

PLANNING COMMITTEE

NOTICE AND AGENDA

For a meeting to be held in the Auditorium, Watersmeet Theatre, High Street Rickmansworth, WD3 1EH on Thursday, 15 July 2021 at 7.30 pm

Members of the Planning Committee:-

Councillors:

Steve Drury (Chair)

Raj Khuroya (Vice-Chair, in the Chair)

Alex Hayward

Chris Lloyd

Sara Bedford

Keith Martin

Debbie Morris

David Raw

Ruth Clark

Alison Scarth

Stephen King

*Joanne Wagstaffe, Chief Executive
Tuesday 6 July 2021*

The Council welcomes contributions from members of the public to aid discussions on agenda items at Planning Committee meetings.

Details of the procedure are provided below:

For those wishing to speak:

Please note that, in the event of registering your interest to speak on an agenda item but not taking up that right because the item is deferred, you will be given the right to speak on that item at the next meeting of the Planning Committee.

Members of the public will be entitled to register and identify which application(s) they wish to speak on from the published agenda for the meeting. Those who wish to register to speak must do so by notifying the Committee team by e-mail (CommitteeTeam@threerivers.gov.uk) 48 hours before the meeting. The first 2 people to register on any application (one for and one against) will be sent details on the requirements for attending the meeting. Registering 48 hours before the meeting will allow the Committee Team time to prepare the speaker sheet in advance of the meeting.

Please note that contributions will be limited to no more than three minutes.

For those wishing to observe:

Due to Coronavirus restrictions the Council are restricted on the number of people who can attend the meetings in person. To secure one of the limited places as an observer, please contact the Committee Team by email at CommitteeTeam@threerivers.gov.uk 48 hours in advance of the meeting taking place. Places will be allocated on a first come first served basis.

In accordance with The Openness of Local Government Bodies Regulations 2014 any matters considered under Part I business only of the meeting may be filmed, recorded, photographed, broadcast or reported via social media by any person.

Recording and reporting the Council's meetings is subject to the law and it is the responsibility of those doing the recording and reporting to ensure compliance. This will include the Human Rights Act, the Data Protection Legislation and the laws of libel and defamation.

The Planning Committee meeting will not be broadcast/livestreamed but a recording of the meeting will be available after the meeting.

1. APOLOGIES FOR ABSENCE

2. MINUTES

(Pages 5
- 14)

To confirm as a correct record the Minutes of the Planning Committee meeting held on 24 June 2021.

3. NOTICE OF OTHER BUSINESS

Items of other business notified under Council Procedure Rule 30 to be announced, together with the special circumstances that justify their consideration as a matter of urgency. The Chair to rule on the admission of such items.

4. DECLARATIONS OF INTEREST

To receive any declarations of interest.

Where a member of this Planning Committee is also a member of a Parish Council they are entitled to take part in any debate at this Committee on an application within that Parish area provided that the Councillor

- has an open mind about the application
- is not bound by the views of the Parish Planning Committee and
- can deal with the application fairly and on its merits at Committee

4.1 PLANNING APPLICATIONS

The following applications (agenda items 5 to 10) are submitted for the Committee's decision and, unless otherwise stated, staffing, financial and legal implications are not applicable. Environmental implications are dealt with in the individual reports.

- 5. 21/0531/FUL: Variation of Condition 2 (Approved Plans) of planning permission 20/2046/FUL: (Alterations to existing two storey side extension, erection of single storey extensions including glazed link, reinstatement of external elevated walkway and change to the roof form on The Windmill and the demolition of existing outbuildings and construction of new outbuilding and patio areas) to include rear garage roof canopy with open sided area, alterations to roof of staircase link, alterations to rooflights and addition of chimney at THE WINDMILL, 34 WINDMILL DRIVE, CROXLEY GREEN, WD3 3FD21/0532/LBC: Variation of Condition 2 (Approved Plans) of Listed Building Consent 20/2047/LBC: (Listed Building Consent: Alterations to existing two**

(Pages
15 - 32)

storey side extension, erection of single storey extensions including glazed link, reinstatement of external elevated walkway and change to the roof form on The Windmill and the demolition of existing outbuildings and construction of new outbuilding and patio

6. **21/1010/RSP: Part Retrospective: Single storey rear extension and alterations to roof form of existing rear extension at 2C TROWLEY RISE, ABBOTS LANGLEY, WD5 0LW** (Pages 33 - 40)
7. **21/1064/FUL: Demolition of existing dwelling and erection of five detached dwellings with associated access and landscaping at 78 GALLOWS HILL LANE, ABBOTS LANGLEY, WD5 OBY** (Pages 41 - 76)
8. **21/1113/FUL: Variation of Condition 2 (Plan Numbers) of application 18/0681/FUL (Roof alterations including part increase in ridge height; part two storey, part single storey rear extension; insertion of rear dormer and creation of lower ground floor level, and insertion of raised terrace and balcony to rear) to alter fenestration detail to align and changes to elevations and replacement of existing chimneys at 31 ASTONS ROAD, MOOR PARK, HA6 2LB** (Pages 77 - 88)
9. **21/1368/FUL: Subdivision of site and construction of detached bungalow at 27 GABLE CLOSE, ABBOTS LANGLEY, HERTS, WD5 0LD** (Pages 89 - 116)
10. **21/1395/RSP: Part retrospective: Extension to existing raised patio and additional landscaping works to rear garden at 173 ABBOTS ROAD, ABBOTS LANGLEY, WD5 0BN** (Pages 117 - 124)
11. **EXCLUSION OF PRESS AND PUBLIC**

If the Committee wishes to consider the remaining item in private, it will be appropriate for a resolution to be passed in the following terms:-

“that under Section 100A of the Local Government Act 1972 the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined under paragraphs 1 - 7 of Part I of Schedule 12A to the Act. It has been decided by the Council that in all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.”

(Note: If other confidential business is approved under item 3, it will also be necessary to specify the class of exempt or confidential information in the additional items.)

12. **ANY OTHER BUSINESS - IF APPROVED UNDER ITEM 3 ABOVE**

Background Papers (used when compiling the above reports but they do not form part of the agenda)

- Application file(s) referenced above
- Three Rivers Core Strategy (adopted October 2011)
- Development Management Policies LDD (adopted July 2013)
- Site Allocations Local Development Document (SALDD) (adopted November 2014)
- The Community Infrastructure Levy (CIL) Charging Schedule (adopted February 2015)
- Supplementary Planning Documents and Guidance
- National Planning Policy Framework and National Planning Practice Guidance

- Government Circulars
- The Wildlife and Countryside Act 1981 (as amended)
- Town and Country Planning Act 1990 (as amended)
- Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990
- Planning and Compulsory Purchase Act 2004
- The Natural Environment and Rural Communities Act 2006
- The Conservation of Habitats and Species Regulations 2010
- The Localism Act (November 2011)
- The Growth and Infrastructure Act (April 2013)
- Town and Country Planning (Development Management Procedure) (England) Order 2015
- Town and Country Planning (General Permitted Development) (England) Order 2015
- Croxley Green Neighbourhood Plan (Referendum Version December 2018)
- Chorleywood Neighbourhood Development Plan (Referendum Version August 2020)

General Enquiries: Please contact the Committee Team at

committeeteam@threerivers.gov.uk

PLANNING COMMITTEE

MINUTES

For a meeting held at Watersmeet Theatre on Thursday 24 June 2021 from 7.30pm to 9.47pm

Councillors present:

Steve Drury (Chair)	Raj Khuroya (Vice-Chair)
Sara Bedford	Ruth Clark
Alex Hayward	Chris Lloyd
Keith Martin	Reena Ranger OBE
David Raw	Alison Scarth

Also in attendance: Councillors Joanne Clemens, Lisa Hudson, John Tankard, and Parish Councillor Andrew Gallagher

Officers: Adam Ralton, Kimberley Rowley, Claire Westwood, Scott Volker, Sarah Haythorpe and Jamie Russell.

PC 14/21 APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor Debbie Morris with Councillor Reena Ranger attending as a named substitute Member. Apologies were also received from Councillor Stephen King.

PC 15/21 MINUTES

The Minutes of the Planning Committee meeting held on 27 May 2021 were confirmed as a correct record by the Committee and were signed by the Chair of the meeting.

PC 16/21 NOTICE OF OTHER BUSINESS

The Chair advised that there was no other business.

PC 17/21 DECLARATIONS OF INTEREST

Councillor Steve Drury read out the following statement to the Committee:

“All Members are reminded that they should come to meetings with an open mind and be able to demonstrate that they are open minded. You should only come to your decision after due consideration of all the information provided, whether by planning officers in the introduction, by applicants/agents, by objectors or by fellow Councillor’s. The Committee Report in itself is not the sole piece of information to be considered. Prepared speeches to be read out are not a good idea. They might suggest that you have already firmly made up your mind about an application before hearing any additional information

provided on the night and they will not take account of information provided on the night. You must always avoid giving the impression of having firmly made up your mind in advance no matter that you might be pre-disposed to any view.”

PC 18/21

19/0646/OUT - Outline Application: Construction of new Motorway Service Area (MSA) to comprise: amenity building, 80 bedroom lodge, drive-thru coffee unit, fuel filling station with retail shop, together with associated car, coach, motorcycle, caravan, HGV and abnormal load parking, alterations to the A41 including construction of a new roundabout and vehicular access, works to the local highway network and at Junction 20 of the M25 motorway. Provision of landscaping, signage, infrastructure and ancillary works. (Outline Application accompanied by an Environmental Statement with matters of Appearance, Landscaping and Scale reserved) at LAND SOUTH WEST OF JUNCTION 20 OF M25 AND WEST OF A41, WATFORD ROAD, HUNTON BRIDGE

A Planning Officer update was provided advising that two additional letters of objection had been received since the publication of the report. The Committee was also informed that an application to build a motorway service station had been refused by Buckinghamshire County Council the previous evening on grounds relating to the landscaping and impact on the Greenbelt.

In accordance with Council Procedure Rule 35(b) a member of the public spoke against the application and a member of the public spoke in favour of the application.

Local Ward Councillor Jon Tankard spoke, pointing out that the speaker in support of the application did not mention any benefit to the area, other than employment, and believed the development would create an out of character addition to the area. The tiered and stacked nature of the proposal would become overbearing and would not be in keeping with the Wards of Gade Valley, Kings Langley and Abbots Langley.

Councillor Sara Bedford thanked the Planning Officer for the amount of work that they had put into this application. Councillor Bedford said this was the wrong application in the wrong place being too close to the South Mimms service station and too far from Cobham services, and would be too big, bringing unnecessary noise, light and air pollution to the area. It was a Greenbelt site and there would be no public benefit if the application was approved. Jobs would be provided during the construction phase and would occur wherever a new Motorway Service Station (MSA) was built. While employment must always be looked at, it cannot be looked at in isolation and would require anyone to have the ability to drive in order to get to work, particularly at night. Councillor Bedford added there would be a huge adverse impact on traffic at junction 20 of the M25, even with the migration of extra lanes, which would only serve to bring extra traffic, noise, pollution and fumes. Councillor Bedford asked if a further reason for refusal could be added, due to the application being an ‘offline’ service station, and therefore contrary to Government policy and circular 02/2013?

Councillor Alex Hayward said they were very protective of the Greenbelt.

Councillor Raj Khiroya thanked the Planning Officer for a fantastic report. Councillor Khiroya considered that the material consideration was the impact to the Greenbelt and the locality. As previously pointed out, access should be direct, not via an already busy local road. The impact on local High Streets also needs to be considered when mentioning retail opportunities.

Councillor Chris Lloyd said that it was rare to get an objection from Herts County Council, so this was important to consider, and thanked the Planning Officer for the hard work put into the report.

Councillor Reena Ranger said that there were no special circumstances, you either believe in the Greenbelt and localism, or you do not. Local people had said this was not the right location or the right size for the area, so there was no reason to do anything other than refuse the application. Councillor Ranger said it sat uneasy that there was still a number of documents outstanding.

The Planning Officer said this could be considered, but it was their opinion that a standalone reason for refusal could be difficult to defend, and the wording referred to was not absolute, and rather a preference, and could be difficult to defend at appeal.

Councillor Sara Bedford said it could sit nicely within reason for refusal R3, as this talks above congestion at the junction. This could be removed if it were to be an 'in line' service station, as offered at other sites.

Councillor Alex Hayward said that as there were already firm reasons for refusal, could tweaking the reasons for refusal endanger the position?

The Planning Officer said a reference to the non-compliance to the government circular could be added within the third reason for refusal, and the wording could be circulated to Members after the meeting for approval.

Councillor Alex Hayward clarified that the amendment did not benefit the application in the future.

The Planning Officer said a new application would be materially different so would be considered on the same points, such as the Greenbelt location.

Councillor Chris Lloyd, seconded by Councillor Reena Ranger, moved the Officer recommendation, with the amendment to the Reason for Refusal R3 to include reference to the non-compliance to the government circular and the amended wording to be circulated to Members after the meeting for approval.

On being put to the Committee the motion was declared CARRIED by the Chair the voting being unanimous.

RESOLVED:

The Planning Permission be REFUSED for the reasons set out in the Officer report with an amendment to the Reason for Refusal R3 to include reference to the non-compliance to the government circular and the amended wording to be circulated to Members after the meeting for approval.

Amended Reason R3 to read:

PC19/21

21/0392/FUL - Demolition of existing garage/store and construction of single storey side extension at 2 WINTON CRESCENT, CROXLEY GREEN, WD3 3QX

There was no Planning Officer update.

In accordance with Council Procedure Rule 35(b) a member of the public spoke against the application

Parish Councillor Andrew Gallagher spoke to say this was originally a small property on a small plot, which had increase from two to four bedrooms over time, thus changing the character of the street scene.

Councillor Chris Lloyd asked if an additional conditional removing the ability to split the property in future and permitted development rights could be appropriate to add. Councillor Lloyd also asked the distance from the property boundary on the corner of Winton Crescent and Winton Drive.

The Planning Officer said that officers didn't feel it appropriate or necessary to add these conditions, but could add a condition with regard to ancillary use if Members felt this was appropriate.

Councillor Reena Ranger asked if there were any windows overlooking Winton Drive?

The Planning Officer said there were no windows on the side. There were two roof lights but there was separation from the road opposite.

Councillor Alex Hayward asked what the distance was from the boundary and the other properties boundaries.

The Planning Officer confirmed the distance was 0.6m, and there was a generous garden.

Councillor Steve Drury said the reason this application had come to this meeting was because a member of staff lives within the consultation area.

Councillor David Raw asked why there were windows included on the plan for the loft.

The Planning Officer said there was a ladder for loft hatch access.

Councillor Chris Lloyd, seconded by Councillor Keith Martin, moved the recommendation that Planning Permission be Granted, with an additional condition restricting the use of the extension to be ancillary to the main house.

On being put to the Committee the motion was declared CARRIED by the Chair the voting being unanimous.

RESOLVED:

That Planning Permission be GRANTED subject to the conditions set out in the Officer report with an additional condition restricting the use of the extension to be ancillary to the main house the wording of the Condition to be as follows:

PC20/21

21/0540/FUL - Demolition of existing five bedroom dwelling and construction of two five-bedroom detached dwellings including basement, bin stores to front and associated works at VIVIKT, CHORLEYWOOD ROAD, RICKMANSWORTH, WD3 4EP

The Planning Officer confirmed there was one additional letter of objection received.

In accordance with Council Procedure Rule 35(b) a member of the public spoke in favour of the application and a member of the public spoke against the application.

Ward Councillor Lisa Hudson spoke to say this site was very over developed and the basement would set a precedent, and was excessive making the property stand out for the wrong reasons.

Councillor Reena Ranger asked where on the plans the development would end underground, and stated there were concerns about flooding and surface water issues. The Councillor asked if more onsite parking was required as the spaces included in the plans were completely habitable.

The Planning Officer confirmed the property was not in a flood zone, and Thames Water had suggested informatives be included on this and would be covered under current building regulations. The site plan showed a large driveway which would provide the required amount of parking spaces and allow for entry and exit to the property in a forward gear. No objections were received from the Highways Officer.

Councillor Reena Ranger asked if a future application to extend the basement the full length of the garden would that be classed as over development as it would be underground?

The Planning Officer confirmed this would be assessed on its own merits should an application be received.

Councillor David Raw was concerned about the basement and potential damage to nearby properties due to the amount of digging required. Councillor Raw asked if it would be out of character with the area to have two properties so close to one another.

The Planning Officer said that as this was a second application the principal of the subdivision had already been granted, and there was no increase in the footprint. Concerns about nearby damage isn't a material planning concern that would be for building regulations. Neighbours have the ability to seek independent advice if they have further concerns.

Councillor Alex Hayward asked if the dimensions on the existing permission was the same as the current application.

The Planning Officer confirmed this as the case, with the addition of the basement and the single storey rear extension, removal of garages and additional of a front porch.

Councillor Reena Ranger said she didn't have an issue with basements but would it be reasonable to remove permitted development rights?

The Planning Officer said that officers didn't think that was reasonable but this could be added if Members requested.

Councillor Alison Scarth said it was disappointing there was no contribution to affordable housing.

Councillor Chris Lloyd asked how enforceable the informatives were, particularly I9 and I10?

The Planning Officer said that these were new informatives included for this application. As advisory notes they are not enforceable but trust the applicants would acknowledge them and take the necessary steps.

Councillor Sara Bedford, seconded by Councillor Alex Hayward, moved that Planning Permission be Granted. On being put to the Committee the motion was declared CARRIED by the Chair the voting being 8 For, 0 Against and 2 Abstention.

RESOLVED:

That Planning Permission be GRANTED subject to the conditions set out in the Officer report.

PC21/21

21/0832/FUL - Single storey front, side and rear extensions and first floor extension including increase in ridge height to create two storey dwelling and provision of render at THE CONIFERS, SOLESBRIDGE LANE, CHORLEYWOOD, WD3 5SW

The Planning Officer stated that the Landscape Officer raised no objections to the inclusion of tree protection details prior to the development.

Councillor Steve Drury asked if, due to the size of the road, there could be a Traffic Management Plan, and could deliveries be restricted outside of peak times for nearby schools, and where would contractors park their vehicles.

The Planning Officer confirmed a condition could be added to include both of these points.

Councillor David Raw said there was a considerable height difference, and asked if Officers were happy with this?

The Planning Officer said this was noted within the report and while higher the property would be well set back from neighbouring properties.

Councillor Raj Khiroya highlighted the existing traffic problems and reiterated the requirement for a Traffic Management Plan.

Councillor Alex Hayward asked if there was enough parking for the number of bedrooms?

The Planning Officer confirmed there was.

Councillor Steve Drury, seconded by Councillor Keith Martin, moved the recommendation that Planning Permission be Granted with two additional conditions requiring the submission of details on Tree Protection measures and requiring the submission of a construction management to include timings of deliveries, location of material storage and contractor car parking.

On being put to the Committee the motion was declared CARRIED by the Chair the voting being unanimous.

RESOLVED:

That Planning Permission be GRANTED in accordance with the officer recommendation, with an additional condition requiring submission of details of Tree Protection measures and additional condition requiring submission of construction management condition to include timings of deliveries, location of material storage and contractor car parking. The wording of the conditions to be as follows:

PC22/21 21/1048/FUL - Part two-storey, part single-storey rear extension, first floor side extension, roof alterations to include a rear dormer window at 31 LEWES WAY, CROXLEY GREEN, WD3 3SW

There was no Planning Officer update.

Parish Councillor C Andrew Gallagher spoke to say there was a recent example of an application at a nearby property being refused on appeal as the scheme benefit did not outweigh the harm it would cause to the character and appearance of the area, and had concerns the same would happen on this property.

The Planning Officer noted these comments and thought it would be appropriate to add an informative to say it was unlikely the applicant would be able to implement this application and a certificate of lawfulness, as separate building operations.

Councillor Sara Bedford, seconded by Councillor Raj Khiroya, moved the recommendation that Planning Permission be granted with an additional informative added reminding the applicant that the development works cannot be undertaken at the same time as any development which was the subject of a separate Lawful Development Certificate application.

On being put to the Committee the motion was declared CARRIED by the Chair the voting being unanimous.

RESOLVED:

That Planning Permission be GRANTED in accordance with the officer recommendation, with an additional informative reminding the applicant that the development works cannot be undertaken at the same time as any development subject of a separate Lawful Development Certificate application the wording of the informative to be as follows:

PC23/21 21/1118/RSP – Part Retrospective: Variation of Condition 2 (Approved Plans) of planning permission 19/0622/FUL: (First floor side extensions and two storey rear extensions) to amend plans to include reduction in depth of first floor rear extension, alterations to width, alterations to patio to rear, alterations to fenestration and regularisation of the site boundaries at ABBOTSFORD, WOODSIDE WALK, NORTHWOOD

There was no Planning Officer update.

In accordance with Council Procedure Rule 35(b) a member of the public spoke in favour of the application and a member of the public spoke against the application.

Councillor Joanna Clemens spoke to say the property in the application was enormous, going right to the boundaries, and supported the objections from Batchworth Community Council.

Batchworth Community Councillor Alan Moss said the enjoyment and view of the nearby residents was being affected by the development of this property. The Community Council believed the reduction in boundary space was not acceptable, and believed the welfare of trees on the property were being negatively affected by this development.

The Planning Officer confirmed the report addressed the issues raised.

Councillor Reena Ranger said that planning permission was approved in 2019 and there are seven or eight planning histories or enforcements since then and it didn't seem fair for neighbours to pay for the mistakes of others, even if it was a small difference in distance. The Councillor asked about the door that had been moved, the size of the infringement, and whether the trees being planted would last long enough to act as a screening measure. A recent application on the same street was refused on the basis of being detrimental to the streetscene. The Councillor suggested a site visit be made.

The Planning Officer stated the other application referenced was materially different to this one, and while appreciating the extensive planning history this application had to be judged independently on its own merits. This application comply with space standards.

Councillor Sara Bedford asked what the minimum separation to the boundary at ground floor level was and asked if the property was within a Conservation Area.

The Planning Officer said 0.75m was the minimum distance and 1.1m was the maximum, and confirmed the property was not within a Conservation Area.

Councillor Sara Bedford said having an inferior sized side passageway can be detrimental to the residents living conditions and that the application property would be too big for the plot.

Councillor Raj Khiroya stated they put weight on the Planning Officers recommendation.

Councillor Reena Ranger, seconded by Councillor Sara Bedford, moved for a site visit to be conducted.

Councillor Chris Lloyd, seconded by Councillor Raj Khiroya, moved an amendment that the recommendation as set out in the report that Part Retrospective Planning Permission be Granted.

The proposer of the amended motion proposed a further amendment that a vote take place on the site visit motion first.

On being put to the Committee the motion to make a site visit was declared LOST by the Chair the voting being 4 For, 5 Against and 1 Abstentions

On being put to the Committee the amended motion was declared CARRIED by the Chair the voting being 5 For, 3 Against and 2 Abstentions.

RESOLVED:

That Part Retrospective Planning Permission be GRANTED subject to the conditions set out in the Officer report.

PC24/21

21/1170/FUL - Variation of Condition 2 (Approved Plans) of planning permission 20/1748/FUL: (District Council Application: Demolition of existing two storey office building, two storey stacked portable cabins, and existing single storey sheds and stores, and the construction of a replacement single storey office building with meeting space and ancillary facilities to east of site. Alterations to car and lorry parking). Variation to increase height of building at BATCHWORTH DEPOT, HAREFIELD ROAD, RICKMANSWORTH WD3 1LU

Councillor Sara Bedford spoke to say the change was a small increase, and was essential for operation reasons.

Councillor Chris Lloyd asked if there had been any objections.

The Planning Officer confirmed there hadn't been any.

Councillor Sara Bedford, seconded by Councillor Chris Lloyd, moved the recommendation that Planning Permission be Granted.

On being put to the Committee the motion was declared CARRIED by the Chair the voting being unanimous.

RESOLVED:

That Planning Permission be GRANTED subject to the conditions set out in the Officer report.

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PLANNING COMMITTEE - 15 JULY 2021

PART I - DELEGATED

5. **21/0531/FUL: Variation of Condition 2 (Approved Plans) of planning permission 20/2046/FUL: (Alterations to existing two storey side extension, erection of single storey extensions including glazed link, reinstatement of external elevated walkway and change to the roof form on The Windmill and the demolition of existing outbuildings and construction of new outbuilding and patio areas) to include rear garage roof canopy with open sided area, alterations to roof of staircase link, alterations to rooflights and addition of chimney at THE WINDMILL, 34 WINDMILL DRIVE, CROXLEY GREEN, WD3 3FD**

21/0532/LBC: Variation of Condition 2 (Approved Plans) of Listed Building Consent 20/2047/LBC: (Listed Building Consent: Alterations to existing two storey side extension, erection of single storey extensions including glazed link, reinstatement of external elevated walkway and change to the roof form on The Windmill and the demolition of existing outbuildings and construction of new outbuilding and patio areas) to include rear garage roof canopy with open sided area, alterations to roof of staircase link, alterations to rooflights and addition of chimney at THE WINDMILL, 34 WINDMILL DRIVE, CROXLEY GREEN, WD3 3FD (DCES)

Parish: Croxley Green Parish Council
Expiry of Statutory Period: 12.05.2021
Extension of time: 22.07.2021

Ward: Dickinsons
Case Officer: David Heighton

Recommendation: That Planning Permission be GRANTED and Listed Building Consent be GRANTED.

Reason for consideration by the Committee: This application is brought before the Committee as it has been called-in by three Members of the Planning Committee due to local interest in this site.

1 Relevant planning history

- 1.1 19/1567/LBC: Listed Building Consent: Various repair works to property including brick repairs, replacement doors and windows – Permitted – 08.10.2019
- 1.2 19/1998/RSP: Part Retrospective: Erection of gate and fencing fronting Windmill Drive - Permitted and implemented – 23.12.2019
- 1.3 19/2510/DIS: Discharge of Condition 2 (Gate details) pursuant to planning permission 19/1998/RSP – Determined 25.02.2020
- 1.4 20/0666/FUL: Demolition of existing extension and outbuildings and construction of two storey side extension, single storey front and rear extensions, changes to roof form and construction of replacement outbuildings – Withdrawn.
- 1.5 20/0667/LBC: Listed Building Consent: Demolition of existing extension and outbuildings and construction of two storey side extension, single storey front and rear extensions, changes to roof form and construction of replacement outbuildings – Withdrawn.
- 1.6 20/1668/FUL: Construction of two storey side extension, single storey front and rear extensions, changes to roof form, and balcony and demolition of existing outbuildings and construction of new outbuilding and hardstanding – Withdrawn

- 1.7 20/1669/LBC: Listed Building Consent: Construction of single storey side extension with accommodation in gambrel roof, alterations to elevations and roof of existing side extension, alterations to roof form of windmill, insertion of balcony, construction of single storey outbuildings and insertion of hardstanding – Withdrawn
- 1.8 20/2036/LBC – Listed Building Consent: Various repair works to property including brick repairs, window moulds, cap, reinstatement of external walkway and garage repairs – Permitted and implemented
- 1.9 20/2046/FUL: Alterations to existing two storey side extension, erection of single storey extensions including glazed link, reinstatement of external elevated walkway and change to the roof form on The Windmill and the demolition of existing outbuildings and construction of new outbuilding and patio areas – Permitted and commenced
- 1.10 20/2047/LBC: Listed Building Consent: Alterations to existing two storey side extension, erection of single storey extensions including glazed link, reinstatement of external elevated walkway and change to the roof form on The Windmill and the demolition of existing outbuildings and construction of new outbuilding and patio areas – Permitted and commenced

2 Description of Application Site

- 2.1 The Windmill is a Grade II listed former mill, which was constructed in the early nineteenth century and converted to a residential dwelling and substantially altered and extended in the 1960/70s. The plot within which The Windmill is situated is largely square in shape and measures approximately 1,800sqm in area, with a gated access and driveway located to the south west of the site, running parallel with the shared boundary of number 36 Windmill Drive.
- 2.2 The area surrounding the site comprises varying developments of residential dwellings which are modern in architectural style and design.
- 2.3 The Windmill had not been occupied for some time before the applicant moved in. The existing twentieth century windows are in round headed openings, and the building retains a leaded roof with timber parapet.
- 2.4 The existing extension to The Windmill is two storey in nature and adjoins the south eastern aspect, with the highest point adjoining The Windmill and the set down element comprising the majority of the massing, set furthest away from the Listed Building. To the rear, handmade droplet tiles cover the extension at first floor level, with an existing lean-to greenhouse structure infilling the irregular shape of the extension.
- 2.5 The pre-existing railing and metal five bar gate have been replaced with close-boarded timber fencing and an entrance gate along the southern front boundary. The parcel of land between the application site and Windmill Drive is owned by the Council and contains five protected trees and a group of semi-mature trees (TPO902).

