required off-site to ensure adequate discharge of surface water without causing flooding or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant and clearing of watercourses);
- Flood water exceedance routes, both on and off site;
- A timetable for implementation;
- Full site investigation and test results to confirm infiltrations rates;
- Capacity assessment of the adjacent watercourse from outlet to downstream (extent to be agreed); and
- A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by an appropriate public body or statutory undertaker, management and maintenance by a Residents' Management Company or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime.

Once approved, the scheme shall be implemented before any dwelling is occupied, retained, managed and maintained in accordance with the approved details.

REASON: To prevent the increased risk of flooding both on and off-site resulting from the proposed development, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system.

7. Car parking including garages and turning shall be provided in accordance with the approved layout plans prior to the first occupation of the dwellings to which it relates. It shall thereafter be retained and not used for any other purpose other than the parking and turning of vehicles.

Reason: In order to ensure that sufficient car parking and turning remains available on site.

8. A scheme of off-site highway works for the new footway to the north shall be submitted to and approved by the Local Planning Authority, and thereafter implemented in full prior to first occupation.
Reason: In the interest of highway safety.
9. Prior to commencement of works details of special measures to protect any existing trees within 30m of the works area must be submitted to and approved in writing by the Local Planning Authority. The special measures shall be in place for the duration of the works.
Reason: In the interests of highway safety and protection of existing trees.
10. Prior to the first use of any external lighting / floodlighting within the development site, the light source shall be so positioned and shielded, in perpetuity, to ensure that users of the highway are not affected by dazzle and/or glare.
Reason: To ensure that users of the highway are not subjected to glare and dazzle from lighting within the development in the interest of highway safety.
11. Any new trees located within 5m of the existing or proposed public highway must be planted with root-protection, details of which must be approved in writing by the Local Planning Authority.
Reason: In the interests of highway safety.
12. All vehicular and pedestrian accesses will be designed to prevent the discharge of surface water from the development onto the existing or proposed public highway.
Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety.
13. The carriageway of the proposed principal junction with the existing public highway shall be constructed up to and including at least road base level or be constructed as a temporary access and be available for use prior to the commencement of any development including the delivery of materials.
Reason: To ensure that the junction is available for use at the outset in the interests of highway safety.
14. No dwelling shall be occupied until the access road or driveway linking that dwelling to the public highway has been completed to a minimum of base course level and shared surfaces and footways/cycleways shall be completed to surface course level. In the event any of the dwellings will be occupied prior to the carriageway serving that property being fully surfaced then a timetable and phasing plan for completing the roads shall be submitted to and approved in writing by the Local Planning Authority. The carriageways shall thereafter be completed in accordance with the approved timetable and phasing plan.
Reason: In the interests of highway safety.
15. Prior to first occupation of any dwelling, vehicle to vehicle visibility splays of 2.4m x 25m at internal junctions, vehicle to pedestrian visibility splays of 2m x 2m at all vehicle accesses and forward visibility splays of 25m shall be provided in accordance with the details shown on plan 008 Rev J – Planning Layout and ADC1841-DR-002 Rev P5 – Internal Layout Assessment and kept free of any obstructions over 600mm in height above ground level in perpetuity.
Reason: In the interest of highway safety.
16. The developer must carry out a joint pre-condition highway survey for the full extent of highway including verges with the Local Highway Authority 500m either side of the proposed access in Uppingham Road and from The Spinney to 100m to the south along Uppingham Road before site traffic commences. The results of the inspection will be provided by way of a photographic survey by the developer to the Local

Highway Authority. A similar inspection will take place on completion of the development to assess any damage and remediation required.

Reason: In the interests of highway safety.

17. No development shall take place 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
- Hours of working on site
- Details to satisfy Network Rail requirements

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.

18. The development shall be carried out in accordance with the Extended Phase 1 Habitat Survey (CBE Consulting) (v3, 8 June 2021) and before the occupation of the final dwelling on site, a total of 15 integrated bat bricks shall be incorporated into the development in accordance with details that shall have been submitted for the approval of the local planning authority.

Reason: To ensure that any protected species near to the site are dealt with appropriately.

19. The development shall be carried out using glazing in accordance with the recommendations contained in the noise assessment Document reference: Uppingham Road, Oakham-1010435-05-AM-20180601-Environmental Noise-Rev 4). No dwelling shall be occupied until the noise insulation has been validated and agreed in writing by the local planning authority.

Reason: In the interests of the amenities of future residents.

20. No development shall commence on any foundations until gas monitoring in accordance with Para's 6.3 and 7.3 of the Phase 1 Desk Study by RLE, May 2018, has been carried out and the results submitted for approval by the local planning authority.

Reason: To ensure that dwellings are built to a safe standard in the event that any landfill gas is discovered.

Informatives:

- Need for European Protected Species Licence
- CIL note
- Highway informatives

Site & Surroundings

1. The site is located on the west side of Uppingham Road, immediately south of the Spinney

Hill development. It is bounded to the road frontage and the southern boundary by a field hedge. The boundary with Spinney Hill is a hedge with occasional trees, beyond which is an area of open space that is now 're-wilding' and has no public access.

2. To the west is the railway line, having a similar at level relationship with this site as it does with Spinney Hill. The site is relatively flat and fall gently to the south east.
3. The boundary to Oakham Conservation Area runs along Uppingham Road to the north east corner of this site then turns across the fields to the east of the road. The site is outside the Conservation Area.
4. A water main runs along the eastern and northern edges of the site making a natural green corridor around the periphery.



Photo of the site from the south east on Uppingham Road

Proposal

5. The proposal is a full detailed application for the erection of 84 dwellings, including 30% affordable units, open space and new access.
6. The scheme would provide the following dwelling types:

Beds	Number	Affordables
1	8	8
2	16	8
3	38	9
4	18	0
5	4	0
Total	84	25

7. The layout has recently been revised following discussions with representatives of the Spinney Hill residents and in response to consultations. The amendments that have taken place are as follows:

- The footpath has been moved away from the root protection area of the tree along the northern boundary. Furthermore, it is confirmed that a “no dig” construction process will be used in the construction of the footpath.
 - Knee rail fencing has been included along the swales along the eastern and western boundary;
 - More detail is provided for the timber bridges over the swales.
 - Trees have been included in the verge on the primary street on both sides;
 - The highway has been softened around The Green with the use of block paving
 - Dwellings with chimneys have been focused around the arrival green space, Uppingham Road frontage and ‘The Green’.
 - Hedgerow boundary treatment has been applied to the secondary street (please see boundary treatments plan).
 - The Gardens associated with plots 46 and 47 have been improved
 - The materials plans and house types pack have been amended to include stone finishes and rendered plots across the site.
 - Detailed landscaping is provided which gives more detail of the specific landscaping as well as the proposed SUD’s basin to the south of the site.
 - The Site location plan has been slightly amended to allow for the surface water drainage connection to the south of the site.
 - A flood risk Addendum is submitted in response to the consultation comments made by the LLFA.
 - An updated Noise Survey is submitted to take account of any potential change in train movements on the adjacent railway line since the original report was produced.
21. The site is laid out such that the open space is located at the south east side, i.e. the immediate edge to the entry to the town.
22. The site was allocated for development in the now withdrawn replacement Local Plan.
23. The latest layout plan is in the Appendix.