3 Description of Proposed Development

- 3.1 The applications seek planning permission and Listed Building Consent for variation of the approved plans under reference 20/2046/FUL and 20/2047/LBC. The proposal has been revised from the previous approved schemes as follows:
- Additional of an open-sided canopy to the rear of the garage
 - Alterations including increase in height of the garage
 - Alterations to windmill link roof form

- Alterations to glass garage link
- Alterations to rooflights on the extension
- Additional of a chimney

- 3.2 The proposed extension with loft accommodation would largely remain as approved, with alterations to the approved fenestration. It would have retain a gabled roof design measuring 7m in height with an eaves height of 3.2m and would extend to a width of approximately 12m with a depth of 10m. It would have an addition of a chimney to the northwest corner of the extension, 8.2m in height. It would have two windows and bi-folding doors to the front and two windows and bi-folding doors to the rear at ground floor level with five rooflights (an increase of one compared to the approved scheme) within the rear roofslope. To the eastern flank there would be ground floor windows and a circular window at first floor level within the gable. The extension would comprise of a kitchen/dining room, office, snug and WC at ground floor level and at first floor level would contain a bedroom, bathroom, an en-suite, dressing room and family bathroom. A rooflight would be inserted into the roof of the existing windmill link which would remain as existing. The roof form of the windmill link in between the tower and the extension is proposed to be altered to a pitched roof form, a similar form with that of the extension. It would be set approximately 0.2m lower than the ridge line of the adjacent proposed extension.
- 3.3 A porch would be also constructed to the front adjacent to the windmill tower at ground floor level which would have a pitched roof with an eaves height of 2.4m and total height of 4.2m, which would be raised in height by 0.4m in comparison to the approved scheme.
- 3.4 The windmill tower balcony would be re-instated at first floor level around the windmill. The 1m high timber balustrade posts would be split into sections with immediate posts in between and would sit in existing sockets within the brickwork.
- 3.5 The existing garage has been replaced with the replacement building projecting a further 1.1m to the front with an open sided rear extension for storage purposes. The building would have an overall depth of 15.2m and a maximum ridge height of 4.1m, an increase of 0.3m in relation to the previous approved scheme with a similar pitched roof, with timber cladding and a zeroflame treatment to the western flank adjacent to the boundary and a tiled roof. Two rooflights would be inserted into the eastern roofslope.
- 3.6 To connect the replacement garage and the windmill tower, a glazed link is proposed, measuring a maximum of 1.6m in width and approximately 4.2m in depth, a reduction of 0.8m in comparison to the approved scheme with a mono-pitched roof to the same height as the approved scheme. It would be positioned approximately 1.6m further forward than the approved scheme and internally within the tower an existing window would be altered to a door with steps inserted.
- 3.7 The proposed materials for all pitched roofs would be of a heritage clay plain roof tile; the windmill extension would have black horizontal timber cladding to the exterior with mock timber doubled glazed windows and doors.
- 3.8 The existing windmill tower cap is proposed to be removed and replaced with a cap with a width of 4.1m and depth of 4.8m. The height of the cap and tower has been revised over the course of the application and would be the same as the approved scheme. The proposed cap would be constructed in timber. The tower would comprise of one further bedroom and en-suite at second floor level and another bedroom at third floor level with an en-suite at fourth floor level and area at the top of the window tower, which would comprise of one window to the southern elevation.
- 3.9 Revised drawings have been received during the course of the application. The amendments have reduced the height of the glass link, reduced the amount and size of the

rooflights within the extension, reduced and amended the windmill link roof and lowered the height of the windmill extension to the previously approved height.

4 Consultation

4.1 Statutory Consultation

4.1.1 Croxley Green Parish Council: Original Comments [Objection]

Croxley Green Parish Council objects to the application. The proposed plans represent an overdevelopment and over massing of the site. The enlargement of the buildings will result in an obscurement of view of the historic windmill tower, which the Conservation Officer describes as the strongest feature in terms of its form and height the tower is the key feature of the property. The application will not marry with the existing protected structure and must be reduced to protect this vital heritage asset as per the approved plans of December 2020, A104 Rev 6. The committee also holds reservations regarding the garage canopy and support in full the letter of objection.

Comments following revised drawings: [No objection]

“Croxley Green Parish Council note that there appears to be a reduction in the bulk of the property and the removal of some roof lights. CGPC have no objections subject to neighbours comments.”

4.1.2 National Grid: [No response received]

4.1.3 Landscape Officer: [No objection]

Recommend: Approval of amended plans, a condition should be applied that requires the applicant to follow the advice guidance in the submitted arboricultural reports.

4.1.4 Conservation Officer: [Revised, No Objection, subject to conditions]

The applications are for the variation of Condition 2 (Approved Plans) of Listed Building Consent 20/2047/LBC and the variation of Condition 2 (Approved Plans) of planning permission 20/2046/FUL to include rear garage roof canopy with open sided area, alterations to roof of staircase link, alterations to rooflights and addition of chimney.

The Windmill is a grade II listed building (list entry no: 1100797). Dating from the early-mid 19th century, it became redundant in the early 20th century and was extended and converted to a dwelling in the 1970s. The listing description notes that the c.1970 extension is of no special interest.

Pre-application advice on the construction of new extensions has been given under 18/2442/PREAPP and 19/2511/PREAPP. Three sets of applications have been withdrawn (20/0667/LBC & 20/0666/FUL, 20/1158/LBC & 20/1157/FUL and 20/1669/LBC & 20/1668/FUL) due to serious concerns regarding the impact of the proposals on the significance of the listed building. Following revisions and further amendments, a scheme for extending the windmill was approved under 20/2047/LBC & 20/2046/FUL.

The following amendments are now proposed (as per page 4 of the Design and Access Statement):

- 1. New cantilevered garage canopy to create garden storage area at the rear of the garage*
- 2. Amend the stair tower flat roof to a pitched roof to align with the extension roof*
- 3. Roof light size and position changes and the addition of a chimney*

There are no objections to the open-sided canopy to the rear of the garage. Although it extends the roof form, the open sides reduce the massing and visual bulk of the structure.

The approved scheme retained the sloping flat roof of the pre-existing staircase link and whilst this was not a particularly attractive roof form, it did provide a visual separation between the windmill tower and new extension. If the now proposed pitched roof can be set down from the extension, this change may be acceptable as it would maintain the visual break between the structures whilst introducing a more traditional roof form. The floor plans note that the existing stair structure would be demolished so there would be a new detail to the junction between the stair extension and the tower. A detail of the junction of the new roof and walls with the tower is needed, either through a condition or the submission of a detail drawing.

The proposed larger rooflights are not acceptable. They are considered to clutter the roofslope and detract from the simple design of the extension, designed as such to allow the windmill tower to be the most visually prominent structure on site. They are an overly prominent addition to the scheme. Relocating the approved rooflights further down the roofslope may be acceptable.

There are no in principle objections to the chimney. Historic photos within the Design and Access Statement show that the previous ancillary structures contained a brick chimney. It would be preferable for the chimney to be located away from the tower, rather than at the closest corner, to better preserve the predominance of the tower, but if this is not possible an objection would not be raised. The proposed brick and chimney pot will have to be agreed, either through condition or the submission of additional information.

The height of the proposed extension appears to have increased, although this is not noted as an amendment. The approved height should be maintained. The glass link design has also changed, shifting further to the front of the garage and slightly increasing in height. The increase in height brings it close to the underside of the balcony, and it would be beneficial to reduce this.

Comments following revised drawings:

The applications are for the variation of Condition 2 (Approved Plans) of Listed Building Consent 20/2047/LBC and the variation of Condition 2 (Approved Plans) of planning permission 20/2046/FUL to include rear garage roof canopy with open sided area, alterations to roof of staircase link, alterations to rooflights and addition of chimney.

Following a previous letter (dated 21/05/2021), the scheme has been revised. Revisions include:

- Reduction in overall height of extension (as per approved scheme)*
- Height reduction to staircase link*
- Reduction in number and scale of rooflights*
- Height reduction to glass link*

An additional detailed drawing has also been provided to show the proposed lead flashing detail between the staircase link and the windmill tower.

The revisions are all beneficial and address previous concerns. There are no further objections.

Details of the proposed materials have been provided, however, it is also recommended that the proposed brick for the new chimney is also provided (colour, type and manufacturer). Alternatively, this could be reserved by condition.

4.2 Public/Neighbour Consultation

- 4.2.1 Number consulted: 22
- 4.2.2 No of responses received: 11 (5 supporting and 6 objections)
- 4.2.3 Site Notices: 21/0531/FUL & 21/0532/LBC
- Posted: 02.04.2021 Expired: 24.04.2021
- Press Notices: Published – 02.04.2021 Expired– 24.04.2021
- 4.2.4 Summary of Responses (original plans):

Objections

- Loss of privacy, overlooking – Cap window and first floor balcony
- Overdevelopment
- Windmill link and garage link heights would detract from windmill tower
- Garage is large
- Overbearing affect to listed building
- Roof height and cap increased
- Potential damage to trees
- Construction not in accordance

Supporting comments

- Minor amendments
- Good design
- In keeping link roof
- Restoring building and historic features

Officer comments:

Revised drawings were received during the course of the application taking into account the objections. Further re-consultation letters were sent, which expires on 12th July so any comments received following the publication of this report will be verbally updated at the committee.

All material planning considerations are outlined within the relevant analysis section below.

5 Reason for Delay

- 5.1 Committee Cycle.

6 Relevant Planning Policy, Guidance and Legislation

- 6.1 National Planning Policy Framework and National Planning Practice Guidance

In 2019 the new National Planning Policy Framework was published. This is read alongside the National Planning Practice Guidance (NPPG). The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another. The NPPF is clear that “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework”.

The NPPF states that 'good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits.

6.2 The Three Rivers Local Development Plan

The application has been considered against the policies of the Local Plan, including the Core Strategy (adopted October 2011), the Development Management Policies Local Development Document (adopted July 2013) and the Site Allocations Local Development Document (adopted November 2014) as well as government guidance. The policies of Three Rivers District Council reflect the content of the NPPF.

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies CP1, CP9, CP10 and CP12.

The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM1, DM3, DM6, DM9, DM13 and Appendices 2 and 5.

The Croxley Green Neighbourhood Plan Referendum Version was adopted in December 2018. Relevant policies include: CA2 and Appendix B. Character area 2.

6.3 Other

The Community Infrastructure Levy (CIL) Charging Schedule (adopted February 2015).

The Localism Act received Royal Assent on 15 November 2011. The growth and Infrastructure Act achieved Royal Assent on 25 April 2013.

The Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, the Natural Environment and Rural Communities Act 2006 and the Habitat Regulations 1994 may also be relevant.

7 Planning Analysis

7.1 Impact on setting of Listed Building, character and street scene

7.1.1 Policy CP1 of the Core Strategy (adopted October 2011) seeks to promote buildings of a high enduring design quality that respect local distinctiveness and Policy CP12 of the Core Strategy (adopted October 2011) relates to design and states that in seeking a high standard of design the Council will expect development proposals to 'have regard to the local context and conserve or enhance the character, amenities and quality of an area'. Development should make efficient use of land but should also respect the 'distinctiveness of the surrounding area in terms of density, character, layout and spacing, amenity, scale, height, massing and use of materials'; 'have regard to the local context and conserve or enhance the character, amenities and quality of an area' and 'incorporate visually attractive frontages to adjoining streets and public spaces'.

7.1.2 Policy DM1 and Appendix 2 of the Development Management Policies Local Development Document (adopted July 2013) set out that development should not lead to a gradual deterioration in the quality of the built environment, have a significant impact on the visual amenities of the area and that extensions should respect the existing character of the

dwelling, particularly with regard to the roof form, positioning and style of windows and doors, and materials.

- 7.1.3 Policy DM3 of the DMP LDD relates to Heritage Assets such as Conservation Areas and Listed Buildings. It states that the Council will preserve the Districts Listed Buildings and will only support applications where the extension/alteration would not adversely affect its character both internally or externally or its wider setting. Development should preserve and enhance Conservation Areas. Policy CP12 of the Core Strategy advises that development should conserve and enhance heritage assets. The NPPF under paragraph 193 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 7.1.4 Policy CA2 of the Croxley Green Neighbourhood Plan outlines that domestic extensions should seek to conserve and enhance the Character Areas through the careful control of massing, alignment and height. Extensions that have an overbearing or adverse visual effect on the Character Area in which it is located will be resisted.
- 7.1.5 The Windmill is a Grade II Listed Building, dating from the early nineteenth century (listing ref: 1100797). Early Ordnance Survey maps dating from 1868 and 1899 show the building occupying a semi isolated site, removed from the larger development of Croxley Green. This detachment highlights the historic and open setting of the windmill, which is a large contributor to its significance. The general character of the area is now suburban in character.
- 7.1.6 It is acknowledged that the existing extensions to The Windmill are unsympathetic and their partial removal is welcomed (listing acknowledges that the extension is of no special interest), albeit subject to a suitable replacement which looks at opportunities for new development to enhance or better reveal their significance, in accordance with paragraph 200 of the NPPF. The heritage significance of The Windmill stems from its tower mill, rounded heading openings and timber steps up to the first floor balcony running all the way around (which appeared to have been removed some time ago). Clearly, there is scope to enhance the listed building by re-introducing former features and better enhance the tower's prominence within the site and from public view from within the wider locality given its uniqueness.
- 7.1.7 A number of previous schemes were withdrawn due to their adverse impact on the heritage asset as the extensions were overly dominant and detracted from the unique character of The Windmill. Significant on-going discussions with the applicant have taken place which led to the applicant obtaining planning permission and listed building consent under 20/2046/FUL and 20/2047/LBC. This application seeks to vary the approved plans and includes the addition of an open-sided canopy to the rear of the garage, alterations to raise the height of the windmill extension and link, increase the height of the garage to 4.1m in height, alterations to glass garage link, the addition of one further rooflight on the extension and the inclusion of a chimney.
- 7.1.8 This amended proposal would include a gabled roofed extension with roof accommodation, projecting from the existing south eastern windmill link. The proposed extension, would be similar to the approved scheme extended to a width of approximately 12m, which is noted would be close to double the existing floor area of the current extensions. However, the proposed extension would appear as a single storey addition, albeit would be served by roof accommodation, although from the front this would not be readily noticeable as the rooflights are sited to the rear. As noted above, the height of the extension has been lowered during the course of the application, back to the previous approved height and therefore would not be considered as visually dominating or detracting from the significance of the windmill tower.

- 7.1.9 As part of this application an additional rooflight is proposed, taking the total number on the rear roofslope to 5. All rooflights would also be set further down within the slope of the roof, towards the eaves of the extension. However they would remain at the same size as previous approved. Whilst an additional rooflight is proposed, it is not considered that the total amount is unacceptable, having regard to their siting (positioned away from the tower and the fact they would be flush with the adjacent roof tiles).
- 7.1.10 This application also proposes changes to the unsympathetic roof form of the link in between the tower and the proposed extension. The roof form would incorporate a more traditional pitched roof form which would be set below the pitched roof of the new adjoining extension. This set down nature would provide a visual separation between the windmill tower and new extension and break up the structures and would be considered sympathetic to the windmill tower.
- 7.1.11 The windmill tower cap itself has been amended over the course of the application and would be of the same size and height in regards to the previous scheme, which is considered to appear in keeping with the windmill tower and is considered as a sympathetic addition with historical merit. The proposed application proposes to include additional detailing, which was located behind the previous cap at the top of the windmill tower and has not altered the height of the approved cap. In isolation would not appear incongruous and would respect the character of the existing building. Further details would be required on the proposed materials at the top of the tower and would be subject of a condition to ensure appropriate materials are used.
- 7.1.12 There are also proposed alterations to the approved garage, which would increase the footprint relative to the previous garage which has been removed. Whilst the proposed replacement garage would extend approximately 1.1m further forward and extend the roof form to an overall depth of 15.2m, given its single storey nature and the fact that the extension towards the rear would be open in appearance it would reduce the impact of the extension and the visual bulk of the proposed structure. It is noted that the height of the garage would increase by 0.3m from the approved scheme to a maximum height of 4.1m. This increase in height is considered limited and would not result in a detrimental impact on the windmill tower. The proposed garage alterations including timber cladding would be considered in keeping with similar outbuildings in the vicinity and the surroundings, which would be partially screened due to boundary treatment and trees to the western flank. It is noted that a zeroflame treatment would be applied to cladding to the western flank of the garage, for the purpose of building regulations matters, which is considered not to result in any harm and no objection is raised on this element. Given that the garage extension would be partially open in appearance and would appear subordinate to the host dwelling it is considered that the proposed alterations would not appear unduly prominent to the detriment of the Heritage Asset.
- 7.1.13 Whilst it is noted that the glazed link has moved forward by approximately 1.7m the proposed alterations would also reduce its depth by approximately 1m. The revised drawings have lowered the height back to the previously approved height. As such, the reduction in the size of the glazed link is considered as an improvement and would still utilise an existing window opening to the western flank of the windmill tower. It is acknowledged that part of the windmill tower below the existing window opening would be removed for an access door, but utilising the existing opening would significantly limit any loss of building fabric. It is considered that the changes to the proposed glazed link would not be detrimental to the heritage asset.
- 7.1.14 There are no in principle objections to the additional of the chimney, given its siting to the rear of the extension. Further, historic photographs within the Design and Access Statement show that the previous ancillary structures on site contained a brick chimney. The proposed brick and chimney pot materials would be subject of a condition to ensure appropriate materials are used.

- 7.1.15 There is no objection to the reinstatement of the windmill tower balcony, a historic feature at first floor level, which would utilise existing brackets and sockets to allow for an accurate reconstruction in regard to its location and dimensions.
- 7.1.16 In light of the above alterations, the proposed extensions and alterations within the curtilage would collectively result in a form of development which would not have an adverse impact on the heritage significance of the listed building nor erode its setting. The Conservation Officer commented that the revised drawings were considered to address any previous concerns.
- 7.1.17 It is acknowledged that the building had fallen into a state of disrepair and that there would be some public benefit from the building being brought back into residential use, whilst preserving the setting and significance of the listed building. It is considered that given the amended proposals and sensitive design approach that the proposed replacement extensions would be considered acceptable and would be a public benefit by better revealing its significance and visibility.
- 7.1.18 It is acknowledged that the site has a degree of archaeological significance. Given that the development could have an impact on heritage assets of archaeological interest, the works will be subject to a condition.
- 7.1.19 Therefore, it is considered that the proposed amended development would not have a harmful impact on the setting of the listed building and would not have a detrimental impact on the heritage significance of the listed building. The development would therefore comply with Policies CP1 and CP12 of the Core Strategy (adopted October 2011), Policies DM1, DM3 and Appendix 2 of the Development Management Policies LDD (adopted July 2013), Policy CA2 and Appendix B of the Croxley Green Neighbourhood Plan (adopted December 2018) and the NPPF (2019).

7.2 Impact on amenity of neighbours

- 7.2.1 Policy CP12 of the Core Strategy states that development should 'protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space'. Policy DM1 and Appendix 2 of the Development Management Policies document set out that development should not result in loss of light to the windows of neighbouring properties nor allow overlooking, and should not be excessively prominent in relation to adjacent properties.
- 7.2.2 The Design Criteria at Appendix 2 of the Development Management also state that two storey development should not intrude into a 45 degree splay line drawn across the rear garden from a point on the joint boundary, level with the rear wall of the adjacent property. This principle is dependent on spacing and relative positions of the dwellings and consideration will also be given to the juxtaposition of properties, land levels and the position of windows and extensions on neighbouring properties
- 7.2.3 The proposed windmill extension would be set in from the flank boundaries by 11.5m to the eastern boundary and 16m to the western boundary. The location of the proposed windmill extension would be to the rear of adjacent properties, No. 32 and 36 Windmill Drive and would interrupt the 45 degree splay line from a point on the joint boundary, level with the rear walls. However, given the separation distances and the site circumstances there would be no harm so as to justify refusal of the application in this regard. Two ground floor windows and a window at first floor level would be inserted into the eastern flank. Given the site circumstances and existing close-boundary treatment no overlooking would result from the ground floor windows. A first floor circular window would be located within the eastern gable. As a result a condition would be recommended to ensure the window is positioned 1.7m above the existing floor level to avoid overlooking. As such, the windmill extension element of the development would not result in an unacceptable loss of light or overbearing impact and no overlooking would occur to neighbouring properties.

- 7.2.4 The proposed single storey replacement garage and open sided extension and glazed link adjacent to the windmill tower would be of a size and scale that would not result in any loss of light to surrounding neighbouring properties. No glazing is proposed within the western flank elevation of the replacement garage adjacent to the boundary and other glazing (such as the rooflights) would have an outlook onto the garden areas serving the dwelling and it is not considered that unacceptable overlooking would arise into surrounding neighbouring properties.
- 7.2.5 The height of the cap and tower has been revised during the course of this application to the previous approved height. It is therefore not considered that the window in the cap would result in any increased harm relative to the existing windmill windows, which would already have some outlook into neighbouring properties. There are no changes to the approved cap window, apart from glazing bars. It remains of a limited size, fronting the highway verge and is a minimum of 36m from the rear building line of No.32 and 25m from No.36, which would mitigate the level of perceived and actual overlooking as a result.
- 7.2.6 The revised drawings submitted show a section of the first floor balcony at the front would remain restricted from access and would be only be accessed for maintenance purposes. This is subject of a condition in the area of concern. The remaining usable balcony would not arise in overlooking issues given the site circumstances and separation distances to the rear and east site boundaries and the protected trees and evergreen vegetation screening the site to the west.
- 7.2.7 In summary, the proposed development would not result in any adverse impact on the residential amenity of any neighbouring dwelling and the development would therefore be acceptable in accordance with Policy CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies LDD.
- 7.3 Amenity Space Provision for future occupants
- 7.3.1 Policy CP12 of the Core Strategy states that development should take into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space. Specific standards for amenity space are set out in Appendix 2 of the Development Management Policies LDD. The Design Guidelines (Appendix 2 of the Development Management Policies document) set out that a four bedroom dwelling should provide 105sqm amenity space.
- 7.3.2 Following the proposed development the application site would retain 900sqm of amenity space, which would be sufficient for future occupiers and as such would comply with Appendix 2 of the DMP LDD.
- 7.4 Wildlife and Biodiversity
- 7.4.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive.
- 7.4.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of applications in accordance with Policy CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the DMLDD. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications that may be affected prior to determination of a planning application.
- 7.4.3 The application has been submitted with a Biodiversity Checklist and the site is not in or located adjacent to a designated wildlife site. The Local Planning Authority is not aware of any records of protected species within the immediate area that would necessitate further

surveying work being undertaken and given the nature of the proposed development there would not be any adverse impacts on biodiversity.

7.4.4 The Herts and Middlesex Wildlife trust further commented the ecological survey is adequate and puts forward the required mitigation and compensation measures, subject to a condition with respect to the necessary mitigation licence with authorisation for the development. The required mitigation has been installed on site and a Protected Species Mitigation Licence from Natural England obtained.

7.5 Trees and Landscaping

7.5.1 Policy CP12 of the Core Strategy expects development proposals to 'have regard to the character, amenities and quality of an area', to 'conserve and enhance natural and heritage assets' and to 'ensure the development is adequately landscaped and is designed to retain, enhance or improve important existing natural features'. Policy DM6 of the Development Management Policies LDD states that development should be designed in such a way as to allow trees and hedgerows to grow to maturity without causing undue problems of visibility, shading or damage.

7.5.2 The application site is not located within a conservation area, however, there are 5 individually protected trees to front verge of the site and a series of trees which make up group G1 of a new TPO Order (TPO902). Given the nature and siting of the extensions to The Windmill, it is not considered that the abovementioned TPO would be adversely affected, albeit they would need to be protected in the event planning permission was granted.

7.5.3 The addition of the open-sided garage extension and the submitted arboricultural impact assessment and method statement has been reviewed by the landscape officer, who was satisfied that the extension would not result in an impact on the existing neighbouring trees along the western boundary. This would be subject to work being carried out in accordance with the submitted method statement, which would be subject of a condition.

7.5.4 Therefore, it is considered that the proposal, subject to conditions, would safeguard the protected trees both on and immediately adjacent to the site. Furthermore, it is noted that further landscaping will be planted to all boundaries. The proposed development would therefore result comply with the requirements of DM6 of the Development Management Policies and Policies CP1 and CP12 of the Core Strategy (adopted October 2011).

7.6 Highways, Access and Parking

7.6.1 Policy DM13 of the Development Management Policies LDD requires developments to ensure that sufficient parking is provided in accordance with the parking standards set out at Appendix 5 of the Development Management Policies LDD. The parking standards state that a six bedroom dwelling should have a total of 3 spaces.

7.6.2 The proposed development would result in a four bedroom dwelling. The hardstanding to the front would be retained which could accommodate three cars in addition to a garage being created as part of the development, which could accommodate at least another further vehicle. Therefore the proposed development would comply with Appendix 5 of the DMP LDD in this respect.

7.7 Conditions

7.7.1 Since the grant of planning permission 20/2046/FUL & listed building consent 21/0532/LBC a number of conditions have been discharged. To summarise, materials have all been agreed (including the timber cladding of the replacement garage, which will be treated with a non-combustible material, in this case intumescent zero flame clear paint), a Written Scheme of Investigated has been submitted and considered acceptable to enable works to commence, although a post investigation assessment will still be required. In relation to

biodiversity, the mitigation measures have been installed on site. All other original conditions have been re-imposed as set out within the recommendation below.

8 Recommendation

That PLANNING PERMISSION and LISTED BUILDING CONSENT BE GRANTED for the following reason(s):

8.1 21/0531/FUL Conditions:

C1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 91(1) of the Town and Country Planning Act 1990 and as amended by the Planning and Compulsory Purchase Act 2004.

C2 The development hereby permitted shall be carried out in accordance with the following approved plans: TRDC 001 (Location Plan), A101 REV 1, A102, A103, A104 REV 1, A105, A101 REV 11, A102 REV 10, A103 REV 10, A104 REV 11, A105 REV 10, A106 REV 10, A109 REV 9, A113 REV 3, A115 REV 9, A116 REV 9, A117 REV 2, A118 REV 10, A119 REV 11

Reason: For the avoidance of doubt and in the proper interests of planning and to safeguard the character and appearance of the Grade II listed building in accordance with Policies CP1, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011), Policies DM1, DM3, DM6, DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013) and Policy CA2 and Appendix B of the Croxley Green Neighbourhood Plan (adopted December 2018) and the NPPF (2019).

C3 The development shall be undertaken in full compliance with the construction methods detailed in the Arboricultural and Planning Integration Report prepared by GHA trees dated 12th June 2020, Tree Protection Plan (AIA Nov 20) and Phase II Arboricultural Impact Assessment forming part of this application.

No operations shall commence on site in connection with the development hereby approved (including tree felling, pruning, demolition works, soil moving, temporary access construction, or any other operation involving the use of motorised vehicles or construction machinery) until the tree protection works required by the approved scheme are in place on site.

The fencing or other works which are part of the approved scheme shall not be moved or removed, temporarily or otherwise, until all works including external works have been completed and all equipment, machinery and surplus materials removed from the site, unless the prior approval of the local planning authority has first been sought and obtained.

Reason: To ensure that the protected trees are not affected during construction of the development hereby permitted, in the interests of visual amenity and in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

C4 The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 3 and the provision made for analysis and publication where appropriate.