Relevant Planning History

None

Planning Guidance and Policy

National Planning Policy Framework (NPPF) 2021

Chapter 2 – Achieving Sustainable Development (inc Para 11(d) - See text in Appendix)
 Chapter 5 – Delivering a sufficient supply of homes
 Chapter 11 – Making efficient use of land
 Chapter 12 – Achieving well designed places

Site Allocations and Policies DPD (2014)

SP5 - Built Development in the Towns and Villages
 SP6 - Housing in the Countryside
 SP9 - Affordable Housing
 SP15 - Design and Amenity
 SP20 - The Historic Environment
 SP23 - Landscape Character in the Countryside

Core Strategy DPD (2011)

CS04 - The Location of Development
CS03 - The Settlement Hierarchy
CS08 - Developer Contributions
CS10 - Housing Density & Mix
CS11 - Affordable Housing
CS19 - Promoting Good Design
CS22 - The Historic and Cultural Environment

Neighbourhood Plan

The Oakham and Barleythorpe Neighbourhood Plan had its area designated in April 2016. Formal Examination of the Plan began in May 2021 but no final Examiners report has been received due to the withdrawal of the replacement Rutland Local Plan and the publication of a revised NPPF in July 2021. A consultation on recommended modifications ran until 7 January 2022.

Officer Evaluation

24. The main issues are planning policy, highway safety, residential amenity, drainage, ecology, and provision of affordable housing.

Principle of the use

25. The site is outside the PLD for Oakham in the current Development plan. Members will be aware that it was allocated for development in the now withdrawn Local Plan Review (LPR). The site has thereby been assessed as being suitable for development and is deliverable.
26. In view of the withdrawal of the LPR, the Council can no longer demonstrate a 5 year Housing Land Supply as required by the NPPF. On this basis Para 11(d) of the NPPF is engaged and the housing locational policies of the current development plan are to be considered out of date. This means that the Para 11(d) carries significant weight in the determination of this application.
27. There is therefore a presumption in favour of sustainable development. Oakham is the most sustainable settlement in the County so is a main focus for new development. The scheme also meets the 3 test of sustainability, i.e., economic, social and environmental as set out in NPPF para 8.
28. The adjacent Spinney Hill development was allowed on appeal in 2011 as the Council could not demonstrate a 5YHLS at that time, even though it was argued at the appeal that we did, as it showed around 5+ years. The Council and existing residents at that time both produced advocacy from Counsel but the Inspector accepted the appellants argument that not all sites were deliverable and the appeal was allowed. A similar but much clearer situation exists on this site now due to the withdrawal of the Local Plan.
29. This site was the subject of a full assessment as to its suitability for housing for the now withdrawn Local Plan. It was considered suitable and was approved for submission to examination. It is in a sustainable location on the edge of the County's most sustainable town. It is therefore suitable for development to help makeup the 5HYLS that is currently under provided. The current figure is 3.4yrs supply. This will be updated again at the end of March. This is unlikely to show an increase in supply but more likely to be a decrease

simply because we haven't granted many permissions but have still been building houses so effectively eating into the supply we had.

30. There was a suggestion at the deferred meeting that Para 11(d) of the NPPF does not have to be followed. Para 11 and its footnote make it clear that where there is no 5 year housing land supply, the locational policies of the Development Plan are to be considered out of date and permission should be granted unless doing so would cause harm to other up to date policies such that they would outweigh the benefits of providing housing.
31. The Core Strategy DPD and SAP DPD are still within their plan period.
32. However, policies are out-of-date for the purposes of paragraph 11(d) of the NPPF if they have been overtaken by things that have happened since the plan was adopted, either on the ground or through a change in national policy, or for some other reason, so that they are now out-of-date.
33. Whether a policy is out-of-date and, if so, with what consequences, are matters of pure planning judgement, not dependent on issues of legal interpretation.
34. The situation here relates to the foot note in the NPPF para 11(d) which clearly states that the circumstances where the policies which are most important for determining the application are considered out-of-date include
35. *"for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years".*
36. In this case there is no significant harm to any other interests of importance that would suggest setting aside Para 11(d).

Design/Layout

37. The layout follows the advice in the Rutland Design Guide in that it provides clusters of outward facing dwellings such that no rear boundaries face onto a road. The road hierarchy is appropriate with smaller lanes and shared surfaces bearing off the main access road.
38. The revised layout include street trees as required by the NPPF.
39. It identifies landmark plots and ensures that all corner dwellings have appropriate features on both front and side elevation, i.e. they 'turn the corner'.
40. The house types are standard to the developer but with the use of appropriate materials they are not unacceptable per-se.
41. The scheme provides a generous amount of open space which, as stated elsewhere, provides a softening edge to the town that Spinney Hill does not achieve with its dwellings so close to the boundary.
42. With the design this layout proposes, the impact of housing on the west side will be softened from the current situation where housing on Spinney Hill turns its back on the countryside and is relatively close to the boundary, which , on the basis of current thinking on urban design would not have been appropriate today.

43. The submission includes a very detailed landscaping scheme for full approval.
44. The location of the play area was considered in accordance with the comments of the Town Council but with the open space being necessary on the southern edge, its relocation would have pushed housing further south on the site. The area is well overlooked by dwellings facing onto the open space.

Impact of the use on the character of the area

45. The advice from a landscape consultant employed by the Council for the Spinney Hill appeal was that refusal on the grounds of landscape impact would not be successful. In allowing the appeal the Inspector agreed with that view.
46. This site, at a local level forms part of the low-lying Vale of Catmose landscape character type that sweeps from the County boundary to the north-west across Oakham to the western shoreline of Rutland Water. More specifically the site forms part of the Eggleton Plain sub-area that is defined by an area of low-lying intensively managed predominantly arable farmland that is crossed by the service infrastructure including a railway, the eastern bypass to Oakham (Burley Park Way) and overhead powerlines. The site is not subject to any specific landscape designations.
47. A landscape study for the Council carried out in 2021 assessed that the site had medium landscape sensitivity and medium capacity to accommodate development.
48. A comprehensive Landscape Visual Impact Assessment has been provided with the application, prepared in accordance with the guidelines from the Landscape Institute. This concludes that the landscape and visual effects arising from this proposal are not considered to be unexpected, or uncommon for the scale and nature of this proposal. The main impacts are localised and the scheme adopts effective mitigation measures capable of successfully assimilating the scheme within its local context of settlement and surrounding farmland. They also secured a high level (38% of site area) of green/blue infrastructure that has demonstrated is capable of securing an overall net gain in biodiversity.
49. The location of open space to the south of the site means that the impact of the development on the edge of the town would be softer than the current edge on Spinney Hill where dwellings are closer to the field boundary. There are no grounds for refusal on landscape impact grounds.

Impact on the neighbouring properties

50. The neighbouring properties are located on the southern edge of Spinney Hill development. They are set back from the northern boundary of this site by varying distances. There is also a landscape strip between those gardens and the northern boundary.
51. The new development would be set well in from the northern boundary such that typical front to rear distances with Spinney Hill properties would be from 27m to 44m. The newly adopted Design Guide states a minimum of 21m is required. No.2 Spinney Hill is sideways on to the site and the nearest front elevation on site (Plot 28), is 21m from the side of No.2, the Design Guide requires 14m.
52. The occupier of No.2 is concerned about loss of privacy from the proposed footpath. This would be 4m from the site boundary and 9m from the southern (side) boundary to No.2.

53. There is also an area of open space and an established hedgerow around the northern boundary of the site which, together with the distances set out, means that the amenities of the Spinney Hill dwellings are protected in accordance with the policy, SP15 and the Design Guide.
54. Members are aware that no-one has a right to a view and whilst the development of the site would be disappointing for those on the southern edge of Spinney Hill, this is not a reason for refusal.
55. There may be some short term disturbance from construction phase but members are also aware this is not a reason for refusal.