Reason: In the interests of protecting any archaeological remains present within the development site. The significance of heritage assets with archaeological interest can be

harmed/destroyed by development. This is in accordance with Policy CP1 of the Core Strategy (adopted October 2011) and Policy DM3 of the Development Management Policies LDD (adopted July 2013).

- C5 Prior to the first occupation of the development hereby approved, a landscape management plan, including long term design objectives, management responsibilities, timescales and maintenance schedules for all landscape areas, shall be submitted to and approved in writing by the Local Planning Authority. The landscape management plan shall be carried out as approved.

Reason: In order to ensure that the approved landscaping is satisfactorily maintained, in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

- C6 Before the first occupation of the windmill extension hereby permitted the first floor window facing No. 32 shall be 1.7m above the internal floor level of the room in which the window is installed. The window shall be permanently retained in that condition thereafter.

Reason: To safeguard the amenities of the occupiers of neighbouring residential properties in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C7 The gate as shown on Drawing A101 REV 11 shall be erected on the first floor balcony shall be erected prior to the first use occupation of the extensions hereby approved in accordance with the submitted drawing and permanently maintained as such thereafter. The proposed flat roof area of the balcony as shown hatched in red on Drawing A101 REV 11 shall be used/accessed for repair and maintenance only and not as an external platform or balcony at any time.

Reason: To safeguard the amenities of the occupiers of neighbouring residential properties in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C8 The rooflights within the extension hereby permitted shall be set flush with the adjacent roofing materials, and not project above the plane of the roof in which they are located.

Reason: In the interests of visual amenity and to protect the character and appearance of the Grade II Listed Building in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1 and DM3 of the Development Management Policies LDD (adopted July 2013).

- C9 The garage hereby permitted shall not be occupied or used at any time other than incidental to the enjoyment of, and ancillary to, the residential dwelling located on the site and it shall not be used as an independent dwelling at any time.

Reason: The creation and use of a separate and independent unit would not comply with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

8.2 **21/0531/FUL Informatives**

- I1 With regard to implementing this permission, the applicant is advised as follows:

All relevant planning conditions must be discharged prior to the commencement of work. Requests to discharge conditions must be made by formal application. Fees are £116 per

request (or £34 where the related permission is for extending or altering a dwellinghouse or other development in the curtilage of a dwellinghouse). Please note that requests made without the appropriate fee will be returned unanswered.

There may be a requirement for the approved development to comply with the Building Regulations. Please contact Hertfordshire Building Control (HBC) on 0208 207 7456 or at buildingcontrol@hertfordshirebc.co.uk who will be happy to advise you on building control matters and will protect your interests throughout your build project by leading the compliance process. Further information is available at www.hertfordshirebc.co.uk.

Community Infrastructure Levy (CIL) - Your development may be liable for CIL payments and you are advised to contact the CIL Officer for clarification with regard to this. If your development is CIL liable, even if you have been granted exemption from the levy, please be advised that before commencement of any works it is a requirement under Regulation 67 of The Community Infrastructure Levy Regulations 2010 (As Amended) that CIL form 6 (Commencement Notice) must be completed, returned and acknowledged by Three Rivers District Council before building works start. Failure to do so will mean you lose the right to payment by instalments (where applicable), and a surcharge will be imposed. However, please note that a Commencement Notice is not required for residential extensions IF relief has been granted.

Care should be taken during the building works hereby approved to ensure no damage occurs to the verge or footpaths during construction. Vehicles delivering materials to this development shall not override or cause damage to the public footway. Any damage will require to be made good to the satisfaction of the Council and at the applicant's expense.

Where possible, energy saving and water harvesting measures should be incorporated. Any external changes to the building which may be subsequently required should be discussed with the Council's Development Management Section prior to the commencement of work.

- 12 The applicant is reminded that the Control of Pollution Act 1974 allows local authorities to restrict construction activity (where work is audible at the site boundary). In Three Rivers such work audible at the site boundary, including deliveries to the site and running of equipment such as generators, should be restricted to 0800 to 1800 Monday to Friday, 0900 to 1300 on Saturdays and not at all on Sundays and Bank Holidays.
- 13 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority suggested modifications to the development during the course of the application and the applicant and/or their agent submitted amendments which result in a form of development that maintains/improves the economic, social and environmental conditions of the District.
- 14 Bats are protected under domestic and European legislation where, in summary, it is an offence to deliberately capture, injure or kill a bat, intentionally or recklessly disturb a bat in a roost or deliberately disturb a bat in a way that would impair its ability to survive, breed or rear young, hibernate or migrate, or significantly affect its local distribution or abundance; damage or destroy a bat roost; possess or advertise/sell/exchange a bat; and intentionally or recklessly obstruct access to a bat roost.

If bats are found all works must stop immediately and advice sought as to how to proceed from either of the following organisations:

The UK Bat Helpline: 0845 1300 228
Natural England: 0300 060 3900
Herts & Middlesex Bat Group: www.hmbg.org.uk

or an appropriately qualified and experienced ecologist.

(As an alternative to proceeding with caution, the applicant may wish to commission an ecological consultant before works start to determine whether or not bats are present).

Demolition or stripping works that disturb bat roosting places identified in the bat survey (Chase Ecology CE1444) shall not in any circumstances commence unless the local planning authority has been provided with a copy of the licence issued by [the relevant licensing body] pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorising the specified activity/development to go ahead.

I5 Any works which have the potential to impact the tree canopy to the western boundary should not occur until an application for tree works is submitted to and approved by the Council's Landscape department as these trees are protected and are subject to a tree preservation order (TPO).

8.3 **21/0532/LBC: Conditions**

C1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990.

C2 The development hereby permitted shall be carried out only in accordance with the following approved plans: TRDC 001 (Location Plan), A101 REV 1, A102, A103, A104 REV 1, A105, A101 REV 11, A102 REV 10, A103 REV 10, A104 REV 11, A105 REV 10, A106 REV 10, A109 REV 9, A113 REV 3, A115 REV 9, A116 REV 9, A117 REV 2, A118 REV 10, A119 REV 11

Reason: For the avoidance of doubt, in the proper interests of planning and to protect the character and appearance of the Grade II Listed Building in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM3 of the Development Management Policies LDD (adopted July 2013).

C3 No development shall take place/commence before details of the steel at the top of the windmill tower shall be submitted to and approved in writing by the Local Planning Authority and no external materials shall be used other than those approved.

Reason: This condition is a pre-commencement condition to prevent the dwelling being constructed in inappropriate materials in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM3 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

C4 No development shall take place/commence before details of the chimney materials including pots shall be submitted to and approved by the Local Planning Authority in writing prior to their installation on site and no external materials shall be used other than those approved.

Reason: This condition is a pre-commencement condition to prevent the dwelling being constructed in inappropriate materials in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM3 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

C5 The rooflights within the extension hereby permitted (and agreed via Condition 3) shall be set flush with the adjacent roofing materials, and not project above the plane of the roof in which they are located.

Reason: In the interests of visual amenity and to protect the character and appearance of the Grade II Listed Building in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM3 of the Development Management Policies LDD (adopted July 2013).

8.4 **21/0532/LBC: Informatives**

11 With regard to implementing this permission, the applicant is advised as follows:

All relevant planning conditions must be discharged prior to the commencement of work. Requests to discharge conditions must be made by formal application. Fees are £116 per request (or £34 where the related permission is for extending or altering a dwellinghouse or other development in the curtilage of a dwellinghouse). Please note that requests made without the appropriate fee will be returned unanswered.

There may be a requirement for the approved development to comply with the Building Regulations. Please contact Hertfordshire Building Control (HBC) on 0208 207 7456 or at buildingcontrol@hertfordshirebc.co.uk who will be happy to advise you on building control matters and will protect your interests throughout your build project by leading the compliance process. Further information is available at www.hertfordshirebc.co.uk.

Community Infrastructure Levy (CIL) - Your development may be liable for CIL payments and you are advised to contact the CIL Officer for clarification with regard to this. If your development is CIL liable, even if you have been granted exemption from the levy, please be advised that before commencement of any works it is a requirement under Regulation 67 of The Community Infrastructure Levy Regulations 2010 (As Amended) that CIL form 6 (Commencement Notice) must be completed, returned and acknowledged by Three Rivers District Council before building works start. Failure to do so will mean you lose the right to payment by instalments (where applicable), and a surcharge will be imposed. However, please note that a Commencement Notice is not required for residential extensions IF relief has been granted.

Care should be taken during the building works hereby approved to ensure no damage occurs to the verge or footpaths during construction. Vehicles delivering materials to this development shall not override or cause damage to the public footway. Any damage will require to be made good to the satisfaction of the Council and at the applicant's expense.

Where possible, energy saving and water harvesting measures should be incorporated. Any external changes to the building which may be subsequently required should be discussed with the Council's Development Management Section prior to the commencement of work.

12 The applicant is reminded that the Control of Pollution Act 1974 allows local authorities to restrict construction activity (where work is audible at the site boundary). In Three Rivers such work audible at the site boundary, including deliveries to the site and running of equipment such as generators, should be restricted to 0800 to 1800 Monday to Friday, 0900 to 1300 on Saturdays and not at all on Sundays and Bank Holidays.

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PLANNING COMMITTEE - 15 JULY 2021

PART I - DELEGATED

6. **21/1010/RSP – Part Retrospective: Single storey rear extension and alterations to roof form of existing rear extension at 2C TROWLEY RISE, ABBOTS LANGLEY, WD5 0LW (DCES)**

Parish: Abbots Langley Parish Council
Expiry of Statutory Period: 05.06.2021

Ward: Abbots Langley And Bedmond
Case Officer: Aaron Roberts

Recommendation: That Part Retrospective Planning Permission be Granted.

Reason for consideration by the Committee: Called in to Committee by three Councillors given concerns over the size of the plot, its elevated positioning and lack of parking and amenity space.

1 Relevant Planning History

- 1.1 97/0385 - Erection of two semi-detached bungalows – Permitted, implemented.
- 1.2 98/0963 - Loft conversion – Permitted, implemented.
- 1.3 01/00937/FUL – Single storey rear extension - Permitted, implemented.
- 1.4 21/0649/PDE - Prior Approval: Single storey rear extension (depth 4.62 metres, maximum height 3 metres, maximum eaves height 2.7 metres) – No Objection, partly implemented.
- 1.5 21/1049/FUL - Removal of Condition 7 (Removal of Permitted Development relating to future roof works) of planning permission 97/0385 – Permitted.

2 Description of Application Site

- 2.1 The application site is located on a corner plot to the east of Trowley Rise, adjoining the junction with Tibbs Hill Road in Abbots Langley. The application site includes a semi-detached bungalow finished in pebble-dash. To the north of the site, located via Old Trowley, there is an area of hardstanding which is shared between No.2C and 2B. There is an outbuilding which is split equally between the two adjoining bungalows and is used as a garage.
- 2.2 The host dwelling has been extended including a single storey rear extension. This extension was partially set off from the western boundary, however following the grant of 21/0649/PDE, works to infill the extension have commenced. The roof form of this extension has been altered to a flat roof, which forms part of this application. The loft has also been converted into habitable accommodation. Within the rear roofslope, there are two rooflights.
- 2.3 The attached dwelling to the west is No.2B Trowley Rise, a bungalow of similar design to the host dwelling and is un-extended.
- 2.4 To the north of the application site is The Compasses Public House, which is separated from the site via Old Trowley, a single track road.

3 Description of Proposed Development

- 3.1 This application seeks part retrospective planning permission for a single storey rear extension and alterations to roof form of existing rear extension.

- 3.2 The single storey rear extension has a depth of approximately 4.6m, a width of 7.7m and a flat roof with a maximum height of 2.8m. The rear elevation would have bi-fold doors and a triple casement window. The extension is set up to the western boundary. As part of the works, the pre-existing pitched roof was removed and replaced with a flat roof. During the time of the site visit, the external structure of the extension had been built including flat roof. The fenestration and external finish has not been installed.
- 3.3 In April 2021, application 21/0649/PDE was permitted. This prior approval application was for a scheme similar to the proposed scheme. The PDE scheme was similar in the sense that the pre-existing pitched roof form would be altered to a flat roof and the void area close to the western boundary would be infilled. The footprint of the PDE scheme and the proposed scheme is identical. The main changes relate to the roof form. The PDE scheme proposed a flat roof with a maximum height of 3m (0.2m higher than the pending scheme) and a slightly hipped section towards the rear, with an eaves height of 2.8m, rather than a solely flat roof.
- 3.4 During the application process amended plans were received omitting the rear dormer and front rooflights from the scheme.

4 Consultation

4.1 Statutory Consultation

4.1.1 Abbots Langley Parish Council: [No Objection]

'The members have no concerns about the scale but feel there could be a better aesthetic approach to the dormer on which is a prominent corner site'.

Officers Note: Following this comment, the rear dormer has been removed from the proposal.

4.1.2 National Grid: No comments received.

4.1.3 HCC Footpath Section: No comments received.

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 9

4.2.2 No of responses received: No responses received.

4.2.3 Site Notice (Footpath): Date of Expiry; 04.06.2021

4.2.4 Press notice: (Footpath): Date of Expiry; 05.06.2021

4.2.5 Summary of Responses: No responses received.

5 Reason for Delay

5.1 Committee Cycle.

6 Relevant Planning Policy, Guidance and Legislation

6.1 National Planning Policy Framework and National Planning Practice Guidance

In 2019 the new National Planning Policy Framework was published. This is read alongside the National Planning Practice Guidance (NPPG). The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and

that the planning system does not exist to protect the private interests of one person against another. The NPPF is clear that “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework”.

The NPPF states that ‘good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities’. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would ‘significantly and demonstrably’ outweigh the benefits.

6.2 The Three Rivers Local Development Plan

The application has been considered against the policies of the Local Plan, including the Core Strategy (adopted October 2011), the Development Management Policies Local Development Document (adopted July 2013) and the Site Allocations Local Development Document (adopted November 2014) as well as government guidance. The policies of Three Rivers District Council reflect the content of the NPPF.

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies CP1, CP9, CP10, CP12.

The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM1, DM6, DM13 and Appendices 2 and 5.

6.3 Other

The Community Infrastructure Levy (CIL) Charging Schedule (adopted February 2015).

The Localism Act received Royal Assent on 15 November 2011. The growth and Infrastructure Act achieved Royal Assent on 25 April 2013.

The Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, the Natural Environment and Rural Communities Act 2006 and the Habitat Regulations 1994 may also be relevant.

7 Planning Analysis

7.1 Impact on character of host dwelling and street scene

7.1.1 Policy CP12 of the Core Strategy (adopted October 2011) relates to the Design of Development and states that the Council will expect all development proposals to have regard to the local context and conserve or enhance the character, amenities and quality of an area.

7.1.2 Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013) set out that development should not have a significant impact on the visual amenities of the area. With specific regard to the proposed development, the Design Criteria at Appendix 2 of the DMP LDD sets out that single storey rear extensions to semi-detached dwellings should generally not exceed 3.6m in depth.

7.1.3 Given the location of the site on a corner plot and its elevated position compared with Tibbs Hill Road, the single storey rear extension is visible from Tibbs Hill Road. Given its depth of 4.6m, the extension would not comply with the criteria set out in Appendix 2 of the DMP

LDD. However, the new extension which has a flat roof form is lower and no deeper than the previous pitched roof extension which was visually more prominent. As a result the extension does not detrimentally impact upon the character of the streetscene or wider area.

7.1.4 Trowley Rise and the adjoining roads have a varied streetscene, with many properties extended to the rear. It is therefore not considered that the scale and design of the single rear extension results in an unduly prominent addition and thus is acceptable in respect of its impact on the host dwelling, streetscene and wider area. The development would comply with Policies CP1 and CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the DMP LDD.

7.2 Impact on amenity of neighbours

7.2.1 Policy CP12 of the Core Strategy advises that development will be expected to protect residential amenity. Appendix 2 of the DMP LDD comments that all developments are expected to maintain acceptable standards of privacy for both new and existing residential buildings and development should not result in loss of light to the windows of neighbouring properties nor allow overlooking. The Design Criteria at Appendix 2 of the DMP LDD sets out that single storey rear extensions to semi-detached dwellings should generally not exceed 3.6m in depth.

7.2.2 The single storey rear extension has a depth of approximately 4.6m and is set up to the shared boundary with No.2B Trowley Rise. This neighbouring dwelling is not extended and as such, the extension projects approximately 4.6m beyond the rear elevation of No.2B's rear elevation. This figure would be greater than the guidance figure of 3.6m. The pre-existing extension had a depth of 4.6m, however, only 3m of the extension extended along the boundary with the remainder set in from the said boundary by 3.1m. In essence, the new extension has infilled the previous space between the boundary and the 4.6m deep section of the extension and replaced the former pitched roof with a flat roof. Whilst the extension is 4.6m in depth along a boundary with an un-extended neighbour, its flat roof design assists in reducing its overall impact. It is acknowledged that there is some impact in terms of appearing overbearing, given the extension's depth compared to the un-extended neighbour; however, the property benefits from an extant prior approval permission for a similar scheme, which would have the same footprint and a slightly higher overall height (3m as opposed to 2.8m). This is a valid fall-back position and thus is a material consideration which is afforded significant weight. Given this valid fall-back position, the proposal is considered acceptable.

7.3 Amenity Space Provision

7.3.1 Policy CP12 of the Core Strategy states that development should take into account the need for adequate levels and disposition of amenity and garden space. Section 3 (Amenity Space) of Appendix 2 of the Development Management Policies document provides indicative levels of amenity/garden space provision.

7.3.2 At present, given the partial completion of the single storey rear extension, the application site benefits from approximately 72sqm of private amenity space. The application dwelling has four bedrooms, including two in the loft space, granted under 98/0963 and as such requires 105sqm of amenity space to meet with standards. The site benefitted from approximately 77sqm of amenity space, prior to the infill extension. The level of private amenity space is currently below the standards set out in Appendix 2, however, it is not considered that the new extension has exacerbated the shortfall to such an extent that would now deprive the future occupiers of an acceptable external amenity area. It is considered that despite the shortfall, the level of amenity space retained is adequate and the shortfall does not result in any harm. To control future development within the curtilage and to protect future levels of amenity space, a condition removing Class E 'buildings etc incidental to the enjoyment of a dwellinghouse' of Schedule 2, Part 1 of the Town and

Country Planning (General Permitted Development) Order 2015 (or any other revoking and re-enacting that order with or without modification) is recommended. .

7.4 Wildlife and Biodiversity

7.4.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive. The Habitats Directive places a legal duty on all public bodies to have regard to the habitats directive when carrying out their functions.

7.4.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of this application in accordance with Policy CP9 of the Core Strategy and Policy DM6 of the Development Management Policies LDD. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications where biodiversity may be affected prior to the determination of a planning application. The application is accompanied by a biodiversity checklist which states that no protected species or biodiversity interests will be affected as a result of the application. The Local Planning Authority is not aware of any records of protected species within the immediate area that would necessitate further surveying work being undertaken.

7.5 Trees and Landscaping

7.5.1 Policy DM6 of the DMP LDD sets out that development proposals should seek to retain trees and other landscape and nature conservation features, and that proposals should demonstrate that trees will be safeguarded and managed during and after development in accordance with the relevant British Standards.

7.5.2 The application site is not located within a Conservation Area and no trees on or adjacent to the site are protected by a Tree Preservation Order. The proposal is therefore considered acceptable in this regard.

7.6 Highways, Access and Parking

7.6.1 Policy DM13 of the DMP LDD requires development to make provision for parking in accordance with the parking standards set out at Appendix 5 of the same document.

7.6.2 The proposed extension would not increase the number of bedrooms within the dwelling and therefore would not require additional parking spaces. It is not considered that the proposed development would cause harm to highway safety.

8 Recommendation

8.1 That PART RETROSPECTIVE PLANNING PERMISSION BE GRANTED and has effect from the date on which the development is carried out and is subject to the following conditions:

C1 Those parts of the development hereby permitted that have not yet been carried out shall be begun before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 91(1) of the Town and Country Planning Act 1990 and as amended by the Planning and Compulsory Purchase Act 2004.

C2 The development hereby permitted shall be carried out in accordance with the following approved plan: PL-01 REV P4.

Reason: For the avoidance of doubt and in the proper interests of planning and in accordance with Policies CP1, CP9, CP10 and CP12 of the Core Strategy (adopted

October 2011) and Policies DM1, DM6, DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013).

- C3 Unless specified on the approved plans, all new works or making good to the retained fabric shall be finished to match in size, colour, texture and profile those of the existing building.

Reason: To ensure that the external appearance of the extension is satisfactory in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any other revoking and re-enacting that order with or without modification), no windows or similar openings [other than those expressly authorised by this permission] shall be constructed in the western elevation of the proposed extension hereby approved.

Reason: To safeguard the residential amenities of neighbouring properties in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C5 Immediately following the grant of this planning permission, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any other revoking and re-enacting that order with or without modification) no development within the following Classes of Schedule 2 of the Order shall take place.

Part 1

Class E - buildings etc incidental to the enjoyment of a dwellinghouse

Reason: To ensure adequate planning control over further development having regard to the shortfall in amenity space and to maintain the character of the area in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

8.1 Informatives:

- I1 With regard to implementing this permission, the applicant is advised as follows:

All relevant planning conditions must be discharged prior to the commencement of work. Requests to discharge conditions must be made by formal application. Fees are £116 per request (or £34 where the related permission is for extending or altering a dwellinghouse or other development in the curtilage of a dwellinghouse). Please note that requests made without the appropriate fee will be returned unanswered.

There may be a requirement for the approved development to comply with the Building Regulations. Please contact Hertfordshire Building Control (HBC) on 0208 207 7456 or at buildingcontrol@hertfordshirebc.co.uk who will be happy to advise you on building control matters and will protect your interests throughout your build project by leading the compliance process. Further information is available at www.hertfordshirebc.co.uk.

Community Infrastructure Levy (CIL) - If your development is liable for CIL payments, it is a requirement under Regulation 67 (1) of The Community Infrastructure Levy

Regulations 2010 (As Amended) that a Commencement Notice (Form 6) is submitted to Three Rivers District Council as the Collecting Authority no later than the day before the day on which the chargeable development is to be commenced. DO NOT start your development until the Council has acknowledged receipt of the Commencement Notice. Failure to do so will mean you will lose the right to payment by instalments (where applicable), lose any exemptions already granted, and a surcharge will be imposed.

Care should be taken during the building works hereby approved to ensure no damage occurs to the verge or footpaths during construction. Vehicles delivering materials to this development shall not override or cause damage to the public footway. Any damage will require to be made good to the satisfaction of the Council and at the applicant's expense.

Where possible, energy saving and water harvesting measures should be incorporated. Any external changes to the building which may be subsequently required should be discussed with the Council's Development Management Section prior to the commencement of work.

- I2 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority suggested modifications to the development during the course of the application and the applicant and/or their agent submitted amendments which result in a form of development that maintains/improves the economic, social and environmental conditions of the District.
- I3 The applicant is reminded that the Control of Pollution Act 1974 allows local authorities to restrict construction activity (where work is audible at the site boundary). In Three Rivers such work audible at the site boundary, including deliveries to the site and running of equipment such as generators, should be restricted to 0800 to 1800 Monday to Friday, 0900 to 1300 on Saturdays and not at all on Sundays and Bank Holidays.
- I4 The applicant is hereby advised to remove all site notices on or near the site that were displayed pursuant to the application.

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PLANNING COMMITTEE – 15 JULY 2021

PART I - DELEGATED

7. 21/1064/FUL - Demolition of existing dwelling and erection of five detached dwellings with associated access and landscaping at 78 GALLOWS HILL LANE, ABBOTS LANGLEY, WD5 OBY (DCES)

Parish: Abbots Langley Parish Council
Expiry of Statutory Period: 13.07.2021

Ward: Gade Valley
Case Officer: Scott Volker

Recommendation: That Planning Permission be Refused.

Reason for consideration by the Committee: This application is brought before the Committee as it has been called-in by three Members of the Planning Committee for reasons relating to inappropriate backland development, concerns with overlooking of existing homes and loss of trees within the site.

1 Relevant Planning History

- 1.1 8/143/90 - Two storey extension and workshop - Withdrawn

2 Description of Application Site

- 2.1 The application site is roughly rectangular in shape with a splayed rear boundary located on a southern side of Gallows Hill Lane in Abbots Langley. The plot measures approximately 25 metres in width and a depth ranging between 76-91 metres. The site contains an Arts and Crafts inspired two storey detached house with accommodation contained within the roofspace which is served by a central gable with a window in the front elevation. An off-centred two storey front forward projection is located within the principal elevation. The building has a pebble dashed rendered exterior with a tiled roof which is gabled along the west flank and hipped to the east. The dwelling is set back approximately 24 metres from the highway. There is a detached garage/annexe building situated along the east boundary of the site and a further outbuilding located within the garden along the west boundary.
- 2.2 To the rear the application site backs onto the private gardens of 16-22 Broomfield Rise. The properties along Broomfield Rise are generally uniform in shape and size measuring approximately 8 metres in width and 36 metres in depth.
- 2.3 To the east is 80 Gallows Hill Lane which is another two storey detached dwelling which is positioned further forward than the host dwelling and therefore closer to the highway. To the west is Little Orchard Close, a small cul-de-sac comprising of 7 detached dwellings of which 1-6 back onto the application site. These plots are also relatively uniform in depth at approximately 32 metres but widths range between 12-19 metres with the largest plot being 1 Little Orchard Close due to its corner location.

3 Description of Proposed Development

- 3.1 Planning permission is sought for the demolition of the existing dwelling and the erection of five detached dwellings accessed by a new service road.
- 3.2 Plots 1 and 2 would be located to the front with the dwellings facing towards Gallows Hill Lane. The service road would be located between Plot 2 and the west boundary of the site. Plots 3 and 4 would be located behind Plot 1 and would face in a west direction. Plot 5 would be located to the south-west of Plot 4 and would face north, with views back down the service road.

- 3.3 The dwellings would generally have the same appearance (yellow facing brick with grey tiled roof tiles) with some elements of variation. The dwellings would be two storey buildings with accommodation contained in the roofspace with two storey front gable projections. Plots 1, 2 and 5 also have rear gable projections. Building widths would range between 8-11 metres and depths would range between 9-12.5 metres. Ridge heights would be uniform measuring 9-9.5 metres in height sloping down to eaves height of 6 metres. The accommodation with the roofspace would be served by front and/or rear dormers and rooflights. Each of the dwellings would benefit from three off-street parking spaces; in the form of private driveways providing two spaces and either an integral garage (Plots 1, 2 and 5) or a separate garage (Plots 3 and 4). Each of the plots would benefit from a private amenity space ranging between 100-200sq.metres with their own bin store, with the garden areas enclosed by a combination of 1.8 metres fencing and brick walls.
- 3.4 The detached garage located within Plot 4 would measure 3.2 metres in width and 6 metres in depth. It would have a pitched roof form with a ridge height of 4.8 metres sloping down to an eaves height of 2.4 metres at the front and rear. The garage would be located along the east boundary of the site adjacent to the dwelling contained within Plot 5. The garage would be constructed in the same materials as the dwellings.
- 3.5 Plots 1 and 2 would contain 4-bed dwellings, Plot 3 and 4 would be 5-bed dwellings and Plot 6 would be a 6-bed dwelling.
- 3.6 Two visitor spaces would be provided along the service road and turning spaces would be located at the end of the service road adjacent to both Plots 4 and 5.
- 3.7 Amended plans were received during the course of the application process to include widening of the existing access serving the site by 2.1 metres.

4 Consultation

4.1 Statutory Consultation

4.1.1 Abbots Langley Parish Council: [Comments received]

Members appreciate that the house is not listed or in the conservation area. However, they are concerned that a characterful, original building within Abbots Langley might be lost. They feel the design is an overdevelopment of the site and is contrived. They are concerned that the site layout does not meet Herts Highways requirements. The design shows that Plots 3 and 4 overlook a neighbouring property's garden. The site will also create extra traffic to a busy main road.

4.1.2 Hertfordshire County Council – Highway Authority: [Initial comments]

The proposal is for the demolition of existing dwelling and erection of five detached dwellings with associated access and landscaping at 78 Gallows Hill Lane, Abbots Langley. This is an interim response owing to the need for some clarification concerning the widened access. It is understood by HCC Highways that the existing dropped kerb will be utilised for the 5 new dwellings but will be widened to accommodate two way access. HCC Highways would only allow a dropped kerb in this instance to be a maximum of 7.2 metres as per HCC Highways design guide section 4. The existing dropped kerb is already quite large and therefore I would like clarification as to the existing size of the dropped kerb and the proposed size of the widened dropped kerb as shown in drawing number PL01. Once this has been provided and it is shown to be below 7.2 metres then HCC Highways will be able to make an informed recommendation.

An additional concern is the width of the internal route at its narrowest. For a large fire appliance to access the site it must not be below 3.7 metres in width. To clearly illustrate

that a fire appliance can access the site and turn on site, a swept path would be needed to ensure fire safety in case of an emergency.

Once, these two points have been clarified, HCC Highways cannot make an informed recommendation.

Officer Comment / Further Consultation: Following receipt of the above comments an updated Site Location & Site Layout Plan numbered PL01 REV-P2 and a Swept Path Analysis Plan were provided. The Highway Officer were re-consulted and provided the following additional comments:

Notice is given under article 18 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that the Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission subject to the following conditions:

1) Existing Access – Widened or Improved

Prior to the first use hereby permitted the vehicular access improvements, as indicated on drawing number PL01 P2, shall be completed and thereafter retained in accordance with details/specifications to be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority.

Reason: To ensure construction of a satisfactory access and in the interests of highway safety, traffic movement and amenity in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018).

2) Provision of Visibility Splays – Dimensioned in Condition

Prior to the first use of the development hereby permitted a visibility splay measuring 2.4 x 43 metres shall be provided to each side of the access where it meets the highway and such splays shall thereafter be retained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.

Reason: To ensure that the level of visibility for pedestrians, cyclists and vehicles is satisfactory in the interests of highway safety in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018).

Highway Informatives

HCC as Highway Authority recommends inclusion of the following Advisory Note (AN) / highway informative to ensure that any works within the highway are carried out in accordance with the provisions of the Highway Act 1980:

AN 1) New or amended vehicle crossover access (section 184): Where works are required within the public highway to facilitate a new or amended vehicular access, the Highway Authority require the construction of such works to be undertaken to their satisfaction and specification, and by a contractor who is authorised to work in the public highway. If any of the works associated with the construction of the access affects or requires the removal and/or the relocation of any equipment, apparatus or structures (e.g. street name plates, bus stop signs or shelters, statutory authority equipment etc.) the applicant will be required to bear the cost of such removal or alteration. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission, requirements and for the work to be carried out on the applicant's behalf. Further information is available via the County Council website at: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/changes-to-your-road/dropped-kerbs/dropped-kerbs.aspx> or by telephoning 0300 1234047.

AN 2) Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which

is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the County Council website at: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

AN 2) Obstruction of highway: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the County Council website at: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

AN 4) Debris and deposits on the highway: It is an offence under section 148 of the Highways Act 1980 to deposit compost, dung or other material for dressing land, or any rubbish on a made up carriageway, or any or other debris on a highway to the interruption of any highway user. Section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development and use thereafter are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available by telephoning 0300 1234047.

Comments

The proposal is regarding amendments for the demolition of the existing dwelling and erection of five detached dwellings with associated access and landscaping at 78 Gallows Hill Lane, Abbots Langley. Gallows Hill Lane is a 30 mph classified C local access route that is highway maintainable at public expense. HCC Highways previously had concerns in relation to the width of the internal route network to accommodate a fire appliance and the new width of the extended dropped kerb.

Vehicle Access

The site has an existing dropped kerb. This dropped kerb is to be widened to 4.8 metres to accommodate two way traffic. This is deemed acceptable for this site owing to the improved safety benefits of two way traffic compared to that of single way movement on the existing dropped kerb. Dropped kerbs are deemed suitable for up to 5 dwellings as is proposed within this application. The dropped kerb will accommodate an internal route network which will be 3.7 metres wide as shown in drawing number PL01 P2. Both cars and a fire appliance are able to turn on site to enter and exit the highway network in forward gear.

Drainage

The proposed new driveway would need to make adequate provision for drainage on site to ensure that surface water does not discharge onto the highway. Surface water from the new driveway would need to be collected and disposed of on site.

Refuse / Waste Collection

Provision would need to be made for an on-site bin-refuse store within 30m of each dwelling and within 25m of the kerbside/bin collection point. The collection method must be confirmed as acceptable by TRDC waste management.

Emergency Vehicle Access

The proposed dwellings are within the recommended emergency vehicle access of 45 metres from the internal route network to all parts of the buildings. This is in accordance

with the guidance in 'MfS', 'Roads in Hertfordshire; A Design Guide' and 'Building Regulations 2010: Fire Safety Approved Document B Vol 1 – Dwellinghouses'. Drawing 300198-D01 illustrates that a fire appliance can turn on site to enter and exit the highway network in forward gear.

Conclusion

HCC has no objections or further comments on highway grounds to the proposed development, subject to the inclusion of the above highway informatives and condition.

4.1.3 Affinity Water: No comments received.

4.1.4 Thames Water: [Comments received]

Waste Comments:

Thames Water recognises this catchment is subject to high infiltration flows during certain groundwater conditions. The scale of the proposed development doesn't materially affect the sewer network and as such we have no objection, however care needs to be taken when designing new networks to ensure they don't surcharge and cause flooding. In the longer term Thames Water, along with other partners, are working on a strategy to reduce groundwater entering the sewer networks.

Thames Water recognises this catchment is subject to high infiltration flows during certain groundwater conditions. The developer should liaise with the LLFA to agree an appropriate sustainable surface water strategy following the sequential approach before considering connection to the public sewer network. The scale of the proposed development doesn't materially affect the sewer network and as such we have no objection, however care needs to be taken when designing new networks to ensure they don't surcharge and cause flooding. In the longer term Thames Water, along with other partners, are working on a strategy to reduce groundwater entering the sewer network.

With regard to SURFACE WATER drainage, Thames Water would advise that if the developer follows the sequential approach to the disposal of surface water we would have no objection. Management of surface water from new developments should follow Policy SI 13 Sustainable drainage of the London Plan 2021. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. Should you require further information please refer to our website. <https://developers.thameswater.co.uk/Developing-a-large-site/Apply-and-pay-for-services/Wastewater-services>.

Thames Water would advise that with regard to WASTE WATER NETWORK and SEWAGE TREATMENT WORKS infrastructure capacity, we would not have any objection to the above planning application, based on the information provided.

Water Comments:

With regard to water supply, this comes within the area covered by the Affinity Water Company. For your information the address to write to is - Affinity Water Company The Hub, Tamblin Way, Hatfield, Herts, AL10 9EZ - Tel - 0845 782 3333.

4.1.5 Landscape Officer: No comments received.

4.1.6 Herts Ecology: No comments received.

4.1.7 Herts & Middlesex Wildlife Trust: [No objection, subject to condition]

The supporting bat survey provides an acceptable mitigation strategy. Therefore the following condition adapted from BS 42020 should be applied to the decision:

Works shall not in any circumstances commence unless the local planning authority has been provided with a copy of the licence issued by [the relevant licensing body] pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorising the specified activity/development to go ahead. Development shall then proceed in accordance with that licence and in accordance with the approved ecological report (BSG April 2021). All mitigation and compensation measures shall be fully installed before occupation and retained as such thereafter.

Reason: To ensure compliance with the Conservation of Habitats and Species Regulations 2017 (as amended) and to ensure biodiversity is conserved and enhanced in accordance with NPPF.

4.1.8 Historic England: [Comments received]

Context

Historic England has received an application asking us to consider listing 78 Gallows Hill Lane, Abbots Langley, Hertfordshire. An application was first received in October 2020. At the time the application did not appear to meet Historic England's validation criteria as it was not under a planning threat, it was not part of a strategic project, and it did not display evident significance. Recently, we have been asked to reconsider as a planning application (reference 21/1064/FUL) has been submitted to Three Rivers District Council. Permission is being sought for the demolition of the existing house and redevelopment of the site for 5 new detached homes, with roads, sewers and all ancillary works. This has a determination date of 13 July 2021.

The building is not in a conservation area.

History and Details:

Little is known about the origins of 78 Gallows Hill Lane. It is understood to have been built by John Inett Ward (1833-1921) who occupied the Manor House in Abbots Langley from 1892 to 1921, and whose daughter Nellie Faulconer is said to have lived in no. 78 since 1921. 78 Gallows Hill Lane first appears on the Ordnance Survey map of 1924 1: 2500 edition, but is not on earlier editions, so a construction date shortly prior to 1921 is likely.

The Arts and Crafts inspired house has a rectangular planform. The tiled roof is gabled to the west elevation and hipped at the east elevation, and has two large chimney stacks. The walls are rendered, and may be pebble-dashed, although photographs are not close enough to confirm this. The building has two storeys and an attic dominated by a central gable with a window on the front elevation. Below is a two-storey porch. The fenestration is irregular but mainly consists of timber mullion windows with leaded lights. No information has been provided about the interior of the building, or of any features of interest that are believed to have existed.

Criteria/Assessment:

The Principles of Selection for Listed Buildings (November 2018) sets out how the Secretary of State determines whether a building or structure is of special interest and merits listing. Also relevant is the Historic England Listing Selection Guide for Suburban and Country Houses (December 2017) which states that such houses survive in large numbers and need to be carefully assessed for listing against the normal selection criteria: age and rarity, intactness, quality of design, materials, craftsmanship, and historic associations. Houses surviving from 1700-1840 without substantial alteration will probably warrant listing, although some discretion may be necessary for later, more standard designs. For houses built after 1850, due to the large numbers of buildings surviving, progressively greater selectivity is necessary.

On the basis of the evidence to hand, 78 Gallows Hill Lane is not recommended for listing for the following principal reasons:

Level of Architectural interest:

- *although this seems to be a bespoke design in an Arts and Crafts style, the building is not distinguished – in terms of significant architectural quality or fine craftsmanship – from the large number of buildings surviving of this type and period;*
- *no information regarding the internal fixtures and fittings has been provided but, based on the typical design of the exterior, any surviving decorative features or joinery are likely to be of a similar standard.*

Level of Historic interest:

- *John Inett Ward and Nellie Faulconer are figures of local, rather than national, interest.*

Conclusion:

Whilst 78 Gallows Hill Lane contributes to the local street scene, it does not meet the criteria for listing in a national context.

4.1.9 Conservation Officer: [Comments received]

Thanks for the photos and for forwarding over Historic England's decision on the listing application. The findings in their report are along the lines I was thinking – I didn't think it was of list-able quality. However, they have acknowledged it is of some local interest, which I agree with.

In terms of the Three Rivers criteria for local listing, I think it could meet architectural interest, historic interest (connection with local figures as noted in the Historic England report) and streetscape quality. So it would be considered a non-designated heritage asset under the NPPF and paragraph 197 would apply to any decision to demolish.

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 15

4.2.2 No of responses received: 23 objections, 0 letters of support

4.2.3 Site Notice: None. Press notice: None.

4.2.4 Summary of Responses:

- Overdevelopment
- Overshadowing
- Overlooking / Loss of privacy
- Loss of biodiversity / natural habitats
- Increase noise
- Increase traffic
- Increase pollution
- Out of place with rest of surrounding area
- Loss of light
- Impact on highway safety with two access points in close proximity of one another
- Increase in parking in surrounding streets
- Too close to the boundary
- Loss of trees on site
- Development would set precedent
- Development will lead to village becoming overcrowded, unattractive and undesirable place to live
- Dwellings would appear prominent within the plots
- Impact on usability of neighbouring gardens

- Garages too small to house private cars
- Access road is too narrow
- Existing building is of architectural significance in Abbots Langley with original features
- Development provides neither social or affordable housing
- Impacts on security of properties along Little Orchard Close
- Adversely affects Conservation Area (**Officer Comment:** Site is not located within a Conservation Area)

5 Reason for Delay

5.1 Committee Cycle.

6 Relevant Planning Policy, Guidance and Legislation

6.1 National Planning Policy Framework and National Planning Practice Guidance

In 2019 the new National Planning Policy Framework was published. This is read alongside the National Planning Practice Guidance (NPPG). The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another. The NPPF is clear that “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework”.

The NPPF states that ‘good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities’. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would ‘significantly and demonstrably’ outweigh the benefits.

6.2 The Three Rivers Local Development Plan

The application has been considered against the policies of the Local Plan, including the Core Strategy (adopted October 2011), the Development Management Policies Local Development Document (adopted July 2013) and the Site Allocations Local Development Document (adopted November 2014) as well as government guidance. The policies of Three Rivers District Council reflect the content of the NPPF.

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies PSP2, CP1, CP2, CP3, CP4, CP8, CP9, CP10 and CP12.

The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM1, DM3, DM4, DM6, DM7, DM8, DM10, DM13, Appendices 2 and 5.

The Site Allocations Local Development Document (SALDD) was adopted on 25 November 2014 having been through a full public participation process and Examination in Public. Policy SA1 is relevant.

6.3 Other

Affordable Housing Supplementary Planning Document (adopted June 2011).

The Community Infrastructure Levy (CIL) Charging Schedule (adopted February 2015). The Localism Act received Royal Assent on 15 November 2011. The growth and Infrastructure Act achieved Royal Assent on 25 April 2013.

The Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, the Natural Environment and Rural Communities Act 2006 and the Habitat Regulations 1994 may also be relevant.

7 Planning Analysis

7.1 Principle of Demolition

7.1.1 The application site does not lie within a conservation area and the building is not a Listed or a Locally Important Building. Concerns were received during the application process that the original dwelling is one of the last remaining Arts & Crafts buildings and is of architectural merit, therefore of significance to the area's character. The Local Planning Authority were notified that an application to list the building had been made to Historic England by a local resident. During the course of the application process Historic England informed officers that they consider that although the building appears to be a bespoke design in an Arts and Crafts style, the building is not distinguished – in terms of significant architectural quality or fine craftsmanship – from the large number of buildings surviving of this type and period. In addition, no information regarding the internal fixtures and fittings had been provided but, based on the typical design of the exterior, any surviving decorative features or joinery are likely to be of a similar standard. Historic England subsequently concluded that whilst 78 Gallows Hill Lane contributes to the local street scene, it does not meet the criteria for listing in a national context. Notwithstanding this, Paragraph 40 of the NPPG (Reference ID: 18a-040-20190723) states that in some cases, local planning authorities may also identify non-designated heritage assets as part of the decision-making process on planning applications. As such, discussions internally are underway to consider whether there is any merit to add the dwelling to the Council's list of Locally Important Buildings. With this in mind, Officers are content that the host dwelling can be considered a non-designated heritage asset given its identified degree of heritage significance and thus the application would need to satisfy paragraph 197 of the NPPF.

7.1.2 Paragraph 197 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. This report will assess the merits of the application and weigh those up against the loss of the non-designated asset.

7.2 Principle of Development

7.2.1 The proposed development would result in a net gain of four dwellings. The site is not identified as a housing site in the adopted Site Allocations document. However, as advised in this document, where a site is not identified for development, it may still come forward through the planning application process where it will be tested in accordance with relevant national and local policies.

7.2.2 Core Strategy Policy CP2 advises that in assessing applications for development not identified as part of the District's housing land supply including windfall sites, applications will be considered on a case by case basis having regard to:

- i. The location of the proposed development, taking into account the Spatial Strategy
- ii. The sustainability of the development and its contribution to meeting local housing needs
- iii. Infrastructure requirements and the impact on the delivery of allocated housing sites

iv. Monitoring information relating to housing supply and the Three Rivers housing targets.

7.2.3 The application site is within Abbots Langley which is identified as a Key Centre in the Core Strategy. The Spatial Strategy of the Core Strategy advises that new development will be directed towards appropriate infilling opportunities within the urban areas of Key Centres. Policy PSP2 advises that Key Centres will provide approximately 60% of the District's housing requirements over the plan period.

7.2.4 Paragraph 117 of the NPPF sets out that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land. It should be noted that Annex 2: Glossary of the NPPF defines that 'previously developed land' excludes 'land in built-up areas such as residential gardens'.

7.2.5 The proposed dwellings would be on garden land, which is not considered to be previously developed however it is also recognised that the NPPF does not include a presumption against development on or within private residential gardens, with each application to be assessed on its individual merits. However, it gives the following advice at paragraph 70; *"Plans should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area"*.

7.2.6 There is no in principle objection to residential development of the application site in relation to Policy CP2; however, this is subject to consideration against other material considerations as discussed below.

7.3 Housing Mix

7.3.1 Policy CP3 of the Core Strategy states that the Council requires housing proposals to take into account the District's range of housing needs, in terms of the size and type of dwellings as identified by the Strategic Housing Market Assessment (SHMA) (2016). The most recent SHMA was published in January 2016 and has identified the indicative targets for market sector dwelling size within the Three Rivers District, as follows:

1 bedroom 7.7% of dwellings
2 bedrooms 27.8% of dwellings
3 bedrooms 41.5% of dwellings
4+ bedrooms 23.0% of dwellings

7.3.2 The proposed development would provide 40% 4-bed units, 60% 4+bed units. Whilst the proposed mix would not strictly accord with Policy CP3, it is not considered that a development of this form would prejudice the ability of the Council to deliver overall housing targets and the development is therefore considered acceptable in accordance with Policy CP3 of the Core Strategy (adopted October 2011).

7.4 Affordable Housing

7.4.1 **Appendix A** of this report sets out the position of the Council and evidence relating to the application of the affordable housing threshold in Core Strategy Policy CP4: Affordable Housing.

7.4.2 As there would be a net gain of four units, the proposed development would be liable for a commuted sum payment towards affordable housing. The proposed development would result in a requirement for a commuted sum of £408,375 towards affordable housing based on a habitable floorspace of 544.5sq. metres multiplied by £750 per sq. metres which is the required amount in 'The Langleys' market area.

- 7.4.3 The application is supported by a draft Section 106 Agreement, however this has not been completed during the application timeframe. Therefore the development would not contribute to the provision of affordable housing in Three Rivers and therefore fails to meet the requirements of Policy CP4 of the Core Strategy (adopted October 2011) and the Affordable Housing Supplementary Planning Document (approved June 2011).
- 7.5 Design, impact on character, street scene
- 7.5.1 Policy CP1 of the Core Strategy (adopted October 2011) seeks to promote buildings of a high enduring design quality that respect local distinctiveness and Policy CP12 of the Core Strategy (adopted October 2011) relates to design and states that in seeking a high standard of design the Council will expect development proposals to 'have regard to the local context and conserve or enhance the character, amenities and quality of an area'. Development should make efficient use of land but should also respect the 'distinctiveness of the surrounding area in terms of density, character, layout and spacing, amenity, scale, height, massing and use of materials'; 'have regard to the local context and conserve or enhance the character, amenities and quality of an area' and 'incorporate visually attractive frontages to adjoining streets and public spaces'.
- 7.5.2 In terms of new residential development, Policy DM1 of the DMLDD advises that the Council will protect the character and residential amenity of existing areas of housing from forms of 'backland', 'infill' or other forms of new residential development which are inappropriate for the area. Development will only be supported where it can be demonstrated that the proposal will not result in:
- i. Tandem development;
 - ii. Servicing by an awkward access drive which cannot easily be used by service vehicles;
 - iii. The generation of excessive levels of traffic;
 - iv. Loss of residential amenity;
 - v. Layouts unable to maintain the particular character of the area in the vicinity of the application site in terms of plot size, plot depth, building footprint, plot frontage width, frontage building line, height, gaps between buildings and streetscape features (e.g. hedges, walls, grass verges etc.)
- 7.5.3 The dwellings would be served by utilising the existing access point from Gallows Hill Lane which would be widened to enable two way traffic to access the site. The assessment of the access arrangements to the new development will be addressed later in this report however whilst it is noted that the construction of five dwellings would intensify the use of the site in comparison to existing, it is not considered that it would generate excessive levels of traffic to the detriment of the area.
- 7.5.4 The Design Criteria at Appendix 2 of the Development Management Policies document sets out that new development should not be excessively prominent in relation to the general street scene and should respect the character of the street scene, particularly with regard to the spacing of properties, roof form, positioning and style of windows and doors and materials. Development at first floor level should be set in from flank boundaries by a minimum of 1.2 metres.
- 7.5.5 The proposed redevelopment of the site to erect five new detached dwellings in the layout proposed would constitute tandem development which Policy DM1 seeks to avoid where it is inappropriate for the area. Gallows Hill Lane is generally characterised by traditional detached and semi-detached dwellings directly facing the highway with private gardens located to the rear. Travelling east from the application site there is distinct change in character between the detached dwellings (and those semi-detached on the other side of the road) with the modern developments to the west. It is noted that redevelopment of 76 Gallows Hill Lane to create Little Orchard Close and the earlier development of Ash Close situated further west are examples where the density of development has increased and

does not follow the general pattern of development in the area; however, they mostly retain rectangular shaped plots with gardens to the rear of the properties and still retain plot depths of around 30 metres or more. In contrast, the plots within the proposed development would be relatively irregular in shape measuring 21-26 metres in depth with splayed boundaries so as to accommodate the meandering access road and gardens to the side (Plots 3 and 4) to accommodate the number of units proposed. The size of the plots would therefore be out of character to the locality and the proposed development would represent overdevelopment of the site which would erode the character of the locality and create a piecemeal arrangement of houses which would appear incongruous within the area. The proposed dwellings to the rear of the property would be visible from Gallows Hill Lane as a result of the widened access road.

7.5.6 Furthermore, it is considered that the proposed size and scale of the proposed dwellings in addition to the layout of the site would further highlight the cramped nature of development and the dwellings would appear disproportionate and represent overdevelopment of individual plots and inadequate spacing is provided between buildings and respective boundaries. This is particularly evident at Plots 1 and 2 whereby there is only a separation distance of 1 metre between opposing flank walls and also between the outside flank wall of Plot 1 and its adjacent east boundary. To the rear, whilst there is considered to be sufficient spacing between the dwellings within Plots 4 and 5 their relationship would appear awkward and as previously mentioned above they would be visible from Gallows Hill Lane. Due to the siting of Plots 1 and 2 at the front of the site the limited spacing would be particularly evident, emphasising the cramped nature of the development which would be out of character when viewed against the more spacious arrangements with some of the older properties in street, particularly to the east.

7.5.7 Whilst it is noted that there is a degree of variation in the built form within the vicinity, the density of the proposed development fails to accord with the distinct character to the east of the application site resulting in the development appearing contrived. The dwellings would generally have the same appearance with some element of variation but they would all have square shaped footprints which are considered to be oversized especially in comparison to the width of the plots. This is particularly the case for Plots 1 and 2 where the coverage of the plots in respect of width is approximately 88%. The design of the buildings also results in substantial elevated bulk and mass due to their gabled roof forms that have high and wide ridges and the inclusion of two storey front and rear gable projections. In conjunction with their siting within relatively small plots the cramped and elevational bulk of the road frontage dwellings create an unacceptable impact on the visual amenity of the street scene and the backland dwellings also have a harmful impact on the character of the area by virtue of their design and layout. Therefore, it is considered that the proposed development by reason of its poor layout, small plots and the siting, scale, design and proximity to boundaries of the proposed dwellings would result in a cramped, contrived and unduly prominent form of development which would result in harm to the character and appearance of the area. The development would therefore be contrary to Policies CP1, CP3 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

7.6 Impact on amenity of neighbours

7.6.1 Policy CP12 of the Core Strategy states that development proposals should protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space.

7.6.2 Policy DM1 and Appendix 2 of the DMP LDD set out that residential development should not result in loss of light to the windows of neighbouring properties nor allow overlooking, and should not be excessively prominent in relation to adjacent properties. To ensure that loss of light would not occur to the habitable rooms of neighbouring dwellings as a result of new development, the Design Criteria at Appendix 2 of the Development Management Policies document advise that two storey development should not intrude into a 45 degree

spay line across the rear garden from a point on the joint boundary, level with the rear wall of the adjacent property. This principle is dependent on the spacing and relative positions of properties and consideration will be given to the juxtaposition of properties, land levels and the position of windows and development on neighbouring properties.

- 7.6.3 In addition, with regards to privacy and overlooking the Design Guidelines states distances between buildings should be sufficient so as to prevent overlooking, particularly from upper floors. As an indicative figure, 28 metres should be achieved between the faces of single or two storey buildings backing onto each other or in other circumstances where privacy needs to be achieved. Distances should be greater between buildings in excess of two storeys (especially dwellings/flats) with elevations which directly face one another or in situations where there are site level differences involved. Mitigating circumstances such as careful layout and orientation, screening and window positions may allow a reduction of distances between elevations.
- 7.6.4 In respect of 80 Gallows Hill Lane, the existing host dwelling is set back further into the plot when compared with this neighbour and given its siting and design it has little impact upon this neighbour. In contrast the proposed development would result in three new dwellings being built along the common boundary and would introduce new two-storey built form closer to the boundary. The submitted site plan indicates that the dwellings contained within Plots 1 and 3 would be set off the common boundary by 1 metre with this distance increasing to 1.5 metres in respect of the dwelling within Plot 4. The proposed heights, design and positioning of these new dwellings in close proximity to the boundary of 80 Gallows Hill Lane would result in an overbearing and unneighbourly form of development, and in the case of Plot 3 would also result in unacceptable levels of overshadowing of the garden to the detriment of the residential amenities of 80 Gallows Hill Lane. The dwelling within Plot 1 projects forward of the principal elevation of 80 Gallows Hill Lane by approximately 2.5 metres however this neighbour has an integral garage adjacent to the boundary. Whilst it is noted that a dormer exists within the cat-slide roof above the garage, given the relationship between this neighbour to the east and spacing it is not considered that the proposed dwelling in Plot 1 would result in demonstrable harm through loss of light or appear overbearing and is considered acceptable.
- 7.6.5 In respect of overlooking, there would be flank glazing proposed at both ground and first floor level which would face towards 80 Gallows Hill Lane. The submitted site plan indicates that a close boarded 1.8 metre high timber fence would be situated along the common boundary which would provide adequate screening to mitigate against any direct overlooking from the ground floor windows. The submitted elevation drawings show that the windows at first floor and above would be fitted with obscured glazing and would be serving bathrooms or stairwells/landing area which are not considered to be habitable rooms. Whilst there would be no actual overlooking from these windows it is considered that these windows would result in a degree of perceived overlooking particularly from Plot 3 given their elevated height and proximity to the common boundary.
- 7.6.6 In assessing the impact of the proposed development towards the residential amenities of those properties situated along Broomfield Rise which back onto the application site, Plots 4 and 5 would be set off from their respective rear boundaries by 11-12 metres. The common boundaries between these two plots and those of Broomfield Rise are splayed resulting in these neighbouring properties to the rear being angled away from the application site. The properties along Broomfield Rise are at least 20 metres away from the rear boundary and as a result of this distance it is not considered that the dwellings in Plots 4 or 5 would result in loss of light or appear overbearing. There is glazing contained at ground and first floor level within the rear elevation of Plot 5 facing these properties to the rear which serve both habitable and non-habitable rooms and given the relatively short garden depth there is potential for actual and perceived overlooking of the private gardens of these neighbours. Whilst there is similar glazing to rear elevation of Plot 4, this dwelling is set further back and angled away and is not therefore considered result in harmful overlooking.