Heritage

56. The site is close to the Oakham Conservation Area boundary which lies primarily on the east side of Uppingham, Road, mainly opposite the Spinney Hill development. In allowing the Spinney Hill appeal, the Inspector (nor the Council in the reasons for refusal it put forward) made any reference to that development having an impact on the character and appearance of the Conservation Area. The character of the land on this west side of Uppingham Road is different from that within the Conservation Area on the east side. On this west side the character is more of a plain agricultural flavour, which is reflected on the east side opposite this site. Within the Conservation Area the land takes on a more parkland character, enhanced by dense tree cover.
57. It could be argued therefore that the Spinney Hill development had a similar or even more of an impact on the character of the conservation area, but nevertheless was not an issue identified by the Inspector.
58. The development would not therefore detract from the character and appearance of the conservation area. The public benefit of the development in providing much needed housing would outweigh any perceived less than substantial harm in any event.

Highway issues

59. The site would have a new vehicular access from Uppingham Road. This is in accordance with the geometry required by the highway authority. The internal layout is also acceptable and the scheme provides adequate off street parking for the scheme to comply with policy.
60. In response to the comments of Councillor Browne (see below), the highway authority makes the following statement:

The preference of the LHA is to retain the proposed loop road, for a number of reasons. Removal and replacement with turning heads will result in vehicles turning at two additional points increasing the number of reversing movements increasing the risk to adjacent pedestrians, reducing site permeability, and increases refuse collection time which ultimately creates higher levels of air pollution.
61. Point 6. I am not aware of where in Spinney Hill there is a cycleway to connect to on the northern boundary.
62. Point 8. Street Lighting - Public highways would need street lighting to an adoptable standard, but shields could be considered at that stage, but to be honest I doubt there will be a problem.
63. Point CMP - I don't believe the CMP is the correct place to deal with biodiversity issues, unless you do, but guess something could be added. The CMP condition in the committee report is superseded by the CMP suggested in my final LHA comments, which is a bit

more detailed and covers lighting in relation to the public highway (so could be extended for the northern boundary) and tree protection (so could be extended to deal with concerns on the northern boundary).

Ecology

64. The field is regularly cultivated and cropped and is highly fertile and productive. It contains little diversity as a result. The boundary hedgerows are not of high species diversity but are of some local value providing screening and linear routes for wildlife, particularly along the western and southern boundaries of the site. The proposed development provides a significant landscape area along the southern boundary of the site which will provide stand-off from the ponds and allow space for suitable habitat to be created to enhance this boundary area.
65. There is no physical evidence or field signs of protected species within the area where residential development is being proposed there is potential for protected species to be present along the boundary areas which will require mitigation, including the need for a European Protected Species Licence being obtained from Natural England.
66. The boundary hedges and trees are to be retained a detailed landscaping scheme using native species will mean that there will be an increase in bio-diversity over current conditions. The requirements of the Environment Act for a 10% gain has not yet been activate by secondary legislation.

Drainage

67. The site would be connected to the existing foul sewer in Uppingham Road by a pumping station adjacent to the surface balancing pond.
68. Surface water would be to a balancing area via a system of pipes and swales and thereafter at a controlled rate into a surface water sewer. The surface water details are required by Condition.

Noise

69. Noise from construction can be a shot term problem but the recommended Construction Management condition can deal with this.
70. Noise from the railway is dealt with by condition on the recommendation of Public Protection.
71. The Environmental Protection Officer has provided these comments in addition to those regarding the new Building Regs above:
72. Thank you for the email. I have italicised Cllr Browne's text which is also in a different font and grey in colour from my response.

3. Noise emanating from Railway proximity

The new Noise Assessment Report Revision 4, is a surprising document. This Report again highlights that their sampling was undertaken at 15 minute intervals and also gives average day figures. Heavily loaded goods trains which make considerable level of noise do not necessarily run within each 15 minute period. As a lay person to the discipline measuring audio calibration, why were continuous assessment not undertaken, and only spasmodic time frames adopted? The WHO states that high levels of noise occurring 10 occasion in a night, would be unacceptable. How can spasmodic sampling through the night reflect that test?

There are 2 methods we can measure the sound. The averaging one is for the specific British Standard BS8233:2014 which specifies the sound insulation.

The other WHO peak noise can be measured by a LMAX of 45dB which should be exceeded 10 times a night. It has been calculated the noise insulation of the property should prevent this level being exceeded. It should also be noted the orientation of the housing has been changed and where levels have been exceeded additional steps have been taken to achieve the required sound levels. We have verified the readings with our own and they are representative.

Averaging out, is irrelevant as it depends on peaks and troughs. The new report then also goes on to repeat what was indicated in the previous report, that on every night of their test they reported noise levels of 90 dB (this is "high" under the said WHO ratings and very high in reality) .In both the daytime and night-time regular levels well of 55-60dB were recorded, being well in excess of the recommended levels of the recommended maximums of 26dB during the day and 21dB at night, by BS8233.

The BS8233 sets the following sound levels in various rooms within the properties and are not the ones quoted by Cllr Browne:

4.3 BS 8233:2014.

BS8233:2014 'Guidance on sound insulation and noise reduction for buildings' is the current British Standard providing guidance for acoustic requirements within buildings. The Standard advises appropriate criteria and limits for different building types including dwellings. The BS8233 internal design criteria for dwellings are as follows:

Activity	Location	Day (07:00 to 23:00)	Night (23:00 to 07:00)
Resting	Living rooms	35 dB LAeq,16hour	-
Dining	Dining Room / Area	40 dB LAeq,16hour	-
Sleeping (daytime resting)	Bedroom	35 dB LAeq,16hour	30 dB LAeq,8hour

For the report to then go on and repeat that such noise from the railway creates a "low-medium noise risk" is incongruous, to say the least. The report itself admits that the properties nearest the railway line "will exceed BS8233" (the recommended maximum decibel level) which in itself, must be unacceptable to our planning requirements.

It then has some statements that appear to defy logic. Such as, if windows were left open by 100mm, then this would reduce internal sound measurements by 15dB! I and all my neighbours can assure you that the opposite is true. It also says that being 7 metres from the railway line would reduce levels by 7dB., and that their submitted readings, as affect properties, have been calculated by taking this into account. By this calculation, properties over 28 metres from the railway line won't hear a thing!. This has to be utter nonsense, any resident in Oakham will attest that even half a mile away trains can regularly be heard. On a sunny afternoon sitting in my garden, it is difficult to even hear yourselves speak to each other when heavy goods trains pass. Finally (at point 9), for it then to conclude that "the survey indicates that the general noise climate across the site and surrounding area is determined by traffic on the roads in the local vicinity, punctuated by intermittent train pass-by on the adjacent railway to the west" is risible!

I agree with the comment. I would say: The quiet ambient environment is punctuated by intense sound of trains passing. The standards used by the Consultants are National ones so do apply equally across England. There is existing housing close to the railway where people have lived for decades, and some don't have double glazing. Therefore,

this new housing isn't unusual in its location, instead we are improving the noise insulation to ensure a better internal environment than historical properties.

A method of ensuring future occupants well-being is actually catered for, would be to impose a condition that occupancy rights were themselves conditional on the db readings in certain rooms of the dwelling do not exceed the recommended maximum levels (for each such rooms) as detailed in BS8233. Such a condition, though novel, appears to be legally within the capacity of the planning authority to impose and should not be regarded as an "overkill" position, but as a step that is designed to preserve any subsequent purchasers' reasonable right of expectation. It would transfer the obligation of RCC to stipulate the level of noise abatement measures which may or may not be effective, and transfer compliance to the developer.

This is a good point. We are aware that the calculated standard and the built one can be different in reality. I would advise a verification test, where the actual sound levels are measured in the rooms of the properties once completed and before occupancy, which would include frequency analysis (especially for the glazing element) to ensure the protective indoor sound levels have been achieved.

Overhead Lines

73. There is an overhead line crossing the site feeding into Spinney Hill. This will be diverted underground along the western boundary of the site in an existing agreement with Western Power.

74. Other Issues

Infrastructure

75. As members will be aware, the Community Infrastructure Levy (CIL) that is paid for each market dwelling on site goes towards local infrastructure (schools, doctors etc.) so there is no need to seek additional payment for such provision in an individual planning application.

Brownfield Land

76. Many residents stated there is adequate brownfield land in Rutland to cater for its housing needs. Many refer to St Georges Barracks or Woolfox, which members have rejected for development.

77. Thus, the current Brownfield Land Register contains just 5 sites, 2 of which already have planning permission for development (The Crescent in Ketton and Holme Close in Tinwell – total 49 dwellings). The other 3 are:

Land east of Seaton Rd Glaston
Part of the White Horse Inn Morcott, and
Pinfold Close North Luffenham.

78. These 3 sites are estimated to have the potential for between 17 and 25 dwellings. This is clearly insufficient to cater for the County's housing needs in the medium term. None of the 3 sites are in public ownership so there is no compulsion for them to come forward for development in any event.

79. There are no other brownfield sites available to cater for the County's 5YHLS.

Soil Quality

80. Suggestions have been made by objectors that the soil on the site is classified as Grade 1 Agricultural land and thereby contrary to Government advice on the development of such land. This was shown on a more strategic map but on-site investigations have shown that the majority is in fact Grade 3a land with a small pocket of Grade 2.
81. The regional classification is used as the starting point for our strategic assessments, although in some cases there will be evidence of more detailed and site specific assessments of soil quality.
82. The regional agricultural land classification website contains a statement to the effect that : “ This map forms part of a series at 1:250 000 scale derived from the Provisional 1” to one mile ALC maps and is intended for strategic uses. These maps are not sufficiently accurate for use in assessment of individual fields or sites and any enlargement could be misleading”.
83. In this particular case, the Council has been presented with additional substantive evidence on the soil analysis for this individual site. This evidence is specific to this location and more detailed than the evidence available from the regional agricultural land classification.
84. This evidence is therefore more robust to use in the assessment of this site than had been possible in preparing the Local Plan.

Section 106 Heads of Terms

85. Delivery of 30% Affordable Housing on site as agreed with the applicant.
86. Delivery and maintenance of public open space and play equipment on site.

Crime and Disorder

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

Human Rights Implications

88. Articles 6 (Rights to fair decision making) and Article 8 (Right to private family life and home) of the Human Rights Act have been taken into account in making this recommendation.
89. It is considered that no relevant Article of that act will be breached.

Consultations

90. RCC Highways

Further to the receipt of revised plans and additional information, the Local Highway Authority are now in a position to support the planning application, subject to the following conditions and informatives being appended to the decision notice :-

Parking and Turning

Car parking including garages and turning shall be provided in accordance with the approved layout plans prior to the first occupation of the dwellings to which it relates. It shall thereafter be retained and not used for any other purpose other than the parking and turning of vehicles.

Reason: In order to ensure that sufficient car parking and turning remains available on site.

Off-site Highway Works

A scheme of off-site highway works for the new footway to the north shall be submitted to and approved by the Local Planning Authority, and thereafter implemented in full prior to first occupation.

Reason: In the interest of highway safety.

Works near Existing Trees within the public highway

Prior to commencement of works details of special measures to protect any existing trees within 30m of the works area must be submitted to and approved in writing by the Local Planning Authority. The special measures shall be in place for the duration of the works.

Reason: In the interests of highway safety and protection of existing trees.

Lighting affecting the highway

Prior to the first use of any external lighting / floodlighting within the development site, the light source shall be so positioned and shielded, in perpetuity, to ensure that users of the highway are not affected by dazzle and/or glare.

Reason: To ensure that users of the highway are not subjected to glare and dazzle from lighting within the development in the interest of highway safety.

Tree Root Protection

Any new trees located within 5m of the existing or proposed public highway must be planted with root-protection, details of which must be approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

Surface Water Drainage

All vehicular and pedestrian accesses will be designed to prevent the discharge of surface water from the development onto the existing or proposed public highway.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety.

Principal Access

The carriageway of the proposed principal junction with the existing public highway shall be constructed up to and including at least road base level or be constructed as a temporary access and be available for use prior to the commencement of any development including the delivery of materials.

Reason: To ensure that the junction is available for use at the outset in the interests of highway safety.

Completion of roads

No dwelling shall be occupied until the access road or driveway linking that dwelling to the public highway has been completed to a minimum of base course level and shared surfaces and footways/cycleways shall be completed to surface course level. In the event any of the dwellings will be occupied prior to the carriageway serving that property being fully surfaced then a timetable and phasing plan for completing the roads shall be submitted to and approved in writing by the Local Planning Authority. The carriageways shall thereafter be completed in accordance with the approved timetable and phasing plan.

Reason: In the interests of highway safety.

Visibility Splays

Prior to first occupation of any dwelling, vehicle to vehicle visibility splays of 2.4m x 25m at internal junctions, vehicle to pedestrian visibility splays of 2m x 2m at all vehicle

accesses and forward visibility splays of 25m shall be provided in accordance with the details shown on plan 008 Rev J – Planning Layout and ADC1841-DR-002 Rev P5 – Internal Layout Assessment and kept free of any obstructions over 600mm in height above ground level in perpetuity.

Reason: In the interest of highway safety.

Pre-condition Highway Survey

The developer must carry out a joint pre-condition highway survey for the full extent of highway including verges with the Local Highway Authority 500m either side of the proposed access in Uppingham Road and from The Spinney to 100m to the south along Uppingham Road before site traffic commences. The results of the inspection will be provided by way of a photographic survey by the developer to the Local Highway Authority. A similar inspection will take place on completion of the development to assess any damage and remediation required..

Reason: In the interests of highway safety.

Construction Management Plan Condition

INFORMATIVES

Street Naming & Numbering - Section 17 - 18 Public Health Act 1925

The development will result in the creation of new street(s) and/or new dwelling(s) and/or allocate appropriate street names and property numbers. This procedure is applicable to the sub-division of premises, which will provide multiple occupancy for both residential and commercial buildings. Before development is commenced an application should be made, allowing 8 weeks to complete. Details are available on our website at the following link:- <https://www.rutland.gov.uk/my-services/planning-and-building-control/planning/street-name-and-numbering/>

Should you require assistance please email snn@rutland.gov.uk. Please note this is not a function covered by your planning application but is a statutory obligation of the Local Authority, and must be dealt with as a separate matter following planning approval.

Pre-Commencement Highway Survey

Prior to the commencement of any work on the site, a joint inspection of the existing public highway, extent as set out in the above condition, should be carried out with the Highway Authority, including photographic evidence. The route should then be inspected again, after completion of the development and any damage to the highway resulting from traffic movements generated by the application site should be repaired by the developer to an acceptable standard and at nil cost to the Highway Authority. The Area Highway Manager may also wish to secure a commuted sum for special maintenance to cover the damage caused to the existing roads used as access for vehicles accessing the application site.