- 7.6.7 Finally, in respect of the impact on the dwellings along Little Orchard Close, these dwellings are positioned on a slightly lower land level in comparison to the application site. The proposed new access would be adjacent to the rear boundaries of plots on Little Orchard Close which would separate Plots 2, 3 and 4 from these neighbouring properties and therefore reduces the proposed building's prominence and potential impact in regards to loss of light. In addition, the glazing contained within the flank wall of Plot 2 at first floor level and above would be conditioned to be obscured and non-opening to prevent any overlooking towards these neighbouring properties. The dwelling in Plot 3 would face towards those properties of Little Orchard Close however there would be a separation distance of approximately 30 metres which is considered sufficient to mitigate against any direct overlooking. Furthermore, some trees would be retained along this common boundary which, whilst they cannot be solely relied upon, would provide some screening.
- 7.6.8 With regards to Plot 4, this dwelling also faces towards the rear gardens of properties along Little Orchard Close. This dwelling is positioned slightly further forward and closer to the east boundary than Plot 3 however there is still a distance of approximately 29 metres and 33 metres between the principal elevation of Plot 4 (notably the gable projection) and the rear elevations of Nos. 4 and 5 Little Orchard Close. Whilst there is no screening along the eastern boundary it is considered that the separation distance, which accords with the guidance in Appendix 2 of the DMP LDD, mitigates against any significant overlooking and as such it is not considered that there would be any demonstrable loss of privacy to these properties along Little Orchard Close.
- 7.6.9 The dwelling in Plot 5 would be situated closest to the western boundary of the site and to those properties on Little Orchard Close which are sited at a lower land level, particularly Nos. 5 and 6. The dwelling within plot 5 would be set off the boundary by approximately 2 metres. Due to the close proximity of this new dwelling, its elevated height due to the differing land levels, design including gabled roof and the short distances between the flank elevation of proposed dwelling and the rear elevations of this neighbouring plots it is considered that the dwelling in Plot 5 would appear overbearing to the detriment of these neighbouring properties. The submitted plans indicate that glazing is proposed at ground, first and upper floor levels facing towards these neighbouring properties. The plans detail that the ground floor window would be serving a study and the windows above would be serving non-habitable rooms. Sufficient screening would be provided along the common boundary in the form of a 1.8 metre high close boarded fencing to prevent any overlooking from the ground floor window.
- 7.6.10 Concerns were received during the application process that the proposed positioning of the access would result in harm to the residential amenities of those properties along Little Orchard Close through additional noise and disruption. Whilst these comments are noted it is not considered that the proposed development would result in high level of traffic movements such that would cause unacceptable levels of noise nuisance to the detriment of these neighbouring properties.
- 7.6.11 Therefore, it is considered that the proposed development would result in an unneighbourly form of development which would also result in actual and perceived levels of overlooking to the detriment of the residential amenities of 80 Gallows Hill Lane, 16-22 Broomfield Rise and 5 and 6 Little Orchard Close contrary to Policy CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD.
- 7.7 Quality of accommodation for future occupants
- 7.7.1 The Design Criteria at Appendix 2 provides indicative levels of amenity space which should be attained as individual gardens. A four bedroom dwelling should provide 105sq. metres of amenity space with an additional 21sq. metres per additional bedroom. The submitted plan details that Plots 1 & 2 (4-bed units) would benefit from 100sq. metres of amenity space each; Plots 3 & 4 (5-bed units) would benefit 130-150sq. metres of space and Plot 5 (6-bed)

would benefit from private amenity measuring 200sq.metres in size and are therefore considered acceptable. Notwithstanding the acceptability of the provision this does not overcome the objections to the development with regards to the cramped layout of the proposed development.

- 7.7.2 The dwellings contained within Plots 1 and 2 would hold uniform front and rear building lines and as a result would not intrude their respective 45 degree splay lines such to cause loss of light or appear overbearing. Plot 3 would be located behind Plot 1 with a separation distance of approximately 14 metres between the main opposing two storey elevations. Given this separation distance and that both Plot 3 and Plot 1 would be sited on the same land level it is not considered that Plot 3 would result in unacceptable harm with regards to loss of light or appearing overbearing. Aside from a high level window contained within the gable end serving a dressing/hobby room, there would be no flank glazing facing towards Plot 1. The high level window is shown on the plans to be obscured which would prevent any direct overlooking. This relationship is repeated between Plots 3 and 4 where a separation distance of 14 metres exists between the two properties created by the private garden of Plot 3. A condition would also be attached to ensure the high level window within the flank wall of Plot 4 is obscured to prevent any overlooking towards the private garden of Plot 3.
- 7.7.3 Plots 4 and 5 would have a staggered relationship with the principal elevation of Plot 5 being relatively in line with the rear wall of Plot 4. This would notably result in an intrusion of the 45 degree splay line the driveway and detached garage associated with Plot 4 would separate the two properties and there would be distance of approximately 5 metres between Plot 5 and the rear elevation of Plot 4. Whilst there is an intrusion it is not considered that the dwelling within Plot 5 would cause any unacceptable loss of light or become an overbearing form of development to the detriment of the residential amenities of the future occupiers of Plot 4.
- 7.7.4 As such, it is not considered that the proposed development would result in unacceptable levels of overlooking or loss of privacy to the residential amenities of future occupiers of the proposed dwellings and the development is acceptable in accordance with Policy CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD.

7.8 Wildlife and Biodiversity

- 7.8.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive.
- 7.8.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of applications in accordance with Policy CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the DMLDD. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications that may be affected prior to determination of a planning application.
- 7.8.3 The site is not in or located adjacent to a designated wildlife site. The application has been submitted with a Biodiversity Checklist, a Preliminary Ecological Assessment and an Outline Bat Mitigation Strategy. The Local Planning Authority is not aware of any records of protected species within the immediate area that would necessitate further surveying work being undertaken. Both Herts Ecology and Herts & Middlesex Wildlife Trust ("HMWT") were consulted on the application. HMWT provided comments and considered that the supporting bat survey provides an acceptable mitigation strategy. As such they raised no objection to the proposed development subject to condition.

7.9 Trees and Landscaping

7.9.1 Policy CP12 of the Core Strategy expects development proposals to 'have regard to the character, amenities and quality of an area', to 'conserve and enhance natural and heritage assets' and to 'ensure the development is adequately landscaped and is designed to retain, enhance or improve important existing natural features' and Core Strategy Policy CP9 seeks a net gain in the quality and quantity of Green Infrastructure through the protection and enhancement of assets and the provision of new green spaces.

7.9.2 Policy DM6 of the Development Management Policies document sets out requirements in relation to trees, woodlands and landscaping and sets out that:

- i) Proposals for new development should be submitted with landscaping proposals which seek to retain trees and other important landscape and nature conservation features. Landscaping proposals should also include new trees and other planting to enhance the landscape of the site and its surroundings as appropriate.
- ii) Development proposals on sites which contain existing trees and hedgerows will be expected to retain as many trees and hedgerows as possible, particularly those of local amenity or nature conservation value or hedgerows considered to meet the Hedgerow Regulations 1997.
- iii) Development proposals should demonstrate that existing trees, hedgerows and woodlands will be safeguarded and managed during and after development in accordance with the relevant standards
- iv) Development should be designed in such a way as to allow trees and hedgerows to grow to maturity without causing undue problems of visibility, shading or damage. Development likely to result in future requests for significant topping, lopping or felling will be refused
- v) Planning permission will be refused for any development resulting in the loss of deterioration to protected woodland (including ancient woodland), protected trees (including aged or veteran trees) and hedgerows.

7.9.3 There are a number of trees within the site however they are not protected by a Tree Preservation Order. The application is supported by a Tree Impact report prepared by John Cromar's Arboricultural Company Ltd. referenced S458-J1-IA-1 which includes a Tree Value Assessment Plan and Tree Retention & Tree Protection Measures plans for site preparation phase and also construction phase. The submitted details indicate that 12 trees would be removed to facilitate the development of which all them have been classified as Low Value 'C' or 'U' trees. The trees which are of moderate value would be retained and protected during the course of the development. It is proposed to plant new trees within the application site and this could be secured by condition should there be a grant of planning permission. The Landscape Officer was consulted on the application however no comments have been received at this time. A verbal update will be provided at the committee meeting.

7.10 Highways, Access and Parking

7.10.1 Policy CP10 of the Core Strategy requires development to demonstrate that it will provide a safe and adequate means of access. Core Strategy Policy CP1 states that development should provide opportunities for recycling wherever possible. Policy DM10 of the Development Management Policies document sets out that adequate provision for the storage and recycling of waste should be incorporated into proposals and that new development will only be supported where the siting or design of waste/recycling areas would not result in any adverse impact to residential or workplace amenities, where waste/recycling areas can be easily accessed (and moved) by occupiers and waste

operatives and where there would be no obstruction to pedestrian, cyclist or driver sight lines.

7.10.2 Policy DM13 of the DMP LDD requires development to make provision for parking in accordance with the parking standards set out at Appendix 5 of the same document. Appendix 5 sets the parking requirement for dwellings as follows:

- 1 bedroom dwellings – 1.75 spaces (1 assigned)
- 2 bedroom dwellings – 2 spaces (1 assigned)
- 3 bedroom dwellings – 2.25 spaces (2 assigned)
- 4 or more bedroom dwellings – 3 spaces (3 assigned)

7.10.3 Based on the above requirements the development should provide 15 car parking spaces (15 assigned).

7.10.4 The submitted site plan details that each of the proposed dwellings would benefit from a garage and all plots would be served by a driveway providing two parking spaces resulting in each of the dwellings benefitting from three off street parking spaces which would accord with the standards detailed above. A condition would be attached to any consent removing permitted development rights under Class A to ensure that the garages are retained for the purposes of storing private cars and not to be converted into habitable accommodation. Two areas for additional visitor parking along the access road is also provided which is considered adequate and acceptable. The total number of spaces provided across the site would be 17 comprised of 5 x 3 private space and 2 x visitor spaces and this total exceeds the standards detailed above.

7.10.5 The Highway Authority were consulted on the application and provided initial comments requiring further details in respect of the width of the access point to ensure that it could accommodate two-way access. In addition, they required the submission of a swept path analysis to clearly illustrate that a fire appliance can access the site and turn on site. An updated Site Layout Plan referenced PL01 REV-P2 and a Swept Path Analysis Plan referenced 300198-001 DB32 were provided. The Highway Officer was re-consulted on the additional plans and considered them to be satisfactory and overcome initial concerns and therefore raised no objection subject to conditions in the event of an approval.

7.11 Sustainability

7.11.1 Paragraph 93 of the NPPF states that “Planning plays a key role in helping to shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure”.

7.11.2 Policy CP1 of the Core Strategy requires the submission of an Energy and Sustainability Statement demonstrating the extent to which sustainability principles have been incorporated into the location, design, construction and future use of proposals and the expected carbon emissions.

7.11.3 Policy DM4 of the DMLDD requires applicants to demonstrate that development will produce 5% less carbon dioxide emissions than Building Regulations Part L (2013) requirements having regard to feasibility and viability. This may be achieved through a combination of energy efficiency measures, incorporation of on-site low carbon and renewable technologies, connection to a local, decentralised, renewable or low carbon energy supply. The policy states that from 2016, applicants will be required to demonstrate that new residential development will be zero carbon. However, the Government has announced that it is not pursuing zero carbon and the standard remains that development should produce 5% less carbon dioxide emissions than Building Regulations Part L (2013) requirements having regard to feasibility and viability.

- 7.11.4 The application has been accompanied by an Energy Statement prepared by SAPeasy Ltd. which sets out that the development would result in a reduction of an average of 5.97% in carbon emissions. The Energy Statement are considered to meet the requirements of Policy DM4.
- 7.12 Refuse and Recycling
- 7.12.1 Policy DM10 (Waste Management) of the DMLDD advises that the Council will ensure that there is adequate provision for the storage and recycling of waste and that these facilities are fully integrated into design proposals. New developments will only be supported where:
- i) The siting or design of waste/recycling areas would not result in any adverse impact to residential or work place amenity
 - ii) Waste/recycling areas can be easily accessed (and moved) by occupiers and by local authority/private waste providers
 - iii) There would be no obstruction of pedestrian, cyclists or driver site lines
- 7.12.2 The submitted Site Layout Plan indicates that bins would be stored within the private gardens or alongside passageways and would be placed kerbside for collection on refuse days which is considered acceptable. The layout of the development and the access includes a turning circle. The swept path analysis details that refuse vehicles could enter and exit the site in forward gear. The proposed development therefore accords with Policy DM10 of the Development Management Policies LDD and is acceptable.
- 7.12.3 The site is not in or located adjacent to a designated wildlife site. The application has been submitted with a Biodiversity Checklist, a Preliminary Ecological Assessment and an Outline Bat Mitigation Strategy. The Local Planning Authority is not aware of any records of protected species within the immediate area that would necessitate further surveying work being undertaken. Both Herts Ecology and Herts & Middlesex Wildlife Trust ("HMWT") were consulted on the application. HMWT provided comments and considered that the supporting bat survey provides an acceptable mitigation strategy. As such they raised no objection to the proposed development subject to condition.
- 7.13 'Planning Balance'
- 7.13.1 As previously mentioned in section 7.1 officers consider that the existing dwelling can be considered a non-designated heritage asset given its identified degree of heritage significance and thus the application would need to satisfy paragraph 197 of the NPPF.
- 7.13.2 Paragraph 197 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 7.13.3 The proposed development would result in the total loss of the existing non-designated heritage asset on site. Whilst the application would result in the provision of new housing there are limited number of other benefits. This report identifies that there are number of material planning considerations which the proposal is found to be unacceptable and thus the benefits of the scheme do not outweigh the demolition of the original building on site.
- 7.14 'Tilted Balance'
- 7.14.1 The LPA cannot currently demonstrate a 5 year housing land supply, and therefore paragraph 11 of the NPPF (2019) is engaged. Paragraph 11 and footnote 7 clarifies that in the context of decision-taking "the policies which are most important for determining the application are out-of-date when the LPA cannot demonstrate a five year supply of deliverable housing sites". The most important policies for determining a housing

application are considered to be Policies CP2 (Housing Supply) and Policy CP3 (Housing Mix and Density). Paragraph 11 continues, "Plans and decisions should apply a presumption in favour of sustainable development...where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: a) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or b) 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."

- 7.14.2 The NPPF identifies that there are 3 dimensions to sustainable development: social, economic and environmental. Whilst the development would make a limited contribution towards making up the shortfall in housing in the district, no affordable housing has been secured which conflicts with local policy. In addition, the proposed size and scale of the proposed dwellings would result in prominent features to the detriment of the character of the area and would result in detrimental harm to neighbouring amenity through actual and perceived overlooking and an adverse visual impact. The development would therefore fail to provide environmental or social benefits. Having regard to the limited benefits of the scheme it is considered that the adverse impacts significantly and demonstrably outweigh the benefits of the development and thus the tilted balance does not come into effect.

8 Recommendation

- 8.1 That PLANNING PERMISSION BE REFUSED for the following reasons:

- R1 The existing dwelling is considered to contribute positivity to the streetscene given its architectural and historical interest and therefore has been identified during the planning application as a non-designated heritage asset. The proposed development would result in the existing dwelling's total loss. It is not considered that the development as proposed when considered in its entirety (given the harm identified) would justify the loss of its significance through its demolition. The development would therefore be contrary to CP10 of the Core Strategy (adopted October 2011), Policy DM3 of the Development Management Policies LDD (adopted July 2013) and paragraph 197 of the NPPF (2019).
- R2 The development by reason of its layout, siting, scale and design, proximity to boundaries would cumulatively result in a cramped and contrived overdevelopment of the site which would have a significant and detrimental adverse impact on the character and appearance of the street scene and wider area. The development would therefore be contrary to Policies CP1, CP3 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).
- R3 The proposed development by virtue of its siting and glazing contained within the rear elevations of Plots 3 and 5 would result in actual and perceived overlooking to the detriment of the residential amenities of existing neighbouring occupiers of 80 Gallows Hill Lane and 16-22 Broomfield Rise. The development would therefore be detrimental to residential amenity and would not accord with Policy CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).
- R4 The proposed development by virtue of the size, height, bulk and massing and siting, of the proposed dwelling within Plot 3 would result in an overbearing form of development which would cause overshadowing to the detriment of the residential amenities of existing neighbouring occupiers of 80 Gallows Hill Lane. The development would therefore be detrimental to residential amenity and would not accord with Policy CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- R5 The proposed development by virtue of the size, height, bulk and massing and siting of the proposed dwelling within Plot 5 would result in an overbearing form of development to the detriment of the residential amenities of existing neighbouring occupiers of 5 and 6 Little Orchard Close. The development would therefore be detrimental to residential amenity and would not accord with Policy CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).
- R6 In the absence of an agreement under the provisions of Section 106 of Town and Country Planning Act 1990, the development would not contribute to the provision of affordable housing. The proposed development therefore fails to meet the requirements of Policy CP4 of the Core Strategy (adopted October 2011) and the Affordable Housing Supplementary Planning Document (approved June 2011).

8.2 **Informatives:**

- I1 The Local Planning Authority has been positive and proactive in considering this planning application in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority encourages applicants to have pre-application discussions as advocated in the NPPF. The applicant and/or their agent did not have formal pre-application discussions with the Local Planning Authority and the proposed development fails to comply with the requirements of the Development Plan and does not maintain/improve the economic, social and environmental conditions of the District.

**APPENDIX A: Evidence Relating to the
Application of the Affordable Housing
Threshold in Core Strategy Policy CP4:
Affordable Housing**

Evidence Relating to the Application of the Affordable Housing Threshold in Core Strategy Policy CP4: Affordable Housing

Background

- 1.1 In November 2014, the Minister of State for Housing and Planning issued a Written Ministerial Statement (WMS) setting out changes to national planning policy. The WMS stated that financial contributions towards affordable housing should no longer be sought on sites of 10 units or less and which have a maximum combined gross floor area of 1,000sqm. National Planning Practice Guidance (NPPG) was amended to reflect this. However on 31st July 2015 the High Court held (*West Berkshire Council v SSCLG* [2015]) that the policy expressed through the WMS was unlawful and the NPPG was changed to reflect this. On 11th May 2016 the Court of Appeal reversed the High Court decision. The NPPG was subsequently amended to reflect the WMS on 19th May 2016.
- 1.2 In light of the above developments, between November 2014 and August 2015 and May 2016 and 1st September 2017 the Council gave greater weight to the WMS policy and associated NPPG guidance in it than to adopted Policy CP4 of its Core Strategy in respect of development proposals for 10 dwellings or less and which had a maximum combined gross floor area of 1000 sq metres. However, having undertaken an analysis of up to date evidence of housing needs (**The Needs Analysis**), officers advised in 2017 that when considering the weight to be given to the WMS in the context of breaches of the adopted development plan policy, the local evidence of housing need contained in the Needs Analysis should generally be given greater weight. On 1st September 2017 the Council resolved to have regard to the Needs Analysis as a consideration of significant weight when considering the relationship between Policy CP4 and the WMS for the purposes of Section 70(2) Town and Country Planning Act 1990 and Section 38(6) Planning and Compulsory Purchase Act 2004 in respect of development proposals of 10 dwellings or less.
- 1.3 On 24th July 2018 a new version of the National Planning Policy Framework¹ (the Framework) was published with immediate effect for development management purposes. Paragraph 63 of the Framework advises that *“Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer).”* Annex 2 of the NPPF defines *“major development”* as *“for housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more.”*
- 1.4 The Council's current affordable housing policy is set out in Policy CP4 of the Core Strategy (adopted in October 2011) and establishes that :
 - a) “...All new development resulting in a net gain of one or more dwellings will be expected to contribute to the provision of affordable housing.”
 - e) “In most cases require affordable housing provision to be made on site, but in relation to small sites delivering between one and nine dwellings, consider the use of commuted payments towards provision off site. Such payments will be broadly equivalent in value to on-site provision but may vary depending on site circumstances and viability.”
- 1.5 The supporting text to Policy CP4 summarises the justification for it:

¹ The revised National Planning Policy Framework was updated in February 2019 and retains the policies as stated in Paragraph 1.3 of this document.

- Average house prices in Three Rivers are some of the highest in the country outside of London. As a result, many local people have difficulty accessing housing on the open market.
- A Housing Needs Study estimated that 429 affordable dwellings would be needed each year to satisfy need. Such provision would exceed the total number of all housing types provided in the District in any year.
- The 2010 Strategic Market Housing Assessment (SMHA) found that the requirement for affordable housing in and around the Three Rivers area remains exceptionally high.
- In order to completely satisfy affordable housing requirements, **all** future housing in the district to 2021 would need to be affordable.

1.6 This policy remains the legal starting point for the consideration of planning applications under Section 38(6) PCPA 2004, which requires that the Council determines applications in accordance with the adopted development plan unless material considerations indicate otherwise. Revised NPPF 63 is a material consideration. The weight to be given to it is a matter for the decision maker when determining each planning application. This note explains the advice from the Head of Planning Policy & Projects and Head of Regulatory Services on the weight that they recommend should be given to NPPF 63 for these purposes in light of the Needs Analysis.

1.7 Since the adoption of its Core Strategy in 2011, Three Rivers has received small site affordable housing contributions amounting to over **£2.1 million**. Utilising those monies, development is currently underway which will deliver 21 units of affordable housing, with the remaining monies utilised as a contribution towards the delivery of a further 17 affordable dwellings. It is clear that Three Rivers' policy has already delivered a significant contribution towards the delivery of much needed affordable housing in the district.

1.8 In addition to the £2.1 million already received, small scale (1-9 unit) schemes have secured to date a further **£2.5million to £3.8million²** of affordable housing contributions in respect of unimplemented but current planning permissions. All of those schemes were agreed to be viable with those sums secured. The Council has several large scale future residential developments planned which will aim to deliver substantial quantities of further affordable housing in the District in the medium term future, utilising those additional affordable housing contributions as and when they are received.

1.9 Policy CP4 makes it clear that a requirement for a scheme to contribute towards the provision of affordable housing is subject to viability considerations and is therefore consistent with paragraph 122 of the Framework. The application of CP4, which includes this in built viability allowance, cannot properly be said to be a barrier to delivery. Indeed between 1 October 2011 and 31 March 2020 226 planning permissions were granted for minor residential developments which contribute a net dwelling gain. Of those only 21 have been permitted to lapse which is only 9% of all such schemes.

² The sums payable secured by Sec 106 will be subject to indexation, in most cases from June 2011 which will not be calculable until the date of payment. The quoted upper limit includes a policy compliant contribution of £1,341,250.00 which relates to a minor development PP subject to a late stage viability review mechanism. The AHC, whilst capped at this figure, will only be known once viability is re-run at occupation when actual build costs and realised sales values are understood. The contribution paid could therefore be substantially less than the policy compliant sum referred to above, hence the range specified.

- 1.10 Current evidence of housing need in the District is noted below at 2.4 to 2.11. It confirms that the needs underlying the adopted development plan policy remain pressing.

Importance of Small Sites to Three Rivers

- 1.11 It is important to acknowledge the percentage of residential development schemes which tend to come forward in the District which propose the delivery of less than 10 dwellings: from 1 April 2017 to 31 March 2020, 177 planning applications for residential development involving a net gain of dwellings were determined³ by the Council. Of these, 158 applications (89%) were for schemes which proposed a net gain of 1-9 units. Having a large number of small sites is an inevitable consequence of the District being contained within the Metropolitan Green Belt. The contribution to both market housing supply and affordable housing supply are therefore both material to overall identified needs and adopted development plan objectives. This is dealt with in more detail below.
- 1.12 If the weight to be given to the Framework is greater than the adopted development plan, this large proportion of Three Rivers' expected new housing delivery will contribute nothing towards affordable housing. This would compromise Three Rivers' ability to deliver its objectively assessed need for affordable housing.

2 Development Plan Policies and the WMS

- 2.1 The content of the Framework is a material consideration in any planning decision, and one which the decision making authority must weigh against the development plan as the starting point under section 38(6) of the 2004 Planning and Compulsory Purchase Act. The correct approach is to:

- Consider the starting point under the development plan policies
- Have regard to the Framework and its objectives if those development plan policies would be breached – it is officers' view that the Framework should be given considerable weight as a statement of national policy post-dating the Core Strategy
- Consider up to date evidence on housing needs
- Consider whether the Framework should outweigh the weight to be given to the local evidence of affordable housing need and the breach of the adopted development plan policy.

- 2.2 This approach reflects the Court of Appeal's judgment in West Berkshire, which held that whilst the government, whether central or local, could state policy "rules" absolutely, decision makers must consider them without treating them as absolute: their discretion to weigh material considerations in the balance and do something different cannot be fettered by policy:

"the exercise of public discretionary power requires the decision maker to bring his mind to bear on every case; they cannot blindly follow a pre-existing policy without considering anything said to persuade him that the case in hand is an exception"

- 2.3 At paragraph 26 of the judgment, the court cited statements made to the High Court on behalf of the Secretary of State, describing those as being "no more than a conventional description of the law's treatment of the Secretary of State's policy in the decision making process":

³ Includes refused and approved applications. Excludes prior approval developments.

“As a matter of law the new national policy is only one of the matters which has to be considered under sec 70(2) and sec 38(6) when determining planning applications... in the determination of planning applications the effect of the new national policy is that although it would normally be inappropriate to require any affordable housing or social infrastructure contributions on sites below the threshold stated, local circumstances may justify lower (or no) thresholds as an exception to the national policy. It would then be a matter for the decision maker to decide how much weight to give to lower thresholds justified by local circumstances as compared with the new national policy”

As confirmed by the Court of Appeal decision in the West Berkshire case, whilst the WMS, and now the Framework, is clear with regard to the Government’s intentions on planning obligations in relation to small sites, the weight to attach to a development plan policy is a matter of discretion for the decision taker. Policies should not be applied rigidly or exclusively when material considerations may indicate an exception may be necessary.

In determining an appeal in Elmbridge, Surrey in August 2016 (appeal reference: APP/K3605/W/16/3146699) the Inspector found that *“whilst the WMS carries considerable weight, I do not consider it outweighs the development plan in this instance given the acute and substantial need for affordable housing in the Borough and the importance of delivering through small sites towards this.”* The existence of evidence of housing need is important in this context. That general principle has not been changed by the Revised NPPF.

2.4 Officers advise that whilst the Framework is a material consideration, breaches of Policy CP4 should not, in light of ongoing evidence of housing need in the Needs Analysis, be treated as outweighed by the Framework. This conclusion has been reached having had regard to the following relevant factors:

- **General House Price Affordability in Three Rivers**
- **Affordable Housing Supply Requirements in Three Rivers**
- **Affordable Housing Provision in Three Rivers**
- **Extent of residential development schemes proposed which are for sites delivering net gain of less than 10 dwellings**
- **The contribution towards the provision of affordable housing Policy CP4(e) has historically made in respect of small sites**
- **Relevant Appeal Decisions**
- **The fact that the adopted development plan policy does not impose burdens where they would render schemes unviable.**

General House Price Affordability in Three Rivers

2.5 Due to the District’s close proximity to London, Three Rivers has traditionally been situated within a high house price area. According to data published by the Office of National Statistics (ONS) in the third quarter of 2016⁴, the lowest quartile house price in Three Rivers in 2016, representing the cheapest properties in the District was £325,000.00, making it the **seventh** most expensive local authority area in England and Wales (excluding London), out of a total of three hundred and six local authority areas (see table 1 below).

Number	Local Authority Name	Lowest Quartile House Prices (2016)
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⁴ ONS (2020) *Dataset: House price to residence-based earnings ratio Table 6a*
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

1	Elmbridge	£375,000.00
2	South Bucks	£370,000.00
3	St Albans	£355,000.00
4	Windsor and Maidenhead	£345,000.00
5	Chiltern	£335,000.00
6	Herstmere	£330,000.00
7	Three Rivers	£325,000.00

Table 1.

Since the publication of the above ONS data in 2016, the general house price affordability position has grown worse. According to data published by the Office of National Statistics (ONS), the lowest quartile house price in Three Rivers in September 2019 was £347,000⁵. The lowest quartile house price of £347,000 continues to place Three Rivers as the **seventh** most expensive local authority area in England and Wales (excluding London), out of a total of three hundred and six local authority areas (see table 2 below). Whilst Three Rivers' position as the seventh most expensive local authority area remains consistent, the lowest quartile house price has risen by £22,000 from 2016 to 2019.

Number	Local Authority Name	Lowest Quartile House Prices (2019)
1	South Bucks	£410,000
2	Elmbridge	£400,500
3	St Albans	£385,000
4	Chiltern	£370,000
5	Epsom and Ewell	£357,000
6	Windsor and Maidenhead	£355,667
7	Three Rivers	£347,000

Table 2.