Utility Services - Section 50 NRSWA 1991

The development is likely to involve works within the public highway in order to provide services to the site or which will affect existing services. Such works must be licenced under the New Roads and Street Works Act 1991. It is essential that, prior to the commencement of such works, adequate time be allowed in the development programme for; the issue of the appropriate licence, approval of temporary traffic management and booking of road space. Further details can be obtained from our website and any queries can be emailed to highways@rutland.gov.uk.

Off-site Highway Works – Section 278 Highways Act 1980

The development involves extensive works within the public highway. Such works must be the subject of a legal agreement under Section 278 of the Highways Act 1980. It is essential that prior to the commencement of the highway works, adequate time is allowed in the development programme for; approval by the council of the design, contractors, technical vetting, safety audits, approval of temporary traffic management,

booking of road space for off-site highway and service works and the completion of the legal agreement. Works must not commence until the legal agreement is in place and road space booked. Please email highways@rutland.gov.uk for further details.

Section 184 Highways Act 1980 – temp access

The development involves the construction of a new vehicular access within the public highway. However, should the developer wish to install a temporary construction access prior to the full access being installed under Section 278 of the Highways Act 1980, this can be applied for under Section 184 of the Highways Act 1980. These works must be carried out under strict accordance with the requirements of Rutland County Council under the provisions of Section 184 of the Highways Act 1980. Prior to commencing any work within the highway, a licence must be obtained from the Local Highway Authority. The application form and guidance notes can be found on Rutland's website or contact can be made with Highways by email at highways@rutland.co.uk.

Penalty for Depositing on the Highway - Section 148, Sub-Sec C Highways Act 1980

It is an offence to deposit anything including building materials or debris on a highway which may cause interruption to any user of the highway (including footways and verges). In the event that a person is found guilty of this offence, a penalty may be imposed in the form of a fine. It is the responsibility of the developer and contractor(s) to ensure that no building materials or debris are placed on or remain within the highway during or after the construction period.

Removal of Deposits on the Highway – Section 149 Highways Act 1980

If anything is so deposited on a highway as to constitute a nuisance, the Local Highway Authority may by notice require the person who deposited it there to remove it forthwith and if he fails to comply the Local Highway Authority may make a complaint to a Magistrates Court for a Removal and Disposal Order. In the event that the deposit is considered to constitute a danger, the Local Highway Authority may remove the deposit forthwith and recover reasonable expenses from the person who made the deposit. It is the responsibility of the developer and contractor(s) to ensure that no building materials or debris are placed on or remain within the highway during or after the construction period.

91. LLFA Comments

I have now reviewed the Flood Risk and Drainage Strategy Addendum dated 4/11/2021 on behalf of the LLFA and provide the following comments:-

- It is noted that the discharge rate of 11.4 l/s for the whole site is still proposed, and that further information has been provided to support this, as well as a comparison with the northerly site. As such, the discharge rate of 11.4 l/s is acceptable to the LLFA.
- Section 3 refers to ground investigation carried out in July 2021, but the results have not been provided. Ideally these should be supplied now, but could be conditioned.
- Whilst it is noted that the development has incorporated swales to take private surface water, like previous LLFA comments, it is disappointing that swales were not incorporated along the primary roads to avoid the use of traditional surface water pipes and gullies. However, if the detailed drainage calculations confirm that the above discharge rate or less can be achieved at the outfall the LLFA will accept this principal. The LLFA would like to see further sustainable drainage features such as permeable paving and rainwater butts for all dwellings.
- Plan ADC1841/DR/050 Rev P4 sets out the proposed drainage strategy. As mentioned above it is disappointing that traditional surface water drainage methods have been used in the main for the primary and some of the secondary routes, and further sustainable drainage methods have not been used throughout

the site, such as introduction of swales adjacent to the internal primary routes, planting of trees, rainwater gardens, etc. but at least the overall design does incorporate some sustainable drainage methods. It is worth pointing out that the linear swales along the outer edges of the site could be used as suitable routes, subject to capacity, for draining areas of the proposed public highway areas. This can be looked at in further detail once a detailed design and calcs have been carried out, which will need to be conditioned.

- Consideration could also be given to connecting the western swale to a second smaller detention basin and the adjacent ditch further west, therefore lessening the impact in the one location southeast of the site. Again, this could be considered further at the detailed design stage.
- A full detailed survey of the adjacent ditch's to identify any areas of maintenance or improvement and a capacity assessment will be required, which should be conditioned.
- Figure 1 shows the existing flow exceedance routes, but I could not find any details about the flood exceedance routes for the proposed layout as requested previously. As such, this can be conditioned.

In summary, the LLFA raise no objection to the proposal subject to the following conditions being appended should planning consent be granted:-

92. **Surface Water Drainage/SuDs**

The development hereby permitted shall not commence until full details of the design, implementation, maintenance and management of a surface water drainage scheme have been submitted to and approved in writing by the local planning authority. Those details shall include:

- Full survey of adjacent ditches to establish any works required to ensure full capacity is achieved;
- Review of outlet from western swale;
- Review of area discharged to swales;
- Review of use of permeable paving and other sustainable forms of drainage as part of the detailed design;
- Surface water drainage calculations;
- Detailed design block plan;
- Means of access for maintenance;
- Full details of any works required off-site to ensure adequate discharge of surface water without causing flooding or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant and clearing of watercourses);
- Flood water exceedance routes, both on and off site;
- A timetable for implementation;
- Full site investigation and test results to confirm infiltrations rates;
- Capacity assessment of the adjacent watercourse from outlet to downstream (extent to be agreed); and
- A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by an appropriate public body or statutory undertaker, management and maintenance by a Residents' Management Company or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime.

Once approved, the scheme shall be implemented, retained, managed and maintained in accordance with the approved details.

REASON: To prevent the increased risk of flooding both on and off-site resulting from the proposed development, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system.

LAND DRAINAGE CONDITION

The development hereby permitted shall not commence until Land Drainage Consent has been granted for the outfall/s into the adjacent ordinary water course.

REASON: To prevent the increased risk of flooding off-site resulting from the proposed development.

93. Conservation Officer

I have viewed the submitted documentation and can confirm that I concur entirely with what you have said in your report.

I too consider that the character of the land on the eastern side of Uppingham Road to be different to that on the western side and consider that the proposed development would not harm the setting of the nearby Conservation Area.

94. Public Protection

On Original submission

With respect to noise the following recommendations should be applied. In accordance with the results of the noise survey and the requirements of BS8233 it is recommended that all bedrooms should be fitted with windows with a minimum manufacturer's rating of Rw 33dB. The sound reductions should be achieved by the window unit as a whole including frames and furniture.

All habitable rooms overlooking the railway lines to the west and Uppingham Road to the east should be provided with alternative means of ventilation in accordance with Building Regulations requirements. All such vents should, when open, have an acoustic rating equivalent to that of the window system.

It is recommended that the garden boundary to plots which overlook either the railway or road be provided with solid barrier fencing of minimum height 2m above railway/road level. Based upon the layout in Appendix 1, this would apply to plots 1, 45 and 50. Any such fence should be continuous to ground level without any significant gaps and should have a minimum mass of 10kg/m². In practice, these requirements can be achieved with close-boarded panels and gravel boards.

The results indicated that measured vibrations over the monitoring period were sufficiently low in order that no vibration mitigation measures are deemed necessary for this development.

We accept the phased land assessment and ask the recommendations for further targeted gas monitoring and sampling be taken in full.

On revised plans and Noise Assessment:

The recommendations contained in the noise assessment Document reference: Uppingham Road, Oakham-1010435-05-AM-20180601-Environmental Noise-Rev 4.docx) must be fully implemented as stated and validated once completed.

95. Environment Agency

The Environment Agency does not wish to make any comments on this application.

96. **Anglian Water**

Assets Affected

Our records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.

Wastewater Treatment

The foul drainage from this development is in the catchment of Oakham Water Recycling Centre that will have available capacity for these flows

Used Water Network

This response has been based on the following submitted documents: FRA and drainage Strategy The sewerage system at present has available capacity for these flows. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection. (+Informatives)

Surface Water Disposal

The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer. From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets.

97. **Oakham Town Council**

Recommend Approval but would like to note that the children's play area is moved on the site

98. **Ecology**

My previous comments of 27th July 2021 still stand. I would like to add that the proposed landscaping is acceptable.

Previous comments:

The Extended Phase 1 Habitat Survey (June 2021) was carried out March 2020 and updates the previous survey carried out in 2017. The recommendations in the report should be followed and made a condition of any planning permission granted.

The Great Crested Newt Survey report (CBE, May 2017) identified a small population of Great crested newts in a pond on adjacent land to the south of the site. The revised Extended Phase 1 Habitat Survey report confirms that 'a European Protected Species License is required to define the mitigation measures to protect the ponds and Great Crested Newts to the south of the field. This mitigation is likely to take the form of exclusion fencing, trapping and removal within the field area, and the creation of new habitat within any proposed development' and 'A GCN mitigation strategy and method statement will need to be prepared by the Licensed Person applying for an EPSL.

This is likely to include erecting of exclusion fencing around the ponds when the GCN are known to be in the water body breeding and ensuring that the hedge on the southern perimeter of the field boundary are also outside of the construction area and any links to the pond are maintained'.

To achieve biodiversity net gain on the site trees and hedgerows should be retained and hedgerows enhanced by 'gapping up' with locally native hedgerow plant species. The swale and SuDS features should be planted and managed with biodiversity in mind. Any new planting should be of locally native species which benefit wildlife. Boundary planting of locally native species should be provided on the western boundary of the site to enhance this wildlife corridor. The above should be provided on a landscape plan.

The adjacent countryside provides suitable bat foraging habitat, I recommend as a condition of any planning permission granted, that a total of 15 integrated bat bricks are installed across the site on the new dwellings.

99. **Archaeology**

Having reviewed the application against the Leicestershire and Rutland Historic Environment Record (HER), we do not believe the proposal will result in a significant direct or indirect impact upon the archaeological interest or setting of any known or potential heritage assets. We would therefore advise that the application warrants no further archaeological action (NPPF Section 16, para. 189-190).

100. **Housing Strategy**

The latest revised layout is acceptable subject to a S106 to ensure delivery of affordable housing.

101. **Leics Police Architectural Liaison Officer**

I have now visited, and have reviewed the proposed development. There is a single proposed vehicle access point at Uppingham Road to the west side of the development. The internal road travels throughout the site providing access to all dwellings. There are also pedestrian walkways providing access to open space in the south east.

Internal roads allow access to all dwellings within the development. This Parcel is part of a much larger development so permeability is not a significant problem as long as the main entry points are covered by appropriate lighting and CCTV coverage is considered.

Access for Emergency Services is appropriate due to the size and scale of the site. There is water attenuation to the west and south of the site and around the perimeter.

Parking is in curtilage in general to each dwelling and consideration of gable end windows should be taken to allow as much natural observation by residents as possible.

Lighting throughout the site including the key vehicle entry point and other key areas should be to BS5489. A Section 38 Agreement is requested to install an electrical spur to the nearest lampposts would allow immediate installation. All pedestrian or cycle walkways should be illuminated likewise.

Consideration of the use of CCTV coverage of the key vehicle entry point is recommended to include Automatic Number Plate Recognition capability. This would add an element of general security to the development providing improved security. Due to the size and scale of dwellings proposed I recommend consideration of CCTV

at the single vehicle entry point as part of construction. General Data protection Act signage would need to be displayed in the event to installation.

Wheelie bin storage and cycles should be stored in secure areas where possible to avoid the potential for criminal use, as a ladder, mode of removal or arson risk for bins.

102. **General Recommendations**

Foliage is recommended to be to a height of 1m and trees are recommended to be trimmed to have no foliage lower than 2m from the ground. This will provide a 1m clear field of vision.

Bin and cycle storage is recommended to be within the perimeter of dwellings with rear shed or garage storage recommended. Perimeter enclosure is recommended to be to a height of 1.8m in a material in keeping with the development.

All door and window sets will be to PAS24 (2016) which is now included in building regulations. There are other considerations such as BS 6375 Security Locking and Fire Security and BS EN 50486 in relation to Audio and Video door entry systems.

Consideration should be made to identify the most appropriate option for this site. Dwellings are recommended to have an Alarm System to BS7958, but there are other options on the Secured by Design portal which include BS6799 in relation to wire free alarm systems. Also BS EN 50131 and PD 6662 in relation to wired systems.

1. Street lighting columns to BS 5489 are recommended.
2. Appropriate fencing should be used to enclose the perimeter and is recommended to be 1.8m in height. This can be via planting or manufactured fencing.
3. Key access points leading into the development should be considered for CCTV coverage supported by lighting to allow identification during day and night. This would allow vehicle and facial recognition in key areas. Appropriate signage should be in place to be compliant with the Data Protection Act.
4. Natural surveillance should be possible via ground level foliage being trimmed to 1m high and trees to have no foliage lower than 2m from the ground to allow a clear field of vision.
5. Vehicular parking is recommended to be in curtilage as part of the dwellings where possible. Communal parking should be supported by natural observation, lighting and be set in clearly defined areas to deter unauthorised access.
6. Consideration of Secured by Design principles is recommended and information in respect to the different standards is available on request.
7. Opportunities to explore the potential for S106/CIL funding should be undertaken with relevant parties if appropriate.
8. Dwellings are recommended to have an Alarm System to BS7958 with coverage of garages included where applicable.
9. Commercial sites may benefit from smoke cloaking devices to deter access and reduce potential loss.
10. An electrical spur is recommended under a section 38 agreement at each vehicular entry point leading into the development.

103. **Public Rights of Way Officer**

No direct effect on the public rights of way network anticipated. Potential for increased traffic on footpath linking Oakham with Egleton, but previous attempts to upgrade / improve this path were rejected by a councilors due to an objection from Egleton PC.

Please ensure questions of ownership and maintenance liability for all proposed areas of green space and landscaping, particularly where they're adjacent to the highway, are resolved at the earliest opportunity. If the developers retain responsibility for maintenance this can be very difficult to enforce after a few years have passed.

104. **Network Rail**

Network rail own, operate and develop Britain's railway infrastructure. Our role is to deliver a safe and reliable railway. All consultations are assessed with the safety of the operational railway in mind and responded to on this basis.

Following assessment of the details provided to support the above application, Network Rail has no objection in principle to the development, but below are some requirements which must be met,

Works in Proximity to the Operational Railway Environment

Development Construction Phase and Asset Protection

Due to the proximity of the proposed development to the operational railway boundary, it will be imperative that the developer liaise with our Asset Protection Team (contact details below) prior to any work taking place on site to ensure that the development can be undertaken safely and without impact to operational railway safety. Details to be discussed and agreed will include construction methodology, earthworks and excavations, use of crane, plant and machinery, drainage and boundary treatments. It may be necessary for the developer to enter into a Basic Asset Protection Agreement (BAPA) with Network Rail to ensure the safety of the operational railway during these works.