Lowest quartile earnings in Three Rivers in 2016 were £24,518.00 and £24,811.00 in 2019, 13.3 times worsening to 14 below the lowest quartile house prices (ratio of lower quartile house prices to lower quartile gross annual, residence based earnings⁶). In a mortgage market where lenders are traditionally willing to lend 3.5 times a person's income, clearly a lending requirement at 14 times such an income means that most first time buyers are simply unable to purchase a dwelling in the District. Such a lending ratio would have required a first time buyer in 2019 to have a deposit of £260,161.00, or (without such a deposit) to earn £99,143.00 per annum to get onto the lowest/cheapest rung of the property ladder. An additional Stamp Duty payment would also have been due (subject to COVID related temporary relaxation).

When one considers the median affordability ratio⁷ for Three Rivers compared to the rest of England and Wales, the position is even more serious: in 2016, the median quartile income to median quartile house price affordability ratio was 13.77, the fifth worst affordability ratio in England and Wales (excluding London), as set out in table 3 below, again when compared against three hundred and six local authorities.

Number	Local Authority Name	Median quartile house price affordability ratio ⁸ (2016)
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⁵ Office for National Statistics (2020) *Dataset: House price to residence-based earnings ratio Table 6a* <https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

⁶ Office for National Statistics (2020) *Dataset: House price to residence-based earnings ratio Table 6b* <https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

⁷ Affordability ratio statistics are revised annually by the ONS to reflect revisions to the house price statistics and earnings data.

1	South Bucks	14.49
2	Hertsmere	14.23
3	Mole Valley	14.18
4	Elmbridge / Chiltern	13.87
5	Three Rivers	13.77

Table 3.

The median quartile house price affordability ratio has worsened since 2016. In 2019, Three Rivers had the third worst affordability ratio in England and Wales (excluding London), with its median quartile house affordability ratio measured at 14.53⁸, as set out in table 4 below. In 2017 and 2018, the median quartile house affordability ratios were 14.31 and 13.75 respectively. Whilst the ratio slightly improved from 2016 to 2018 with a decrease to 13.75, the 14.53 ratio measured in 2019 demonstrates a worsening position over the longer term 2016-2019 period.

Number	Local Authority Name	Median quartile house price affordability ratio ¹ (2019)
1	Isles of Scilly	17.71
2	Mole Valley	14.87
3	Three Rivers	14.53

Table 4.

Looking at the ratio of lower quartile house prices to lower quartile to gross annual, residence based earnings, in 2016 the ratio was 13.26. By September 2019 that had risen to 13.99, showing a worsening ratio over the period from 2016 to 2019.

It is clear from the above that the affordability of housing in Three Rivers is getting worse with time.

Affordable Housing Requirements in Three Rivers

- 2.6 The South West Hertfordshire Strategic Housing Market Assessment January 2016 (SHMA) found that at that time there were approximately 658 households within Three Rivers that were situated in unsuitable housing. Unsuitability is based on the number of households shown to be overcrowded in the 2011 Census (updated to a 2013 base for the purposes of the SHMA). 59.4% of these households were unable to afford market housing, which meant the revised gross need was reduced to 391 households.⁹
- 2.7 The SHMA also looked into newly-arising (projected future) need within the District, which was accepted as arising from newly forming households and existing households falling into this need. In South West Herts, the SHMA estimated a need totalling 2,760 new households per annum from 2013-2036. 15% of this need falls within Three Rivers, which equates to an estimated level of affordable housing need in the District from newly forming households of 419 per annum.
- 2.8 With these figures in mind, the SHMA calculated the net affordable housing need within the five local authority areas of the South West Herts area as being 54,997 units over the 23 year

⁸ Office for National Statistics (2020) *Dataset: House price to residence-based earnings ratio Table 5c*
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

⁹ Table 33: Estimated Current Need, South West Hertfordshire Housing Market Assessment (January 2016).

period from 2013 to 2036. This is 2,391 units per annum.¹⁰ The net need within Three Rivers was calculated as being 357 units per annum or 8,211 units over the same 23 year period. The SMHA identified the district's OAN for the next plan period as being 514 dwellings a year; thus affordable housing need equates to 69% of total housing need.

Affordable Housing Provision in Three Rivers

- 2.9 Core Strategy CP4 requires around 45% of all new housing in the District to be affordable. As stated previously, prior to the WMS, all new developments that had a net gain of one or more dwellings would, subject to viability, be expected to contribute towards this.
- 2.10 Since the start of the plan period from 1 April 2001 to 31st March 2020 (the latest date where the most recent completion figures are available), 4,689 gross dwellings were completed. From this, 1,037 were secured as affordable housing, a total of 22.1%. This percentage is significantly below the Core Strategy target of 45% which means there was a shortfall of 1,073 or 23% in order to fulfil the 45% affordable housing requirement up to 31 March 2020. This shortfall only exacerbates the already pressing need for small sites to contribute towards the provision of affordable housing.
- 2.11 In the latest monitoring period of 2019/20 (financial year), 17 sites¹¹ delivered a net gain of one or more dwellings and would therefore be required to contribute to affordable housing under Policy CP4 (either through an on-site or off-site contribution). These were made up of five major developments (29%) and 12 minor developments (71%). Only five schemes contributed to affordable housing provision:
- Four out of the 17 provided viability justification, in line with CP4 policy, for the absence of affordable housing provision.
 - Eight of the applications were determined during the 2014/15 and 2016/17 periods noted at 1.2 above (when the Council was dealing with applications on the basis that the WMS should be given overriding effect regardless of the viability position on specific schemes). Affordable housing provision was forgone on them on this basis, which is now reflected in the low affordable provision as they are built out.
 - Of the five sites which contributed to affordable housing delivery in 2019/20 four were major developments and one was a minor development (17/2628/FUL – Thrive Homes (Registered Provider) scheme). This reflects the pattern of on-site delivery from large schemes, with commuted sums from minor developments (see para. 2.12).

Extent of residential development schemes proposed which are for sites delivering a net gain of less than 10 dwellings

- 2.12 In 2017/2018 (financial year), there were 67 planning applications determined¹² for net gain residential schemes, of which 57 were small site schemes (85%). In 2018/19 (financial year), there were 50 planning applications determined for net gain residential schemes, of which 46 were small site schemes (92%). In 2019/20 (financial year), there were 60 planning applications for net gain residential schemes determined, of which 55 were small sites

¹⁰ Table 38: South West Hertfordshire Housing Market Assessment (January 2016). Net need = Current Need + Need from Newly-Forming Households + Existing Households falling into Need – Supply of Affordable Housing.

¹¹ Sites with completions in 2019/20

¹² Includes refused and approved applications. Excludes prior approval developments.

schemes (92%). It is therefore clear that a high proportion of small site schemes have been proposed in the District, equating to 89% of applications over the past three years.

- 2.13 In terms of numbers of completed dwellings proposed by those small site schemes, between 2011-2020 (financial years) some 341 net dwellings were completed which equates to 38 net dwellings per annum and to 20.8% over the 2011-2020 period. 20.8% is a significant proportion of the overall supply. Whilst such numbers are significant, it is acknowledged that major developments, whilst far less frequent, provided significantly greater quantities of housing. However CP4(e) does not generally require small site schemes to provide on-site affordable housing (small-scale piecemeal development is unattractive to RP's). Instead commuted sums in lieu of on-site provision are required and thus it is the sums of money secured and the contribution those make towards the provision of additional much needed affordable housing in the District which the policy should be tested against. This has been acknowledged by Planning Inspectors on appeal, as referred to at paragraph 2.21 below: APP/P1940/W/19/3230999, 27 Gable Close, Abbots Langley: *"It also identifies the importance of small sites in providing affordable housing with contributions from small sites amounting to over £2.1 million since 2011 being spent towards the delivery of 38 affordable dwellings."*

Contributions towards the provision of affordable housing Policy CP4(e) has made in respect of small sites

- 2.14 As set out at paragraphs 1.7 and 1.8 above, the commuted payments (£2.1 million) to be spent on the provision of affordable housing which have been collected by the Council to date have made a direct contribution towards the identified affordable housing shortfall in the district: providing some 21 units with some of the monies being utilised to assist in the delivery of a further 17 units (38 in total). Furthermore, as set out at paragraph 1.8 above, small scale (1-9 unit) schemes have (as at December 2019) secured a further **£2.5million - £3.8million** (see footnote 2) in respect of unimplemented but current planning permissions. The Council has several large scale future residential developments planned which will aim to deliver substantial quantities of further affordable housing in the District in the medium term future, utilising those additional affordable housing contributions as and when they are received. It is clear therefore that CP4(e) has made and will continue to make a significant contribution towards the provision of much needed affordable housing in the District in the future.

Adopted development plan policy does not impose burdens where they would render schemes unviable

- 2.15 As set out at paragraph 1.9 above, Policy CP4 makes it clear that a requirement for a scheme to contribute towards the provision of affordable housing is subject to viability considerations and is therefore consistent with paragraph 122 of the Framework. The application of CP4, which includes this in built viability allowance, cannot properly be said to be a barrier to delivery. The Council accepts that if, properly tested, viability cannot be established on current day costs and values then a scheme should not currently be required to provide or contribute to affordable housing delivery. Between 1 October 2011 and 31 March 2020 there were 226 planning permissions granted for minor (net gain) residential developments in the District. Of those only 21 have lapsed (9%). This demonstrates that the application of CP4 has not acted as a brake on small scale residential developments.

Relevant Appeal Decisions

- 2.16 There have been a number of appeal decisions since the WMS was upheld by the High Court in May 2016. As an example, the Planning Inspectorate has dismissed appeals that were submitted against the decisions made by Elmbridge Borough Council (appeal no: 3146699), Reading Borough Council (appeal ref: 315661), South Cambridgeshire District Council (appeal ref: 3142834) and Islington Borough Council (3154751, 3164313, 3174582, 3177927 and 3182729). These were for small scale housing schemes where those Councils had attached greater weight to their affordable housing policy than to the WMS as a consequence of local evidence of substantial affordable housing need. Copies of these three appeals are attached to Appendix 1. The Council considers these appeal decisions to be of continuing relevance post the new Framework.
- 2.17 The Inspectors appointed to determine these appeals stated that the WMS needed to be addressed alongside existing Local Plan policy. Within each case, the Inspectors found that there was substantial evidence of a pressing need for affordable housing within these three local authority areas. On this basis, it was considered that local policy had significant weight and there was strong evidence to suggest that these issues would outweigh the WMS within these three cases.
- 2.18 In March 2017 the Planning Inspectorate issued a response to a letter from Richmond and Wandsworth Councils regarding the perceived inconsistency of approach by the inspectorate in relation to a further five appeal decisions made in 2016, regarding the weight that was made to the WMS. A copy of this letter is attached to Appendix 2.
- 2.19 Out of these five decisions, the Planning Inspectorate considered that three appeal decisions were reasonable, and fairly reflected the Court of Appeal's decision that although great weight should be attached to the WMS as a material circumstance; planning applications must be decided in accordance with the development plan, unless material considerations indicate otherwise.
- 2.20 However, the Planning Inspectorate considered that the decision taken on the two remaining appeals which stated that lesser weight was afforded to local policies because they were now, in part, inconsistent with national policy, was not appropriate. The seventh paragraph in the response from the Inspectorate, summarised the approach that the Inspectorate acknowledges should be taken:
- “...an Inspector to start with the development plan and any evidence presented by the LPA supporting the need for an affordable housing contribution, establish whether the proposal is in conflict with those policies if no contribution is provided for, and, if there is conflict, only then go on to address the weight to be attached to the WMS as a national policy that post-dates the development plan policies.”¹³*
- 2.21 It is clear therefore that the Planning Inspectorate considered that although the WMS (and now the Framework) was a material consideration, this should be balanced against the policies within a plan along with any further evidence that supports a Local Planning Authority's application of the policy.
- 2.22 The Council's stance has been tested on appeal on numerous occasions and the Planning Inspectorate have repeatedly concluded (16 decisions as at the date of this document) that whilst the NPPF carries considerable weight, it does not outweigh CP4 of the Councils development plan given the acute and substantial need for affordable housing in the District

¹³ Paragraph 7, Planning Inspectorate Letter, March 2017.

and the important contribution small sites make towards addressing this shortfall. Below are extracts from a few of those decisions:

- **APP/P1940/W/19/3222318, Eastbury Corner, 13 Eastbury Avenue, Northwood, Decision date: 21st June 2019:**
“The Council has however provided robust evidence to demonstrate high affordable housing need locally and that affordability in the District continues to deteriorate. Indeed, needs analysis carried out by the Council highlights the importance of small sites in addressing shortfall and the lack of affordability that exists in the District. I apply substantial weight to this local evidence due to its recentness and the clear conclusions that can be drawn from it. Policy CP4 makes it clear that site circumstances and financial viability will be taken into account when seeking affordable housing provision.”
- **APP/P1940/W/19/3221363, The Swallows, Shirley Road, Abbots Langley Decision date: 27th June 2019:**
“The Council has however provided robust evidence to demonstrate high affordable housing need locally and that affordability in the District continues to deteriorate. Indeed, needs analysis carried out by the Council highlights the importance of small sites in addressing shortfall and the lack of affordability that exists in the District. I apply substantial weight to this local evidence due to its recentness and the clear conclusions that can be drawn from it.”
- **APP/P1940/W/19/3225445, 6 Berkely Close, Abbots Langley Decision date 5th August 2019:**
“The Council has provided robust evidence of high affordable housing need in the District, and in line with the findings of other appeal decisions cited by the Council, I attribute substantial weight to that need as a consequence and consider that a contribution towards the provision of affordable housing is necessary.”
- **APP/P1940/W/19/3230999, 27 Gable Close, Abbots Langley Decision Date: 1st November 2019:**
*“The Council has provided detailed evidence of acute affordable housing need locally: a Needs Analysis was undertaken in May 2016 after the publication of the Written Ministerial Statement which introduced the affordable housing thresholds now included in the Framework. Based on the Needs Analysis, the Council’s evidence highlights the issue of general house price affordability in the District, plus an exceptionally high need for affordable housing exacerbated by a significant shortfall in supply. It also identifies the importance of small sites in providing affordable housing with contributions from small sites amounting to over £2.1 million since 2011 being spent towards the delivery of 38 affordable dwellings.
A further Needs Analysis following publication of the revised Framework in July 2018 demonstrated that housing stress had increased since 2016. The Council has therefore revisited its position following the update to national policy. There is no evidence before me that affordable housing contributions are acting as a brake on development. Rather, the evidence is that contributions from small sites collected since the policy was adopted in 2011 are delivering affordable housing on the ground. Due to its recentness and the clear conclusions that can be drawn from it, I give this local evidence substantial weight. It underpins the approach in Policy CP4 as an exception to national policy.”*
- **APP/P1940/W/19/3230911, 67 & 69 St Georges Drive, Carpenders Park, Decision date 22nd October 2019:**
“The Council has undertaken several needs analyses, the latest being July 2018, to demonstrate the acute shortage of affordable housing in the District, especially in light of high house prices and that much of the District is also constrained by the Metropolitan Green Belt. It further highlights the importance small sites make to the contribution to the overall provision of affordable housing. Up until the end of March 2017 there has only been 22.6% of affordable housing provision which falls short of

the policy requirement of 45% The shortfall demonstrates that the provision of affordable housing is still very much needed, such that Policy CP4 should continue to apply to small sites, despite the Framework and the WMS. In light of the Council's body of evidence that demonstrates the particular housing circumstances and needs of the District, I attach substantial weight to this local evidence and consider that the national policy position does not outweigh the development plan and Policy CP4 in this instance."

- **APP/P1940/W/19/3230458, 19 Lynwood Heights, Rickmansworth,**

Decision date 11th October 2019:

"The Council states that its Strategic Housing Market Assessment (2010) has demonstrated that there is a significant affordable housing need locally due to very high house prices and rents and a constricted supply of suitable housing sites. Further, the South West Hertfordshire Strategic Housing Market Assessment (2016) estimated a net affordable housing need of 14,191 in the District between 2013-36 and there is also a worsening situation with regards to affordability. Based on the Council's evidence the District is the 7th most expensive local authority area in England and Wales in 2016 and demonstrates that its application of Policy CP4 has delivered a significant contribution of over £2.1 million towards the delivery of affordable housing without disrupting the supply of small residential sites. Decisions should be made in accordance with the development plan unless material considerations indicate otherwise. The robust evidence referred to in footnote 1 and the clear need to deliver affordable housing in the District underpins the Council's approach in Policy CP4 as an exception to national policy and therefore in this case, the Framework's threshold would not outweigh the conflict with the development plan. I therefore attach considerable weight to Policy CP4. I am also referred to a number of recent appeal decisions in the District which support this approach and are therefore relevant to the scheme before me and as such carry considerable weight."

- **APP/P1940/W/18/3213370: No.9 Lapwing Way, Abbots Langley.**

Decision Date 22nd May 2019:

"In considering whether provision should be made for affordable housing, there are two matters that need to be addressed. Firstly, whether in principle the provisions of Policy CP4 are outweighed by more recent Government policy. Secondly, if not, whether for reasons of financial viability a contribution is not required... There is no evidence before me that the application of Policy CP4 has put a brake on small windfall sites coming forward. Indeed, such sites have contributed over £2m to the affordable housing pot since 2011... Decisions should be made in accordance with the development plan unless material considerations indicate otherwise. There are very important factors in support of the continued application of Policy CP4. These factors are not unique to Three Rivers. Government policy does not suggest that areas where affordability is a particular issue should be treated differently. Nonetheless, although a weighty matter, the national policy threshold is not a material consideration which outweighs the conflict with the development plan in this case. In making this policy judgment I have given considerable but not full weight to Policy CP4. I have also had regard to the other appeal decisions in the south-east referred to by the Council where Inspectors considered development plan policies seeking affordable housing against national policy. My approach is consistent with these decisions."

- **APP/P1940/W/19/3219890: 4 Scots Hill, Croxley Green**

Decision Date 5th May 2019:

Whilst the appeal was allowed the Inspector considered that when "having regard to TRDCS Policy CP4 and the Council's Affordable Housing Supplementary Planning Document 2011, I consider that a contribution towards the provision of affordable housing is necessary. A draft unilateral undertaking was submitted at appeal stage and was agreed by the Council."

- **APP/1940/W/19/3229274: 101 Durrants Drive, Croxley Green**

Decision Date 16th August 2019:

“Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise... Therefore, I find that the proposal would fail to make appropriate provision for affordable housing and as such, would be contrary to policy CP4 of the CS which seeks to secure such provision, which although does not attract full weight, in light of the evidence provided, attracts significant weight sufficient to outweigh paragraph 63 of the Framework.”

- **APP/P1940/W/19/3238285: Bell Public House, 117 Primrose Hill, Kings Langley**
Decision Date 9th March 2020

“Even taking the appellants figures that 22.8% of affordable units have arisen from non major sites, I consider this to be an important and meaningful contribution...even taking the appellant’s figures my conclusion remains unaltered.”

- **APP/P1940/W/19/3229189: Glenwood, Harthall Lane, Kings Langley**
Decision Date 7th May 2020

“The Council’s evidence sets out the acute need for affordable housing in the area and the importance of small sites in contributing to the provision of such housing. They also highlighted a large number of recent appeal decisions for small residential schemes where it has been considered that the exceptional local need should outweigh government policy, as set out in the Framework... Despite the appellant’s evidence, which included reference to a Local Plan Consultation Document (October 2018) and an analysis undertaken by them based on the Council’s Housing Land Supply Update (December 2018), it was clear to me, in the light of all the evidence before me, that a pressing need for affordable housing in the area remains. It was also clear that small sites play a key role in ensuring this provision. As such, in this case, I am satisfied that although considerable weight should be given to the Framework, it does not outweigh the development plan policy.”

- **APP/P1940/W/20/3249107: 2 Church Cottages, Old Uxbridge Road, West Hyde**
Decision Date: 21st October 2020

“The Framework at paragraph 63 sets out that the provision of affordable housing should not be sought for residential developments that are not major developments other than in designated rural areas where policies may set out a lower threshold of 5 units or fewer. That said, there is clear evidence to suggest that there is an acute need for affordable housing in the Three Rivers District and there have been several appeal decisions which supported this view... I agree that there are special circumstances which justify the provision of affordable housing below the Framework’s suggested threshold... As a result, the proposal would be contrary to Policy CP4 of the CS which amongst other matters seeks to increase the provision of affordable homes including by means of a commuted sum payment for sites of between one and nine dwellings... I have also had regard to the obvious benefits in relation to the provision of a much-needed new dwelling. However, the benefits of this are outweighed by the lack of provision for affordable housing”

Conclusion

- 2.23 Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Having regard to the Framework as a material consideration of significant weight, officers' view is that the local evidence of affordable housing need continues to deserve significant weight in deciding whether, for the purposes of Section 38(6), the revised Framework policies weigh sufficiently against the Core Strategy Policy CP4. Having undertaken this assessment in 2017 and further reviewed it post the new NPPF in 2018, in December 2019 and 2020 with regard to more up to date evidence, where available, officers are of the view that the Framework does not outweigh the weight to be attached to the local evidence of affordable housing need. That evidence shows that the need for affordable housing in Three Rivers is great and the contribution that small sites have made

has been significant. Furthermore comparisons between 2016 and 2019 ONS data shows that the affordability of housing in Three Rivers is deteriorating year on year and the need for affordable housing is growing. As such proposals for the residential development of sites of 10 dwellings or less (not “major development”) will currently be expected to contribute towards the provision of affordable housing in accordance with Policy CP4 as a condition of grant. The Council will keep this evidence under review.

Appendix 1: Appeal Decisions 3146699 (Elmbridge Borough Council), 315661 (Reading Borough Council), 3142834 (South Cambridgeshire District Council) and Islington Borough Council (3154751, 3164313, 3174582, 3177927 and 3182729), Three Rivers District Council (3222318, 3221363, 3225445, 3230999, 3230911, 3230458, 3213370, 3219890, 3229274, 3238285, 3229189, 3249107)

Appendix 2: Letter from the Planning Inspectorate to Richmond and Wandsworth Councils, March 2017

Sources Used:

1. Core Strategy (October 2011)
<http://www.threerivers.gov.uk/eqcl-page/core-strategy>
2. Annual Monitoring Report 2019/2020 (December 2020)
<http://www.threerivers.gov.uk/eqcl-page/annual-monitoring-report>
3. Affordable Housing Supplementary Planning Document (June 2011)
<http://www.threerivers.gov.uk/eqcl-page/supplementary-planning-documents>
4. South West Hertfordshire Strategic Housing Market Assessment (January 2016)
<http://www.threerivers.gov.uk/eqcl-page/shma-and-economic-study-for-future-review-of-local-plan>
5. Office of National Statistics Housing Data 2002-19
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

December 2020

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PLANNING COMMITTEE –15 JULY 2021

PART I - DELEGATED

8. **21/1113/FUL - Variation of Condition 2 (Plan Numbers) of application 18/0681/FUL (Roof alterations including part increase in ridge height; part two storey, part single storey rear extension; insertion of rear dormer and creation of lower ground floor level, and insertion of raised terrace and balcony to rear) to alter fenestration detail to align and changes to elevations and replacement of existing chimneys at 31 ASTONS ROAD, MOOR PARK, HA6 2LB (DCES)**

Parish: Batchworth Community Council
Expiry of Statutory Period: 24.06.2021
(Extension of Time: 16 July 2021)

Ward: Moor Park & Eastbury
Case Officer: Scott Volker

Recommendation: That Planning Permission be Granted.

Reason for consideration by the Committee: Called in by Batchworth Community Council unless Officers are minded to refuse for the reasons set out at 4.1.1 below.

1 Relevant Planning History

- 1.1 8/42/92 – Single storey front extension and two storey rear extension – Permitted 1992; implemented.
- 1.2 97/0171 - Two storey rear extension, installation of outdoor swimming pool and single storey summer house – Permitted April 1997; implemented.
- 1.3 00/01600/FUL - Erection of conservatory – Permitted February 2001; implemented.
- 1.4 18/0681/FUL – Roof alterations including part increase in ridge height; part two storey, part single storey rear extension; insertion of rear dormer and creation of lower ground floor level, and insertion of raised terrace and balcony – Permitted May 2018; commenced.
- 1.5 20/2823/FUL - Variation of Condition 2 (Plan Numbers) of planning permission 18/0681/FUL (Roof alterations including part increase in ridge height; part two storey, part single storey rear extension; insertion of rear dormer and creation of lower ground floor level, and insertion of raised terrace and balcony to rear) to alter external appearance of front and side elevations to include facing brick to match existing at ground floor and render finish with mock Tudor to replace hanging tiles at first floor; alteration to fenestration and replacement chimney – Refused March 2021 for the following reason:

R1 The proposed changes to the external appearance of the dwelling and replacement of the original chimneys would result in the loss of characterful architectural features to the host dwelling. The existing dwelling is a pre-1958 house and makes a positive contribution to the Moor Park Conservation Area. The changes would therefore architecturally and materially erode the original character of the dwelling to such an extent that its special interest is eroded to an unacceptable degree. The abovementioned changes therefore fail to preserve or enhance the character and appearance of the host dwelling and the Moor Park Conservation Area, thereby resulting in less than substantial harm to the heritage asset. However, no public benefits have been identified which outweigh the identified harm to the character and appearance of the Moor Park Conservation Area. The development therefore fails to comply with Policies CP1 and CP12 of the Core Strategy (adopted October 2011), Policies DM1 and DM3 of the Development Management Policies LDD (adopted July 2013), the Moor Park Conservation Area Appraisal (2006) and the NPPF (February 2019).

2 Description of Application Site

- 2.1 The application site is located on the eastern side of Astons Road, within the Moor Park Conservation Area. Astons Road is a residential street characterised by large detached residential dwellings. The application site has a plot frontage of approximately 33 metres and depth of 120 metres. The land levels on the site vary, with land sloping down from the front to the rear of the site. The dwelling is set back from the highway by approximately 25 metres.
- 2.2 The site is currently occupied by a large detached residential dwellinghouse (a pre-1958 dwelling) which has been partially demolished following the commencement of works in relation to planning permission granted under reference 18/0681/FUL. The dwelling is a two-storey building with a mix of tile-hung and rendered exterior and a tiled pitched roof.
- 2.3 The application site backs onto 38 Russell Road however there is a separation distance of approximately 120 metres between the rear elevations of these two properties. There are separation distances ranging between 5-6 metres between the application dwelling and numbers 29 and 33 Astons Road located to the north and south respectively. Extensive hedging and vegetation of varying height line the shared boundaries between the application site and these neighbouring properties.
- 2.4 The frontage of the site includes a carriage driveway which can accommodate off-street parking for at least four cars. The remainder of the site frontage is soft landscaped. It is currently enclosed by construction hoardings.

3 Description of Proposed Development

- 3.1 Planning Permission was granted under application referenced 18/081/FUL for 'Roof alterations including part increase in ridge height; part two storey, part single storey rear extension; insertion of rear dormer and creation of lower ground floor level, and insertion of raised terrace and balcony to rear' with the development described in the officer report as:

'The main roof of the original dwelling would be increased in width by 0.7 metres and would retain the same height as the main ridge.

A two storey rear extension is proposed which would replace the existing conservatory. It would have maximum depth of 6.1 metres at ground floor level and 5.2 metres at first floor level. The extension would have a maximum width of 9.1 metres and would have a maximum height of 10.2 metres, sloping down to an eaves height to match the host dwelling.

A ground floor rear extension is proposed measuring a maximum depth of 1.8 metres (this includes a bay window feature located at the southern corner of the dwelling). This ground floor extension would have a flat roof with a maximum height of 3.4 metres. The flat roof section would form a first floor balcony accessed from the first floor landing.

It is also proposed to construct a basement level under the host dwelling which would extend out at lower ground level for a depth of 4.5 metres from the rear elevation of the main dwelling. The roof of the lower ground floor extension would form a terrace. Glazing is proposed within the rear elevation and five toughened glass rooflights are proposed within the roof. The basement would contain a swimming pool, plant room, gym, entertainment room and toilets.

Three flat roof dormer windows are proposed within the rear roof slopes of the dwelling. Two would be located within the main roof, and one would be located within the set down roof section. The dormers would hold the same dimensions; measuring 1.2 metres in width, 1.5 metres in height and project 1.3 metres from the roof slope.