Condition

Development shall not commence until a construction methodology has been submitted to and approved in writing by the Local Authority. The construction methodology shall demonstrate consultation with the Asset Protection Project Manager at Network Rail. The development shall thereafter be carried out in accordance with the approved construction methodology unless otherwise agreed in writing by the Local Planning Authority.

Contact details for Asset Protection are supplied below and we would draw the developers' attention to the attached guidance on Network Rail requirements.

Boundary Treatments, Landscaping and Lighting

Trespass Proof Fencing

Trespass onto the railway is a criminal offence. It can result in costly delays to rail traffic, damage to the railway infrastructure and in the worst instances, injury and loss of life. Due to the nature of the proposed development we consider that there will be an increased risk of trespass onto the railway.

Condition

The developer must provide a suitable trespass proof fence adjacent to Network Rail's boundary (approx. 1.8m high) and make provision for its future renewal and maintenance. Network Rail's existing fencing/wall must not be removed or damaged.

Landscaping

It is imperative that planting and landscaping schemes near the railway boundary do not impact on operational railway safety. Where trees and shrubs are to be planted adjacent to boundary, they should be positioned at a minimum distance greater than their height at maturity from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. Any hedge planted adjacent to the railway boundary for screening purposes should be placed so that when fully grown it does not damage the fencing, provide a means of scaling it, or prevent Network Rail from maintaining its boundary fencing. Below is a list of species that are acceptable and unacceptable for planting in proximity to the railway boundary;

Acceptable:

Birch (*Betula*), Crab Apple (*Malus Sylvestris*), Field Maple (*Acer Campestre*), Bird Cherry (*Prunus Padus*), Wild Pear (*Pyrus Communis*), Fir Trees - Pines (*Pinus*), Hawthorn (*Cretaeus*), Mountain Ash - Whitebeams (*Sorbus*), False Acacia (*Robinia*), Willow Shrubs (Shrubby *Salix*), Thuja Plicatata "Zebrina"

Not Acceptable:

Acer (*Acer pseudoplatanus*), Aspen - Poplar (*Populus*), Small-leaved Lime (*Tilia Cordata*), Sycamore - Norway Maple (*Acer*), Horse Chestnut (*Aesculus Hippocastanum*), Sweet Chestnut (*Castanea Sativa*), Ash (*Fraxinus excelsior*), Black poplar (*Populus nigra* var, *betulifolia*), Lombardy Poplar (*Populus nigra* var, *italica*), Large-leaved lime (*Tilia platyphyllos*), Common lime (*Tilia x europea*)

Condition

Landscaping detail should be submitted to the Local Planning Authority and approved in conjunction with Network Rail.

Lighting

Where lighting is to be erected adjacent to the operational railway, the potential for train drivers to be dazzled must be eliminated. In addition, the location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway.

Condition

Detail of any external lighting should be provided to the Local Planning Authority to be approved in conjunction with Network Rail.

Additional Requirements

Railway Noise Mitigation

The Developer should be aware that any development for residential or noise sensitive use adjacent to an operational railway may result in neighbour issues arising. Consequently, every endeavour should be made by the developer to provide adequate soundproofing for each dwelling. Please note that in a worst case scenario there could be trains running 24 hours a day and the soundproofing should take this into account.

Reason for above conditions:

The safety, operational needs and integrity of the railway.

Informatives:

Please see attached standard railway requirements to be included as informatives.

Ward Member Representations

105. From Ward Member (Cllr Ian Razzell)

Having spoken with a good number of Oakham South residents over the past 18 months regarding their concerns over the development of greenfield sites as opposed to brownfield, I write in support of their concerns on application 2021/0794/MAF.

With my support to the emerging local plan on record however, opposing this application may seem at odds with the former but it is worth noting that the local plan had significantly more component parts than those relevant to Oakham South and as a County Councillor I considered my ward and the County across many of those areas.

Returning then to my opposition to this application, I must support the very real concerns of residents around infrastructure and (in particular) their worries around local healthcare. We simply must drive forward the improvements to primary care access and place based secondary care facilities that the current population needs BEFORE we consider putting yet more pressure on a health system that is already full.

In addition, I agree that we are in danger of losing the historic nature of our Market Town with the continued push of housing, right up to the boundaries of the current ring road. Retaining the green entry to Oakham is essential if we are to continue to reflect our historic Agricultural roots and the economy and community that makes Oakham South what it is.

In summary, many of the concerns I have listened too in Oakham South Ward are based on having access to affordable housing and having the facilities in place to support the growing population. In the past two years, residents have seen two greenfield sites approved for mixed and affordable housing but the burning issue now remains that of infrastructure. On that basis and with resident views that health facilities are not meeting their needs, I simply must support local opinion and oppose this application.

From Ward Member (Cllr Paul Browne) (Officer responses are include here for ease of reference)

It has been pointed out to me that should the above referenced application receive approval, then having made a submission as Ward Member and then having to leave immediately thereafter, I would not be able to re-enter to make representation concerning the conditions to be imposed.

In order to save time and having to address proposed conditions in my said submission, I am grateful to the Chairman for allowing me to submit the following views on possible conditions by way of an addendum:

1. On the Northern boundary a requirement to incorporate a strip of land at least 5m in width or such greater width as is equivalent to that provided by the developer in the adjacent Spinney Hill development:
 - 1.1. This strip not to include the perimeter footpath nor any bordering greensward
 - 1.2. The existing established tree and hedgerow planting should be consolidated as part of the planting of this wider strip
 - 1.3. The planting scheme in that area and specification of species and numbers to be agreed
 - 1.4. The area to be enclosed by mesh security fencing not less than 1.8 metres in height to prevent public access (access for maintenance must be lockable)

- 1.5. The landscaping plan where it shows occasional trees at intervals along the boundary being extremely weak could be better addressed by a serious commitment to the hedgerow planting

Reason

- To improve and foster the increasing biodiversity net gains to the area
- To protect the existing biodiversity immediately adjoining the area

(Officer Response: There is already a minimum of 4m strip beyond the perimeter footpath. The overall distances from dwelling to dwelling are well in excess of the policy.)

2. Reduction of the highway specification between the two “secondary street highways”.

Reason

- There is no need for the same where it is on the Northern boundary. The heaviest vehicle to use the same would be the refuse collection lorry once a week. Reducing the carriageway width (or even removing it completely, to ensure that there is no connection between the said two secondary street highways) would also contribute to a less unacceptable depth of adjoining area of planting. It is understood from the agent that the layout reflects the officers’ preferred approach. It is asked that officers reconsider this preference.
- help the evolving bio-diversity in the adjoining area
- facilitate the further planting of trees that are positioned to cut down light pollution to the properties on Spinney Hill from car headlights.
- to enable reduced street lighting and consequential reduction in light pollution to Spinney Hill properties

106. Highway Response:

The preference of the LHA is to retain the proposed loop road, for a number of reasons. Removal and replacement with turning heads will result in vehicles turning at two additional points increasing the number of reversing movements increasing the risk to adjacent pedestrians, reducing site permeability, and increases refuse collection time which ultimately creates higher levels of air pollution.

Point 6. I am not aware of where in Spinney Hill there is a cycleway to connect to on the northern boundary.

Point 8. Street Lighting - Public highways would need street lighting to an adoptable standard, but shields could be considered at that stage, but to be honest I doubt there will be a problem.

Point on CMP - I don't believe the CMP is the correct place to deal with biodiversity issues, unless you do, but guess something could be added. The CMP condition in the committee report is superseded by the CMP suggested in my final LHA comments, which is a bit more detailed and covers lighting in relation to the public highway (so could be extended for the northern boundary) and tree protection (so could be extended to deal with concerns on the northern boundary).

- Plans Nos. GL11216B and n1251008(I) be amended to incorporate 1 & 2

Officer Response: These plans have been amended to incorporate the latest layout plan.

- To commit to carbon neutral building for all dwellings and the incorporation in the build of space heating high levels of insulation that is commensurate with the

principal sustainability contribution as found with other developers such as air sourced heat pumps and/or solar roof panels

Officer Response: There is no policy requirement for this. B Regs is the minimum. Spinney Hill was built to a higher standard voluntarily by the developer – it was never a planning requirement.

- Re-configure the bicycle track which fails to connect with either the bypass ring road, nor to any such track in Spinney Hill. Alternative positioning needs developing within the area to enable joined up use
Reason: proposal as at present lead nowhere and are in effect useless

Officer Response: The cycle track runs along the front of the site giving access to Uppingham Road at both ends. There is no ownership right to connect to Spinney Hill.

- More robust condition to comply with noise pollution, in a form of condition already submitted to the planning officer.
Reason: to ensure that any occupier has levels of noise permissions within the limits of BS8233(2014).

107. Officer/EHO Response:

The new Approved (Building Regulations) Document O: Overheating for residential buildings provides guidance on how to comply with Part O of the Building Regulations and takes effect on 15 June 2022. This is a welcome change and a step forward to protect people's health and quality of life by reducing the occurrence of high indoor temperatures.

It requires new residential buildings to incorporate suitable design measures to limit solar gains, through the use of shading for example, and to remove excess heat. It advocates those new dwellings should be constructed to meet requirement O1 using passive means as far as reasonably practicable. It should be demonstrated to the building control body that all practicable passive means of limiting unwanted solar gains and removing excess heat have been used first before adopting mechanical cooling. Any mechanical cooling, such as air-conditioning, is expected to be used only where requirement O1 cannot be met using openings.

Another positive feature of this guidance is that it does not treat overheating in isolation and gives guidance on, amongst other things, the consideration of noise and air pollution.

With respect to noise, it states:

"In locations where external noise may be an issue (for example, where the local planning authority considered external noise to be an issue at the planning stage), the overheating mitigation strategy should take account of the likelihood that windows will be closed during sleeping hours (11pm to 7am).

Windows are likely to be closed during sleeping hours if noise within bedrooms exceeds the following limits. a. 40dB LAeq,T, averaged over 8 hours (between 11pm and 7am).

b. 55dB LAFmax, more than 10 times a night (between 11pm and 7am)."

If this is the case then mechanical ventilation will be required.

The EHO is satisfied that the condition can be framed to ensure noise insulation is adequate and can be validated prior to occupation (as per Condition 8). The scheme would need to meet Building Regs as strengthened in any event.

- All street lighting in the area of the Northern boundary be muted and angled away from the said boundary area
Reason: to reduce light pollution to properties on the adjoining Spinney Hill development

Officer Response: Street lighting is controlled by the highway authority but would normally face into the site around the perimeter.

- In respect of the forth-coming Construction Management Plan, the proposed condition is the conventional formatted condition. This to be further expanded to ensure offices, material stores, stock piles, plant and machinery are not stored in, on or adjacent to the proposed area on the Northern Boundary as stated in 1 above. Further to also confirm the hours of operation, site lighting, enclose details and vegetation protection
Reason: To protect the existing biodiversity of the adjoining area
To provide more comprehensive criteria for control of such matters

Officer Response: Applicant has agreed to this.

The agent has stated as follows:

I note that there is a requirement for a Construction Method Statement which we fully support. Neighbours have requested that this plan should ensure that the construction compound is located away from the northern boundary and that hours of operation, site lighting, storage of materials, and the protection of existing landscaping is considered.

I would like to confirm that we are happy for the conditions to be amended to ensure that the above is fully considered through the discharge of the planning condition.

A final revised layout plan has been submitted to show all detailed amendments required by the highway authority. The approved plans condition will need to be amended accordingly together with the additional highway conditions set out in this Addendum.

Neighbour Representations

106. There have been 48 letters of objection from the adjacent Spinney Hill development and elsewhere in town.
- Spoil the view from the Rutland Round
 - Impact on approach into Oakham
 - Not in Oakham & Barleythorpe Neighbourhood Plan
 - Preference should be given to brownfield land
 - Brownfield sites in Rutland have been turned down despite significant funding and these should take precedence rather than destroying virgin land
 - Contrary to the development Plan
 - Contributions should be made to local infrastructure
 - Rail noise has increased
 - Does not preserve outlook from Spinney Hill as the withdrawn Local Plan required
 - Impact on improving bio-diversity on Spinney Hill site
 - Light pollution from cars to rear of Spinney Hill properties
 - Designs are not in keeping with Oakham
 - Loss of privacy from the new footpath along the northern boundary
 - Can a roundabout be provided at junction of Uppingham Road with bypass?
 - Noise and pollution from vehicles near the boundary
 - Light pollution

- Consultation by developer is out of date
- Braunston Road permission now meets the 5 yr supply so no need for this
- Incongruous and intrusive finger of development into the former surrounding open countryside
- In agreeing a statement of common ground with the developer (for the local plan) the Council has prejudiced itself in making a decision on this application
- Dwellings should be to 'eco' standard as Spinney Hill was
- Local Plan only allocated 73 homes on this site
- Plots should not be occupied unless tested for sound attenuation compliance
- Noise Assessment is inaccurate
- No energy efficiency details
- Adds to global warming
- Will set a precedent for further large sites
- Will destroy an icon of the town
- Revisions are trivial
- Cycle path link to bypass required
- Green areas should be left to be enjoyed by Oakham residents

The detailed submissions from objectors can be read on the web site.

A letter of support has been received.

The main point made is there is no doubt we have shortage of properties in Oakham. All other issues and reasons of objection by others should be addressed with RCC. As regardless of all, more properties are needed.

Conclusion

107. This site was allocated for development in the withdrawn Replacement Local Plan. It has been assessed as being suitable and deliverable and is in a sustainable location. Whilst there is a strong resistance to this development from local residents, as there was to the Spinney Hill scheme before it, the layout and design is acceptable, there are no adverse impacts on any interests of importance and there are no technical reasons for refusing planning permission. Due to the shortage of a 5 year housing land supply following withdrawal of the Local Plan Review, Para 11(d) of the NPPF is engaged and planning permission should be granted.

Appendix

NPPF Para 11

The presumption in favour of sustainable development

11. Plans and decisions should apply a presumption in favour of sustainable development.

For plan-making this means that:

- a) all plans should promote a sustainable pattern of development that seeks to: meet the development needs of their area; align growth and infrastructure; improve the environment; mitigate climate change (including by making effective use of land in urban areas) and adapt to its effects;
- b) strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas, unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁸, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁷; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Footnote

- 8: This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

Key:
Application Boundary



Project:
Uppingham Road, Oakham

Drawing Title:
Presentation Layout

Project Code: n1251
Drawing Nr: 009
Rev: B
Drawing Scale: 1:500 @ A1

Market Plots



Front Elevation



Front Elevation



Front Elevation



Front Elevation



Front Elevation

A



Side Elevation

A



Affordables Examples





Front Elevation



Front Elevation



Front Elevation



Side Elevation