Minor alterations are proposed to the front elevation of the dwelling including an extension to the width of the mono-pitched roof above the front entrance by 3 metres. Alterations are also proposed to the internal layout of the dwelling.

Amended plans were received during the application process which made the following changes:

- *The extension to the width of the ridge of the main dwelling has been reduced by 0.7 metres.*
- *The first floor balcony within the rear elevation has been reduced in width.*
- *The extent of glazing within the rear elevation serving the lower ground floor has been reduced.'*

3.2 This variation of condition application now seeks to alter fenestration detail to align and make changes to the front elevation and the replacement of the existing chimneys.

3.3 In comparison to the previously refused application 20/2823/FUL it is now proposed to retain the hung tile appearance at first floor level by replacing the existing hung tile with new like-for-like tiles. The alterations to the apertures and ordering of the fenestration within the principal elevation of the dwelling are still proposed and this would include the insertion of new leaded casement windows. In addition it is now proposed to replace both chimneys which extend upwards from the southern elevation for like-for-like replacements.

3.4 Amended plans were received during the course of the application process to provide transoms to the ground floor windows within the front elevation. For clarification, a transom is a transverse horizontal structural beam or bar, or a crosspiece separating a door/window from a window above it.

4 Consultation

4.1 Statutory Consultation

4.1.1 Moor Park 1958 Ltd. – [Objection]

The Directors of Moor Park (1958) Limited would again wish to raise the following STRONGEST POSSIBLE OBJECTIONS to the application proposals as follows: -

In our opinion the clear provisions contained within 3.1 (and 2.7) of the approved Moor Park Conservation Area Appraisal (MPCAA) are directly relevant to the application and are therefore material planning considerations. Consequently, we would formally request that the Council has full regard to these issues in its determination of the application.

We regret that we have to again largely repeat what we have previously stated (on at least two or three occasions) in respect to this application property, but we clearly have no alternative as we recognise that each application at this important pre58 property has to be treated on its individual merits.

We would comment however that we find the repeated attempts to undermine this important property, and equally undermine the decisions of the Council in recently refusing a very similar application, extremely frustrating.

We also find it highly alarming, and totally irregular, that the Council's description of development this time round tells us that the scheme is to, inter alia, "**.....improve elevations...**".

Whether this scheme "improves" anything, we suggest, will be the outcome of the scrutiny of third parties, specialist Conservation advisors, the planning case officer(s) and the eventual decision takers, once all the material planning considerations are analysed and taken fully into account!!

Consequently, we look forward to seeing early evidence that this anomalous description, (potentially bordering an act of maladministration that appears to favourably prejudge the

appearance of the elevations), has been struck from all Council records as a matter of urgency.

Our detailed objections/comments on the current/latest application are as follows: -

When the planning application for the original, substantive scheme at this site (ref 18/0681/FUL) was under consideration, a wide range of material planning objections were raised both by the Council's Conservation Officer and ourselves.

Many of these objections were based on the unacceptable impact and material harm that would be caused by the range and scale of the submissions, upon the character and appearance of the application property, which is recognised as an important **pre58 dwelling** that, by virtue of its design, character and appearance, makes a positive contribution to the Moor Park Conservation Area.

Despite these objections, the Council's planning officer made a favourable recommendation to the Planning Committee (which was accepted). However, in our opinion, in light of another (latest) application, **it is now crucial to note what appears to the key premise/justification of that recommendation.**

This is clearly emphasised in the officer report where, on a number of occasions, the following points are made: -

".....the principal elevation of the pre58 building would not be significantly altered..." and

"...the principal elevation of the dwelling would remain intact...." and, in a form of concluding remark,

"...the significance of the existing building is recognised, however,...the proposed changes are not considered to significantly detract from the character and appearance of the dwelling to justify the refusal of planning permission".

The Council will also be aware of a scheme in 2020 to vary the approval (ref 20/2823/FUL) by materially altering the main front elevation (by seeking to change the finishing/facing materials and the majority of front windows) was refused. The reason for refusal stated:

"The proposed changes to the external appearance of the dwelling and replacement of the original chimneys would result in the loss of characterful architectural features to the host dwelling. The existing dwelling is a pre-1958 house and makes a positive contribution to the Moor Park Conservation Area. The changes would therefore architecturally and materially erode the original character of the dwelling to such an extent that its special interest is eroded to an unacceptable degree....."

At the outset, it is clear that the current application follows this recent refusal by the Council of a **very similar development** scheme, where a sound and well-founded material planning ground (containing several elements of opposition) was cited.

Consequently, and as a matter of planning principle, we are strongly of the view that the Council needs to be completely satisfied that all aspects of the previous planning refusal have been **fully** addressed and entirely overcome in regard to the adverse impact on the character and appearance of this pre58 dwelling and the Conservation Area before considering whether there are sufficient merits in this latest application to grant planning permission.

The latest "variation of condition" (the subject of this current application) has of course been "scaled back" a little since the refused scheme, but still proposes a complete, modern unification/standardisation in the size, design and scale of **11 of the 13 windows** in the primary front elevation of this important pre-58 property; one which has been repeatedly

referred to by the Council as making “.....a positive contribution to the Moor Park Conservation Area”.

By proposing such a scheme, we believe that the unique charm and appearance of the front elevation of this high-status pre-58 building will be undermined, damaged and visually harmed by the proposed insensitive and intrusive treatment of the primary fenestration, by virtue of: -

- i. changing the size, shape, glazing pattern and sill heights of all 5 (100%) of the ground floor front windows **and**
- ii. changing the size, shape, glazing pattern and sill heights of 6 of the 8 (75%) of the first-floor front windows.

It is our strongly held view that, when taking the full terms, scale and extent of the works in the current application, it will fundamentally and unacceptably alter the front/principal elevation. As a consequence, the character and appearance of the important pre58 dwelling in its Conservation Area setting, will effectively be completely destroyed.

This will result in material, demonstrable and irreversible harm to the dwelling and, as a consequence, the submitted scheme demonstrably fails to preserve or enhance the character and appearance of the designated Conservation Area, within which the existing pre-58 dwelling makes a positive contribution.

While we entirely accept of course that we cannot “turn back the clock” and prevent the approval of the 2018 application (nor are we trying to do so), it is crucial to recognise in planning terms that the current application is seeking to substantially **ADD** to the terms of that earlier permission, as opposed to it being purely an application for a simple “variation”.

In conclusion, we consider that the integrity, features, character and appearance of the original pre-58 house will neither be retained in any material way, nor respected or protected, all of which is in direct breach of the aims and objectives clearly set out under the provisions of paragraphs 2.7 and 3.1 of the MPCAA.

As a result, we wish to re-emphasise our strongest possible objections and ask that the application be refused. We believe that the essence of the reasons for refusal as encapsulated in the Council’s refusal of application ref 20/2823/FUL, summarise the situation perfectly and hence in our view will be entirely appropriate to be re-used in the context of the current scheme.

In addition, we trust that the proposed demolition and new re-building of a replacement prominent feature chimney will be subjected to the highest level of detailed scrutiny by a suitably qualified and independent structural engineer with experience of historic buildings, before there is any possible acceptance of the need for its demolition.

Finally, and for the avoidance of doubt, we shall again seek Member support to **call in** the application if the Council’s officers are minded to recommend the application favourably, contrary to the overwhelming circumstances that would support another refusal of the scheme.

We trust the above response, based on what we regard as relevant and material planning considerations, primarily within the approved MPCAA, is of assistance to you.

4.1.2 Batchworth Community Council – [Objection, CALL-IN]

Batchworth Community Council objects to this application and asks that it be called in for decision by the District Council’s planning committee unless the planning officers are minded to refuse.

This is done on the following basis - the extent of changes to the front elevation are unacceptable on this important pre-1958 dwelling in the Conservation Area.

4.1.3 Conservation Officer – [No Objection]

This application is for the Variation of Condition 2 (Plan Numbers) of application 18/0681/FUL (Roof alterations including part increase in ridge height; part two storey, part single storey rear extension; insertion of rear dormer and creation of lower ground floor level, and insertion of raised terrace and balcony to rear) to alter fenestration detail to align and improve elevations and replacement of existing chimneys.

The property is located in the Moor Park Conservation Area. The land upon which the Moor Park residential estate stands was historically part of the grounds attached to Moor Park Mansion. 31 Astons Road dates from the early period of the Moor Park Estate and therefore forms part of the original development of the Conservation Area. The property as existing is of architectural and aesthetic value and makes a positive contribution to the character and appearance of the Conservation Area.

A previous Variation of Condition was submitted under reference 20/2823/FUL. The proposal was to alter external appearance of front elevation to include facing brick to match existing at ground floor and render finish with mock Tudor to replace hanging tiles at first floor; alteration to fenestration and timber surround to windows. Previous advice stated:

I would be unable to support the proposal. The proposal would result in the loss of architectural features that make a positive contribution to the Conservation Area. The significance of the Conservation Area partly derives from the original properties constructed in the 1920s/1930s – 1950s and characteristic and original features. The hung tiles are a key feature of Arts and Crafts properties and the existing fenestration patterns is representative of the architectural style and age of the property. Replacing the existing hanging tiles with render and brick below as well as alterations to the apertures and ordering of the fenestration would architecturally and materially diminish the property, which currently makes a positive contribution to the Conservation Area.

It is now proposed to leave the hung tile in situ which has gone some way to address previous concerns, it will ensure the property retains some of its Arts and Crafts detailing which contribute to the Conservation Area's significance. It is still proposed to make alterations to the apertures and ordering of the fenestration. There is still a preference for the windows to remain as existing, however, the proposed alterations are not considered to be detrimental to the Conservation Area's significance. Some improvements could be made to the appearance of the ground floor windows to provide further articulation. The addition of a transom will work to break up the length of the windows.

It is noted that the chimney will be rebuilt to match exactly the previously existing chimney, this is considered appropriate.

4.1.4 National Grid: No response received.

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 5

4.2.2 No of responses received: 1 objection, 0 letters of support

4.2.3 Site Notice: Posted – 06.05.2021 Expired – 27.05.2021

Press notice: Published - 07.05.2021 Expired - 28.05.2021

4.2.4 Summary of Responses:

- Impact on pre-1958 dwelling
- Historic façade should be maintained
- Loss of chimneys

5 Reason for Delay

5.1 None.

6 Relevant Planning Policy, Guidance and Legislation

6.1 National Planning Policy Framework and National Planning Practice Guidance

In 2019 the new National Planning Policy Framework was published. This is read alongside the National Planning Practice Guidance (NPPG). The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another. The NPPF is clear that “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework”.

The NPPF states that ‘good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities’. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would ‘significantly and demonstrably’ outweigh the benefits.

6.2 The Three Rivers Local Development Plan

The application has been considered against the policies of the Local Plan, including the Core Strategy (adopted October 2011), the Development Management Policies Local Development Document (adopted July 2013) and the Site Allocations Local Development Document (adopted November 2014) as well as government guidance. The policies of Three Rivers District Council reflect the content of the NPPF.

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies CP1, CP9, CP10 and CP12.

The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM1, DM3, DM6, DM8 and DM13 and Appendices 2 and 5.

6.3 Other

The Community Infrastructure Levy (CIL) Charging Schedule (adopted February 2015).

The Localism Act received Royal Assent on 15 November 2011. The growth and Infrastructure Act achieved Royal Assent on 25 April 2013.

The Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, the Natural Environment and Rural Communities Act 2006 and the Habitat Regulations 1994 may also be relevant.

The Moor Park Conservation Area Appraisal was approved by the Executive Committee of the Council on the 27th November 2006 as a material planning consideration in the determination of planning applications and as a basis for developing initiatives to preserve and/or enhance the Moor Park Conservation Area. The Appraisal was subject to public consultation between July and October 2006 and highlights the special architectural and historic interest that justifies the designation and subsequent protection of the Conservation Area.

7 Planning Analysis

7.1 Principle of Development

7.1.1 Planning permission has previously been granted under application 18/0681/FUL for roof alterations including part increase in ridge height; part two storey, part single storey rear extension; insertion of rear dormer and creation of lower ground floor level, and insertion of raised terrace and balcony to rear. Works have commenced on site.

7.1.2 The principle of the above works has therefore been approved and this application will focus on the changes proposed. The current application proposed no increase in the width, depth or height of the dwelling. There has been no change to relevant planning policy or site circumstances which would affect the acceptability of the development in relation to those matters previously approved. The impact of the proposed alterations as set out in the 'Proposed Development' section are considered in the relevant analysis sections below.

7.1.3 Design & Impact on Street Scene & Conservation Area

7.1.4 Policy CP1 of the Core Strategy (adopted October 2011) seeks to promote buildings of a high enduring design quality that respect local distinctiveness. Policy CP12 relates to design and states that in seeking a high standard of design, the Council will expect development proposals to 'have regard to the local context and conserve or enhance the character, amenities and quality of an area' and 'conserve and enhance natural and heritage assets'.

7.1.5 Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013) seek to ensure that development does not lead to a gradual deterioration in the quality of the built environment. The Design Guidelines outlined at Appendix 2 states that extensions must not be excessively prominent in relation to adjacent properties or to the general street scene and should respect the character of the property/street scene particularly with regard to the roof form, positioning and style of windows and doors, and materials.

7.1.6 As the site is located within the Moor Park Conservation Area, Policy DM3 of the Development Management Policies LDD (adopted July 2013) is also applicable. Policy DM3 sets out that within Conservation Areas, development will only be permitted if the proposal is of a scale and design that preserves or enhances the character and appearance of the area. In addition, the Moor Park Conservation Area Appraisal (2006) provides supplementary planning guidance and is a material planning consideration in the assessment of applications within the Moor Park Conservation Area.

7.1.7 Paragraph 130 of the NPPF states that Local Planning Authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).

7.1.8 The application site contains a pre-1958 dwelling; the Appraisal states that the Council will give a high priority to retaining buildings which make a positive contribution to the character and appearance of the Conservation Area. The Conservation Area Appraisal comments

that as a guide, the Council will seek the retention of buildings on the estate erected up to 1958 when the original estate company was wound up.

- 7.1.9 This application is a resubmission following the refusal of an earlier application 20/2823/FUL. In their comments for this refused application the Conservation Officer considered that the changes resulted in the loss of the architectural features that make a positive contribution to the Conservation Area. The previous application sought to replace the hung tiles with render and brick below as well as alterations to the apertures and ordering of the fenestration. It was considered that such changes would architecturally and materially diminish the property, which currently makes a positive contribution to the Conservation Area and thus was unable to support the proposal.
- 7.1.10 This current application now seeks to replace the existing hung tiles ensuring that the property retains some of its Arts and Crafts detailing which contributes to the Conservation Area's significance and was viewed positively by the Conservation Officer. As per application 20/2823/FUL it is proposed to make alterations to the apertures and ordering of the fenestration detailing contained within the principal elevation. There was a preference by the Conservation Officer for the windows to remain as existing, however, they considered the proposed alterations were not detrimental to the Conservation Area's significance. However, as part of the application process transoms have been added to the ground floor windows to break up the length of the windows. There is no objection to the proposed design of the new leaded casement windows.
- 7.1.11 The proposal would result in the loss of the two existing chimneys located in the southern elevation. However, unlike the previous refused scheme, the chimneys would be rebuilt to match exactly the previous chimneys. This is considered to be acceptable by the Conservation Officer and preserves the character of the dwelling.
- 7.1.12 Whilst it is noted that 20/2382/FUL was refused because the changes were considered to diminish the quality of the original approved scheme and fail to preserve or enhance the character and appearance of the Conservation Area, the current application with the additional amendments has satisfactorily overcome the previous reason for refusal and the Conservation Officer has raised no objection to the proposed development.
- 7.1.13 In conclusion, it is not considered that the proposed development would result in any significant adverse impact on the character or appearance of the host dwelling, street scene or conservation area and the development would be acceptable in this regard in accordance with Policies CP1 and CP12 of the Core Strategy, Policies DM1, DM3 and Appendix 2 of the DMP LDD and the Moor Park Conservation Area Appraisal (2006).

7.2 Impact on amenity of neighbours

- 7.2.1 Policy CP12 of the Core Strategy states that development should 'protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space'. Policy DM1 and Appendix 2 of the Development Management Policies document set out that development should not result in the loss of light to the windows of neighbouring properties nor allow overlooking, and should not be excessively prominent in relation to adjacent properties.
- 7.2.2 The proposed alterations to the appearance of the dwelling would not result in an increase in the bulk and massing of the building so as to cause any impact on the residential amenities of surrounding neighbouring properties in terms of loss of light or become overbearing. The alterations to the fenestration includes remodelling of the window openings within the principal elevation however the fenestration would continue to primarily overlook the application site frontage and would not result in any unacceptable overlooking towards 26 Astons Road.

7.2.3 As such, it is not considered that the proposed development would result in any significant adverse impact on neighbouring dwellings and the development would be acceptable in accordance with Policy CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies LDD.

7.3 Trees and Landscaping

7.3.1 The proposed development would not result in the loss of any existing trees on the site.

7.4 Parking Provision

7.4.1 The proposed development would not result in the loss of any existing parking provision or the requirement for additional provision within the site.

7.5 Conditions

7.5.1 It is considered necessary to repeat all conditions attached to planning permission 18/0681/FUL to any planning permission granted under this application. Condition 3 has been updated in accordance with the details agreed under application 20/0701/DIS. A condition has been attached in respect of bat boxes in light of the recommendations put forward in the Emergence and Activity Surveys prepared by Arbtech Consulting Ltd submitted as part of application 20/0701/DIS pursuant of condition 4 of application 18/0681/FUL.

8 **Recommendation**

8.1 That PLANNING PERMISSION BE GRANTED subject to the following conditions:

C1 The development hereby permitted shall be carried out in accordance with the following approved plans: TS17-080M\1 1 of 2, TS17-080M\2 2 of 2, TS17-080M\3 1 of 4, TS17-080M\4 2 of 4, TS17-080M\5 3 of 4, TS17-080M\6 4 of 4, TS17-080M\7 1 of 1, 5480/PL/LP, 5480-PL01, 5480-PL02 REV-C, 5480-PL03 REV-B, 5480-PL05 REV-B and 5480-PRPL 06 REV-H.

Reason: For the avoidance of doubt and in the proper interests of planning and to safeguard the character and appearance of the Conservation Area in accordance with Policies CP1, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011), Policies DM1, DM3, DM6, DM8, DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013) and the Moor Park Conservation Area Appraisal (2006).

C2 Before any further building operations above ground level hereby permitted are commenced, samples and details of the proposed tile hanging and materials to be used in the construction of the replacement chimneys shall be submitted to and approved in writing by the Local Planning Authority and no external materials shall be used other than those approved.

Reason: To ensure that the external appearance of the dwelling is satisfactory in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1 and DM3 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

C3 Before any further building operations above ground level hereby permitted are commenced, two bat boxes shall be erected on the retained trees on site in accordance with section 4.2 of the submitted Emergence and Activity Surveys prepared by Arbtech Consulting Ltd. (dated 08/08/2018) as approved under application 20/0701/DIS. These bat boxes shall consist of two of the following Schwegler 1FF Bat Boxes or Chillon Woodstone Bat Boxes shall be installed at least 3m off of the ground and facing in a southerly direction. Bat boxes shall be retained thereafter.

Reason: To maintain wildlife habitat and to meet the requirements of Policies CP1, CP9 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

- C4 Unless specified on the approved plans, all new works or making good to the retained fabric shall be finished to match in size, colour, texture and profile those of the existing building.

Reason: To ensure that the external appearance of the dwelling is satisfactory in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1 and DM3 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C5 The development shall be implemented in accordance with the Construction Method Statement approved under application 20/0701/DIS.

Reason: To ensure that the original pre-1958 dwelling is retained in accordance with the Policies CP1 and CP12 of the Core Strategy (adopted October 2011), Policy DM3 of the Development Management Policies LDD (adopted July 2013) and the Moor Park Conservation Area Appraisal (adopted 2006).

- C6 Prior to occupation of the development hereby permitted, details of screening to a height of 1.8m as measured from the surface of the raised terrace to be erected to the flanks of the raised terrace shall be submitted to and approved in writing by the Local Planning Authority. The screening shall be erected prior to occupation in accordance with the approved details, and maintained as such thereafter.

Reason: To safeguard the amenities of the occupiers of neighbouring residential properties in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

8.2 **Informatives:**

- I1 With regard to implementing this permission, the applicant is advised as follows:

All relevant planning conditions must be discharged prior to the commencement of work. Requests to discharge conditions must be made by formal application. Fees are £116 per request (or £34 where the related permission is for extending or altering a dwellinghouse or other development in the curtilage of a dwellinghouse). Please note that requests made without the appropriate fee will be returned unanswered.

There may be a requirement for the approved development to comply with the Building Regulations. Please contact Hertfordshire Building Control (HBC) on 0208 207 7456 or at buildingcontrol@hertfordshirebc.co.uk who will be happy to advise you on building control matters and will protect your interests throughout your build project by leading the compliance process. Further information is available at www.hertfordshirebc.co.uk.

Community Infrastructure Levy (CIL) - Your development may be liable for CIL payments and you are advised to contact the CIL Officer for clarification with regard to this. If your development is CIL liable, even if you have been granted exemption from the levy, please be advised that before commencement of any works it is a requirement under Regulation 67 of The Community Infrastructure Levy Regulations 2010 (As Amended) that CIL form 6 (Commencement Notice) must be completed, returned and acknowledged by Three Rivers District Council before building works start. Failure to do so will mean you lose the right to payment by instalments (where applicable), and a surcharge will be imposed. However, please note that a Commencement Notice is not required for residential extensions IF relief has been granted.

Care should be taken during the building works hereby approved to ensure no damage occurs to the verge or footpaths during construction. Vehicles delivering materials to this development shall not override or cause damage to the public footway. Any damage will require to be made good to the satisfaction of the Council and at the applicant's expense.

Where possible, energy saving and water harvesting measures should be incorporated. Any external changes to the building which may be subsequently required should be discussed with the Council's Development Management Section prior to the commencement of work.

- 12 The applicant is reminded that the Control of Pollution Act 1974 allows local authorities to restrict construction activity (where work is audible at the site boundary). In Three Rivers such work audible at the site boundary, including deliveries to the site and running of equipment such as generators, should be restricted to 0800 to 1800 Monday to Friday, 0900 to 1300 on Saturdays and not at all on Sundays and Bank Holidays.
- 13 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority suggested modifications to the development during the course of the application and the applicant and/or their agent submitted amendments which result in a form of development that maintains/improves the economic, social and environmental conditions of the District.
- 14 Applicants are advised that paragraph 3.8 of the approved Moor Park Conservation Area Appraisal (2006) specifically seeks to protect underground water courses that may be impacted as a result of the construction (or extension) of basements within the Conservation Area. Consequently the applicant is requested to have careful regard to this matter and especially, in the carrying out of the development, to ensure that:-
 - (i) no surface water flooding will occur as a result of the basement construction and
 - (ii) (ii) that there will be no material harm to any underground water course(s) in the vicinity of the site as a result of the basement construction.

PLANNING COMMITTEE – 15 JULY 2021

PART I - DELEGATED

9. 21/1368/FUL - Subdivision of site and construction of detached bungalow at 27 GABLE CLOSE, ABBOTS LANGLEY, HERTS, WD5 0LD (DCES)

Parish: Abbots Langley
Expiry of Statutory Period: 05.08.2021

Ward: Gade Valley
Case Officer: Lauren Edwards

Recommendation: That the decision be delegated to the Head of Regulatory Services to consider any representations received following the expiry of the consultation period and that Planning Permission be Refused.

Reason for consideration by the Committee: Called in by three members of the planning committee regardless of Officer Recommendation given the site's planning history.

1 Relevant Planning History

1.1 18/1702/CLPD - Certificate of Lawfulness Proposed Development: Loft conversion including rear dormer and front rooflights – Permitted and implemented.

1.2 18/1703/PDE - Prior Approval: Single storey rear extension (maximum depth 6 metres, maximum height 3 metres, maximum eaves height 3 metres) – Permitted and implemented.

1.3 19/0579/FUL - Conversion of semi-detached house into two two-bedroom flats with associated parking and new vehicular access – Refused, appeal dismissed. Reason for refusal:

R1 – Affordable Housing

The proposed development would not contribute to the provision of affordable housing and it has not been demonstrated that such provision would not be viable. The development therefore fails to meet the requirements of Policy CP4 of the Core Strategy (adopted October 2011) and the Affordable Housing Supplementary Planning Document (approved June 2011).

1.4 19/1197/FUL - Conversion of semi-detached house into two two-bedroom flats with associated parking and new vehicular access – Permitted and implemented.

1.5 20/0973/FUL - Subdivision of site and construction of detached bungalow with loft accommodation served by rear dormer- Refused for the following reasons:

R1 *The proposed development, by reason of its siting, layout and design would introduce a cramped, contrived and incongruous form of development which would be detrimental to the character and appearance of the area and visual amenities of the street scene. The proposal would therefore be contrary to Policies CP1, CP3 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD.*

R2 *The proposed development would further increase the existing shortfall in parking provision. This shortfall of parking provision would result in a significant increase for pressure in parking outside the site to the detriment of the visual character of the area and resulting in harm to the free flow of highway movements. The development would therefore be contrary to Policies CP1, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM13 and Appendix 5 of the Development Management Policies document (adopted July 2013).*

R3 *The proposed development would not contribute to the provision of affordable housing and it has not been demonstrated that such provision would not be viable. The development therefore fails to meet the requirements of Policy CP4 of the Core Strategy (adopted October 2011) and the Affordable Housing Supplementary Planning Document (approved June 2011).*

Appeal dismissed on the grounds of R1 and R3 only.

2 Description of Application Site

- 2.1 The application site occupies an irregular shaped plot in the south western corner of Gable Close. The existing building on the site is a two storey semi-detached property which has been converted into two separate residential units and is built of a brown brick. The property has undertaken a loft conversion including front rooflights and rear dormer and a single storey rear extension.
- 2.2 To the south of the application site is an existing single storey flat roofed outbuilding which abuts the boundary with No.26. The neighbouring dwellings within Gable Close are built of a similar architectural style and scale to the application dwelling and some have undertaken extensions. There are currently three on-site parking spaces, two of which are allocated to one flat and one to the other.

3 Description of Proposed Development

- 3.1 This application seeks full planning permission for the subdivision of the site and construction of detached bungalow.
- 3.2 The proposed new dwelling would be single storey with a flat roof design. The proposed dwelling would have an 'L' shaped footprint. It would have a splayed flank to the southern side of the site. The deepest section of the dwelling would have a depth of 9m with an overall width of 9.8m. The shallower section of flank facing the existing building would have a depth of 6m.
- 3.3 The proposed dwelling would be sited 0.2m from the boundary with No.26 and 0.3m from the boundary with neighbours along The Fairway. A separation distance of 3m would be retained between the proposed dwelling and the flank wall of No.27. The main section of the building would be 3m high with the splayed section set down 0.3m.
- 3.4 The proposed dwelling would be timber framed and clad in larch boarding. The windows and doors would be timber/aluminium composite framed. The proposed dwelling would have solar panels on its roof.

4 Consultation

4.1 Statutory Consultation

4.1.1 Abbots Langley Parish Council: [Objection]

Members feel that the building looks shoehorned into the site. It is very cramped and the space to the entranceway is a concern for neighbouring properties. Access to the site will be too restricted for vehicle access and will therefore result in further on street parking on an already congested road.

4.1.2 Hertfordshire County Council – Highway Authority:

Decision

Notice is given under article 18 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that the Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission.

Highway Informatives

HCC as Highway Authority recommends inclusion of the following Advisory Note (AN) to ensure that any works within the highway are carried out in accordance with the provisions of the Highway Act 1980:

AN 1) Road Deposits: It is an offence under section 148 of the Highways Act 1980 to deposit mud or other debris on the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047

AN 2) Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence.

Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047

AN 3) Obstruction of public highway land: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence.

Comments

The proposal comprises of the subdivision of the site and construction of detached bungalow at 27 Gable Close, Abbots Langley. Gable Close is a 30 mph unclassified local access route that is highway maintainable at public expense.

Vehicle Access

The site has proposed vehicular access from Gable Close. The proposed dwelling would use the approved VXO in application ref: 19/1197/FUL, which is considered to be acceptable by HCC as Highway Authority and already implemented.

Parking

Three car parking spaces were included in the plans for application ref: 19/1197/FUL, and it is proposed that one of these spaces would be allocated to the proposed new dwelling, with the remaining two allocated to the two flats at 27 Gable Close, equating to one parking space per dwelling. Due to the scale of the dwellings, this is acceptable to HCC, however Three Rivers District Council (TRDC) may have concerns with the level of parking. The applicant is reminded that TRDC are the parking authority for the district and must therefore be ultimately satisfied with the proposed level of parking at the site. The proposed parking space is acceptable to HCC at 2.4m x 4.8m.

- Provides housing in a housing shortage
- Not visible
- Low energy house

5 Reason for Delay

5.1 Not applicable.

6 Relevant Planning Policy, Guidance and Legislation

6.1 National Planning Policy Framework and National Planning Practice Guidance

In 2019 the new National Planning Policy Framework was published. This is read alongside the National Planning Practice Guidance (NPPG). The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another. The NPPF is clear that “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework”.

The NPPF states that ‘good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities’. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would ‘significantly and demonstrably’ outweigh the benefits.

6.2 The Three Rivers Local Development Plan

The application has been considered against the policies of the Local Plan, including the Core Strategy (adopted October 2011), the Development Management Policies Local Development Document (adopted July 2013) and the Site Allocations Local Development Document (adopted November 2014) as well as government guidance. The policies of Three Rivers District Council reflect the content of the NPPF.

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies PSP2, CP1, CP2, CP3, CP4, CP8, CP9, CP10 and CP12.

The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM1, DM4, DM6, DM8, DM10 and DM13 and Appendices 2 and 5.

The Site Allocations Local Development Document (SALDD) was adopted on 25 November 2014 having been through a full public participation process and Examination in Public. Policy SA1 is relevant.

6.3 Other

Affordable Housing Supplementary Planning Document (adopted June 2011).

The Community Infrastructure Levy (CIL) Charging Schedule (adopted February 2015).

The Localism Act received Royal Assent on 15 November 2011. The growth and Infrastructure Act achieved Royal Assent on 25 April 2013.

The Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, the Natural Environment and Rural Communities Act 2006 and the Habitat Regulations 1994 may also be relevant.

7 Planning Analysis

7.1 Principle of Development

7.1.1 The proposed development would result in a net gain of one dwelling. The site is not identified as a housing site in the Site Allocations document. However, as advised in this document, where a site is not identified for development, it may still come forward through the planning application process where it will be tested in accordance with relevant national and local policies.

7.1.2 Core Strategy Policy CP2 advises that in assessing applications for development not identified as part of the District's housing land supply including windfall sites, applications will be considered on a case by case basis having regard to:

- i. The location of the proposed development, taking into account the Spatial Strategy
- ii. The sustainability of the development and its contribution to meeting local housing needs
- iii. Infrastructure requirements and the impact on the delivery of allocated housing sites
- iv. Monitoring information relating to housing supply and the Three Rivers housing targets.

7.1.3 The application site is within Abbots Langley which is identified as a Key Centre in the Core Strategy. The Spatial Strategy of the Core Strategy advises that new development will be directed towards previously developed land and appropriate infilling opportunities within the urban areas of Key Centres. Policy PSP2 advises that Key Centres will provide approximately 60% of the District's housing requirements over the plan period.

7.1.4 The proposed dwelling would be on garden land which would not be considered to be development of 'previously developed land', as defined within Annex 2 of the NPPF. While the NPPF does not include a presumption against development on or within private residential gardens, each application must be assessed on its individual merits, and the location of the site within the Key Centre of Abbots Langley is noted. As such there is no in principle objection to residential development on the site however this is subject to all other material considerations as outlined below.

7.2 Impact on Character and Street Scene

7.2.1 Policy CP1 of the Core Strategy (adopted October 2011) seeks to promote buildings of a high enduring design quality that respect local distinctiveness and Policy CP12 of the Core Strategy (adopted October 2011) relates to design and states that in seeking a high standard of design the Council will expect development proposals to 'have regard to the local context and conserve or enhance the character, amenities and quality of an area'. Development should make efficient use of land but should also respect the 'distinctiveness of the surrounding area in terms of density, character, layout and spacing, amenity, scale, height, massing and use of materials'; 'have regard to the local context and conserve or enhance the character, amenities and quality of an area' and 'incorporate visually attractive frontages to adjoining streets and public spaces'.

7.2.2 In terms of new residential development, Policy DM1 of the DMLDD advises that the Council will protect the character and residential amenity of existing areas of housing from forms of 'backland', 'infill' or other forms of new residential development which are inappropriate for the area. Development will only be supported where it can be demonstrated that the proposal will not result in:

- i. Tandem development;
- ii. Servicing by an awkward access drive which cannot easily be used by service vehicles;
- iii. The generation of excessive levels of traffic;
- iv. Loss of residential amenity;
- v. Layouts unable to maintain the particular character of the area in the vicinity of the application site in terms of plot size, plot depth, building footprint, plot frontage width, frontage building line, height, gaps between buildings and streetscape features (e.g. hedges, walls, grass verges etc.)

7.2.3 The Design Criteria at Appendix 2 of the Development Management Policies document set out that new development should not be excessively prominent in relation to the general street scene and should respect the character of the street scene, particularly with regard to the spacing of properties, roof form, positioning and style of windows and doors and materials.

7.2.4 This application follows a previously refused planning application (20/0973/FUL) which was dismissed at appeal. The LPA's reasons for refusal are summarised at paragraph 1.5 above. When compared to the previously refused scheme, the footprint of the dwelling now proposed would be larger extending closer towards the boundary with No.26 and would be sited closer to the southern boundary of the application site. However the previously proposed dwelling had a partially gabled roof form with accommodation in the roofspace and was 2.5m higher than the dwelling now proposed.

7.2.5 It is acknowledged that the proposed dwelling would be single storey in height and would not appear significantly higher than the existing store to the south of the site. Notwithstanding this, its use as a separate residential unit would be apparent and the building would fail to appear as an ancillary building serving No.27 by virtue of its overall scale and features necessary for its function as a dwelling. Gable Close and the wider locality is characterised by semi-detached and terraced two storey dwellings as such the proposed detached bungalow would appear as an incongruous addition to the streetscene. The height and siting of the proposed dwelling is acknowledged, and the changes made since the previously refused/dismissed scheme, however reduced prominence from public vantage points does not, in itself, mitigate the harm arising from an otherwise cramped and contrived form of development.

7.2.6 The appeal decision for 20/0973/FUL is afforded weight and constitutes a material planning consideration in the assessment of this application. The appeal inspector (APP/P1940/W/20/3257727) noted that 'some properties have been extended and altered but overall, they retain a strong uniform appearance as part of a much larger residential estate'. The Inspector continued '...larger gaps in the corners, including the appeal site, provide visual and spatial relief, allowing for views of mature trees and landscaping that positively contributes to the character and appearance of the area. This suburban residential area has a distinct character and appearance and a sensitive approach needs to be taken to avoid development that fails to reflect its carefully designed and deliberate layout, spaces and building forms, views and setting'. In assessing the previous proposal, the Inspector concluded that the proposed development would 'introduce significant built form onto the site, substantially eroding the gap with No. 26'. The appeal inspector did comment of the form, design and appearance of the dwelling being 'quite unlike anything that forms its immediate context'. Furthermore, the Inspector commented that the incongruity of the proposal 'would also be harmfully apparent from surrounding properties'.

7.2.7 The current proposal does now introduce a different form and appearance, with a flat roof replacing hipped roof forms, however the proposal would still be quite unlike anything else in the immediate context. The proposed development despite its reduction in height would still result in the introduction of incongruous built form into the existing 'gap' resulting in the loss of this space. Therefore the principle of the inspector's findings remain and the reason for dismissal is not considered to have been overcome.

- 7.2.8 Whilst the contemporary design of the dwelling is not itself considered to be harmful the principle of the form, siting and nature of an additional single storey detached residential unit in this location is not outweighed by the design.
- 7.2.9 In summary the proposed development by reason of its siting, layout and design would introduce a cramped, contrived and incongruous form of development which would be detrimental to the character and appearance of the area and visual amenities of the street scene. This would be contrary to Policies CP1, CP3 and CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies LDD.
- 7.3 Impact on amenity of neighbours
- 7.3.1 Policy CP12 of the Core Strategy states that development should 'protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space'. Policy DM1 and Appendix 2 of the Development Management Policies document set out that development should not result in the loss of light to the windows of neighbouring properties nor allow overlooking, and should not be excessively prominent in relation to adjacent properties
- 7.3.2 As such the proposal would not result in an adverse impact on neighbouring amenity in accordance with Policies CP1 and CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies (Local Development Document).
- 7.3.3 No objections were raised by the LPA in its consideration of the previous application in respect of the impact on neighbours. It is noted that the building subject of the current application is sited in a different position to the previous scheme. The proposed dwelling would be set in 0.2m from the boundary with the neighbour at No.26. However this neighbour has an existing single storey side projection and there is an existing store set up to the boundary. As such, given this, in addition to the single storey flat roofed nature of the dwelling and that the section closest to this neighbour would not project beyond their front elevation it is not considered that the proposed dwelling would result in an overbearing impact or loss of light to this neighbour.
- 7.3.4 The proposed dwelling would be sited over 12m from the rear elevations of the neighbours in The Fairway and over 40m from the neighbours in School Mead. It is acknowledged that the proposed dwelling may be visible from these neighbours however this does not, in itself, amount to a harmful impact on the amenities of occupants. Owing to the separation distances and the single storey flat roofed nature of the proposed dwelling it is not considered that the proposed dwelling would result in an unacceptable impact by virtue of an overbearing impact or loss of light to the neighbours in The Fairway.
- 7.3.5 The proposed dwelling would be set in 3m from the boundary with No.27. Whilst it is noted that the ground floor unit has fenestration at ground floor level it is not an unusual relationship for two flanks to run parallel with one another in a residential location. Given this in addition to the single storey nature of the dwelling and separation distances it is not considered that the proposed dwelling would result in unacceptable harm to the existing units at No.27.
- 7.3.6 Owing to its siting at ground floor level and orientation relative to neighbouring properties the proposed fenestration would not give rise to any unacceptable overlooking.
- 7.3.7 In summary the proposed development would not result in any significant adverse impact on any neighbouring dwellings and the development would be acceptable in this regard in accordance with Policies CP1 and CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies LDD.
- 7.4 Affordable Housing

- 7.4.1 **Appendix A** of this report sets out the position of the Council and evidence relating to the application of the affordable housing threshold in Core Strategy Policy CP4: Affordable Housing.
- 7.4.2 This application proposes a net gain of one dwelling. Therefore the proposed development would be liable for a commuted sum payment towards affordable housing. This site lies within the “The Langleys and Croxley” market area where the figure is £750 per square metre. The Council have calculated the net gain in habitable floorspace to be 40sqm. The affordable housing payment required is, therefore, £750 x 40sqm = £30,000. The applicant has confirmed that they are willing to enter into a Section 106 agreement with the LPA to secure this amount as a financial contribution in lieu of on-site provision of affordable housing. Subject to the completion of the S106 Agreement, the proposed development would therefore be acceptable in this respect in accordance with Policy CP4 of the Core Strategy (adopted October 2011) and the Affordable Housing Supplementary Planning Document (approved June 2011). However, given the conclusions reached above in respect of other planning matters, a Legal Agreement has not been completed and on that basis the proposal fails to provide adequate contribution toward affordable housing, contrary to Policy CP4.
- 7.5 Quality of accommodation for future occupants
- 7.5.1 Policy CP12 of the Core Strategy states that development should take into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space. Section 3 of Appendix 2 of the Development Management Policies LDD sets out indicative levels of amenity space dependent on the number of bedrooms.
- 7.5.2 Appendix 2 of the Development Management Policy also sets out the requirements for amenity space and states the following:
- Flats: One bed: 21 square metre
- Additional bedrooms: 10 square metres each allocated specifically to each flat or communally.
- Two bedroom dwelling: 63 square metres
- 7.5.3 The existing ground floor flat would retain 40sqm of amenity space whilst the upper floor flat would have 66sqm. Both flats have 2 bedrooms and as such would comply with the requirements of Appendix 2 in this respect. The new dwelling would have 170sqm of rear garden which would also comply with standards. Notwithstanding the provision of sufficient amenity space the proposed development would still constitute a cramped and contrived form of development resulting from the overdevelopment of the site and would be at odds with the prevailing character of the area.
- 7.6 Wildlife and Biodiversity
- 7.6.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive.
- 7.6.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of applications in accordance with Policy CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the DMLDD. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications that may be affected prior to determination of a planning application.

7.6.3 The application has been submitted with a Biodiversity Checklist and states that no protected species or biodiversity interests will be affected as a result of the application.

7.7 Trees and Landscaping

7.7.1 The development would not result in the loss of any trees within the site. The application site is not located within a Conservation Area nor are there any protected trees on or near the site. As such it is not considered that the proposed development would result in unacceptable harm in this respect.

7.8 Highways, Access and Parking

7.8.1 Core Strategy Policy CP10 requires development to provide a safe and adequate means of access to make adequate provision for all users, including car parking. Appendix 5 of the Development Management Policies document sets out parking standards for developments within the District.

7.8.2 In accordance with the guidelines of Appendix 5 the development would require the following parking requirements:

The parking requirements for the development would be as follows:
2 x 2 bedroom flats= 2 spaces per unit: 4 spaces (2 assigned spaces)
1 x 2 bedroom dwelling= 2 spaces per dwelling (1 assigned space)
Total: 6 spaces (3 assigned spaces).

7.8.3 Each unit is proposed to have 1 space. However there would still be an overall shortfall of 3 spaces. The LPA refused planning application 20/0973/FUL on the basis that a shortfall of 3 spaces would be harmful. However the appeal inspector did not concur with the LPA on this point. The appeal inspector (APP/P1940/W/20/3257727) commented that they observed during their site visit opportunities to access a range of alternative transport modes and that there were no parking restrictions in the immediate area. The appeal inspector also noted that there was availability within parking bays and on street therefore did not concur that the resultant shortfall would increase parking pressure to such an extent that it would harm to the free flow of traffic or result in harm to highway safety.

7.8.4 In light of this appeal decision, which constitutes a material planning consideration for this application, it is not considered that the proposed development would result in harm in this respect. No new material considerations are identified since the appeal decision which would alter the approach taken. A parking management plan is suggested to ensure that a space is allocated to each of the three units on site.

7.9 Sustainability

7.9.1 Paragraph 93 of the NPPF states that "Planning plays a key role in helping to shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure".

7.9.2 Policy CP1 of the Core Strategy requires the submission of an Energy and Sustainability Statement demonstrating the extent to which sustainability principles have been incorporated into the location, design, construction and future use of proposals and the expected carbon emissions.

7.9.3 Policy DM4 of the DMLDD requires applicants to demonstrate that development will produce 5% less carbon dioxide emissions than Building Regulations Part L (2013) requirements having regard to feasibility and viability. This may be achieved through a combination of energy efficiency measures, incorporation of on-site low carbon and renewable technologies, connection to a local, decentralised, renewable or low carbon energy supply. The policy states that from 2016, applicants will be required to demonstrate

that new residential development will be zero carbon. However, the Government has announced that it is not pursuing zero carbon and the standard remains that development should produce 5% less carbon dioxide emissions than Building Regulations Part L (2013) requirements having regard to feasibility and viability.

7.9.4 The energy statement submitted outlines an energy saving of 56.63% and as such the proposed development would comply with Policy DM4 in this respect.

7.10 Refuse and Recycling

7.10.1 Policy DM10 (Waste Management) of the DMLDD advises that the Council will ensure that there is adequate provision for the storage and recycling of waste and that these facilities are fully integrated into design proposals. New developments will only be supported where:

- i) The siting or design of waste/recycling areas would not result in any adverse impact to residential or work place amenity
- ii) Waste/recycling areas can be easily accessed (and moved) by occupiers and by local authority/private waste providers
- iii) There would be no obstruction of pedestrian, cyclists or driver site lines

7.10.2 The submitted plans do not indicate a specific location for a bin store to serve the proposed dwelling however there is space for bins to be accommodated adjacent to the front elevation or at the rear with access to the highway. Notwithstanding this the number of bins which would be required for 3 separate residential units far exceeds the number expected for a single family unit. On collections day the refuse bins would obstruct the access to the new house and their parking. Whilst there is adequate bin storage adjacent to the existing building the collection day arrangements would cause inconvenience to occupiers and could cause obstructions. This is further indicative that the site cannot accommodate an additional residential unit.

7.11 Infrastructure Contributions

7.11.1 Core Strategy Policy CP8 requires development to make adequate contribution to infrastructure and services. The Three Rivers Community Infrastructure Levy (CIL) came into force on 1 April 2015. The levy applies to new dwellings and development comprising 100sq. metres or more of floorspace (net gain), including residential extensions, although exemptions/relief can be sought for self-build developments and affordable housing.

7.11.2 The Charging Schedule sets out that the application site is within 'Area B' within which there is a charge of £120 per sq. metre of residential development

7.12 The 'Tilted Balance'

7.12.1 The LPA cannot currently demonstrate a 5 year housing land supply, and therefore paragraph 11 of the NPPF is engaged. Paragraph 11 and footnote 7 clarifies that in the context of decision-taking "the policies which are most important for determining the application are out-of-date when the LPA cannot demonstrate a five year supply of deliverable housing sites". The most important policies for determining a housing application are considered to be Policies CP2 (Housing Supply) and Policy CP3 (Housing Mix and Density). Paragraph 11 continues, "Plans and decisions should apply a presumption in favour of sustainable development...where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: a) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or b) 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."

7.12.2 The NPPF identifies that there are 3 dimensions to sustainable development: social, economic and environmental. In terms of economic benefits, there would be very limited short term benefits as a result of construction activities, and benefits resulting from the expenditure of new residents locally.

7.12.3 Notwithstanding the potential short term economic benefits, the identified harm to the character of the area demonstrates that the proposed development would not constitute social and environmental sustainability. Any benefits would be limited given the development is only proposing an uplift of one market dwelling. A Section 106 agreement has also not been completed during the course of the application and as such the proposed development does not provide a contribution towards Affordable Housing. The proposal would not be an appropriate form of development within the locality resulting in harm to the character of the area which surmounts to social and environmental negatives. The environmental positives of the design in relation to energy efficiency (56.63% and therefore 51.63% above Part L requirements) are acknowledged however the proposal still results in the loss of open green landscaping which has other environmental benefits. As such this positive is not considered to outweigh the other identified negatives. On this basis, it is not considered that the proposal would constitute sustainable development and the adverse impacts of granting planning permission are considered to significantly and demonstrably outweigh the benefits.

8 Recommendation

8.1 That the decision be delegated to the Head of Regulatory Services to consider any representations received following the expiry of the consultation period and PLANNING PERMISSION BE REFUSED for the following reasons:

R1 The proposed development, by reason of its siting, layout and design would introduce a cramped, contrived and incongruous form of development which would be detrimental to the character and appearance of the area and visual amenities of the street scene. The proposal would therefore be contrary to Policies CP1, CP3 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD.

R2 The proposed development would not contribute to the provision of affordable housing and it has not been demonstrated that such provision would not be viable. The development therefore fails to meet the requirements of Policy CP4 of the Core Strategy (adopted October 2011) and the Affordable Housing Supplementary Planning Document (approved June 2011).

8.2 Informatives:

I1 The Local Planning Authority has been positive and proactive in considering this planning application in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority encourages applicants to have pre-application discussions as advocated in the NPPF. The applicant and/or their agent did not have formal pre-application discussions with the Local Planning Authority and the proposed development fails to comply with the requirements of the Development Plan and does not maintain/improve the economic, social and environmental conditions of the District.

**APPENDIX A: Evidence Relating to the
Application of the Affordable Housing
Threshold in Core Strategy Policy CP4:
Affordable Housing**

Evidence Relating to the Application of the Affordable Housing Threshold in Core Strategy Policy CP4: Affordable Housing

Background

- 1.1 In November 2014, the Minister of State for Housing and Planning issued a Written Ministerial Statement (WMS) setting out changes to national planning policy. The WMS stated that financial contributions towards affordable housing should no longer be sought on sites of 10 units or less and which have a maximum combined gross floor area of 1,000sqm. National Planning Practice Guidance (NPPG) was amended to reflect this. However on 31st July 2015 the High Court held (*West Berkshire Council v SSCLG* [2015]) that the policy expressed through the WMS was unlawful and the NPPG was changed to reflect this. On 11th May 2016 the Court of Appeal reversed the High Court decision. The NPPG was subsequently amended to reflect the WMS on 19th May 2016.
- 1.2 In light of the above developments, between November 2014 and August 2015 and May 2016 and 1st September 2017 the Council gave greater weight to the WMS policy and associated NPPG guidance in it than to adopted Policy CP4 of its Core Strategy in respect of development proposals for 10 dwellings or less and which had a maximum combined gross floor area of 1000 sq metres. However, having undertaken an analysis of up to date evidence of housing needs (**The Needs Analysis**), officers advised in 2017 that when considering the weight to be given to the WMS in the context of breaches of the adopted development plan policy, the local evidence of housing need contained in the Needs Analysis should generally be given greater weight. On 1st September 2017 the Council resolved to have regard to the Needs Analysis as a consideration of significant weight when considering the relationship between Policy CP4 and the WMS for the purposes of Section 70(2) Town and Country Planning Act 1990 and Section 38(6) Planning and Compulsory Purchase Act 2004 in respect of development proposals of 10 dwellings or less.
- 1.3 On 24th July 2018 a new version of the National Planning Policy Framework¹ (the Framework) was published with immediate effect for development management purposes. Paragraph 63 of the Framework advises that *“Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer).”* Annex 2 of the NPPF defines *“major development”* as *“for housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more.”*
- 1.4 The Council's current affordable housing policy is set out in Policy CP4 of the Core Strategy (adopted in October 2011) and establishes that :
 - a) *“...All new development resulting in a net gain of one or more dwellings will be expected to contribute to the provision of affordable housing.”*
 - e) *“In most cases require affordable housing provision to be made on site, but in relation to small sites delivering between one and nine dwellings, consider the use of commuted payments towards provision off site. Such payments will be broadly equivalent in value to on-site provision but may vary depending on site circumstances and viability.”*

¹ The revised National Planning Policy Framework was updated in February 2019 and retains the policies as stated in Paragraph 1.3 of this document.

- 1.5 The supporting text to Policy CP4 summarises the justification for it:
- Average house prices in Three Rivers are some of the highest in the country outside of London. As a result, many local people have difficulty accessing housing on the open market.
 - A Housing Needs Study estimated that 429 affordable dwellings would be needed each year to satisfy need. Such provision would exceed the total number of all housing types provided in the District in any year.
 - The 2010 Strategic Market Housing Assessment (SMHA) found that the requirement for affordable housing in and around the Three Rivers area remains exceptionally high.
 - In order to completely satisfy affordable housing requirements, **all** future housing in the district to 2021 would need to be affordable.
- 1.6 This policy remains the legal starting point for the consideration of planning applications under Section 38(6) PCPA 2004, which requires that the Council determines applications in accordance with the adopted development plan unless material considerations indicate otherwise. Revised NPPF 63 is a material consideration. The weight to be given to it is a matter for the decision maker when determining each planning application. This note explains the advice from the Head of Planning Policy & Projects and Head of Regulatory Services on the weight that they recommend should be given to NPPF 63 for these purposes in light of the Needs Analysis.
- 1.7 Since the adoption of its Core Strategy in 2011, Three Rivers has received small site affordable housing contributions amounting to over **£2.1 million**. Utilising those monies, development is currently underway which will deliver 21 units of affordable housing, with the remaining monies utilised as a contribution towards the delivery of a further 17 affordable dwellings. It is clear that Three Rivers' policy has already delivered a significant contribution towards the delivery of much needed affordable housing in the district.
- 1.8 In addition to the £2.1 million already received, small scale (1-9 unit) schemes have secured to date a further **£2.5million to £3.8million²** of affordable housing contributions in respect of unimplemented but current planning permissions. All of those schemes were agreed to be viable with those sums secured. The Council has several large scale future residential developments planned which will aim to deliver substantial quantities of further affordable housing in the District in the medium term future, utilising those additional affordable housing contributions as and when they are received.
- 1.9 Policy CP4 makes it clear that a requirement for a scheme to contribute towards the provision of affordable housing is subject to viability considerations and is therefore consistent with paragraph 122 of the Framework. The application of CP4, which includes this in built viability allowance, cannot properly be said to be a barrier to delivery. Indeed between 1 October 2011 and 31 March 2020 226 planning permissions were granted for minor residential developments which contribute a net dwelling gain. Of those only 21 have been permitted to lapse which is only 9% of all such schemes.

² The sums payable secured by Sec 106 will be subject to indexation, in most cases from June 2011 which will not be calculable until the date of payment. The quoted upper limit includes a policy compliant contribution of £1,341,250.00 which relates to a minor development PP subject to a late stage viability review mechanism. The AHC, whilst capped at this figure, will only be known once viability is re-run at occupation when actual build costs and realised sales values are understood. The contribution paid could therefore be substantially less than the policy compliant sum referred to above, hence the range specified.

- 1.10 Current evidence of housing need in the District is noted below at 2.4 to 2.11. It confirms that the needs underlying the adopted development plan policy remain pressing.

Importance of Small Sites to Three Rivers

- 1.11 It is important to acknowledge the percentage of residential development schemes which tend to come forward in the District which propose the delivery of less than 10 dwellings: from 1 April 2017 to 31 March 2020, 177 planning applications for residential development involving a net gain of dwellings were determined³ by the Council. Of these, 158 applications (89%) were for schemes which proposed a net gain of 1-9 units. Having a large number of small sites is an inevitable consequence of the District being contained within the Metropolitan Green Belt. The contribution to both market housing supply and affordable housing supply are therefore both material to overall identified needs and adopted development plan objectives. This is dealt with in more detail below.
- 1.12 If the weight to be given to the Framework is greater than the adopted development plan, this large proportion of Three Rivers' expected new housing delivery will contribute nothing towards affordable housing. This would compromise Three Rivers' ability to deliver its objectively assessed need for affordable housing.

2 Development Plan Policies and the WMS

- 2.1 The content of the Framework is a material consideration in any planning decision, and one which the decision making authority must weigh against the development plan as the starting point under section 38(6) of the 2004 Planning and Compulsory Purchase Act. The correct approach is to:
- Consider the starting point under the development plan policies
 - Have regard to the Framework and its objectives if those development plan policies would be breached – it is officers' view that the Framework should be given considerable weight as a statement of national policy post-dating the Core Strategy
 - Consider up to date evidence on housing needs
 - Consider whether the Framework should outweigh the weight to be given to the local evidence of affordable housing need and the breach of the adopted development plan policy.
- 2.2 This approach reflects the Court of Appeal's judgment in West Berkshire, which held that whilst the government, whether central or local, could state policy "rules" absolutely, decision makers must consider them without treating them as absolute: their discretion to weigh material considerations in the balance and do something different cannot be fettered by policy:

³ Includes refused and approved applications. Excludes prior approval developments.

“the exercise of public discretionary power requires the decision maker to bring his mind to bear on every case; they cannot blindly follow a pre-existing policy without considering anything said to persuade him that the case in hand is an exception”

2.3 At paragraph 26 of the judgment, the court cited statements made to the High Court on behalf of the Secretary of State, describing those as being “no more than a conventional description of the law’s treatment of the Secretary of State’s policy in the decision making process”:

“As a matter of law the new national policy is only one of the matters which has to be considered under sec 70(2) and sec 38(6) when determining planning applications... in the determination of planning applications the effect of the new national policy is that although it would normally be inappropriate to require any affordable housing or social infrastructure contributions on sites below the threshold stated, local circumstances may justify lower (or no) thresholds as an exception to the national policy. It would then be a matter for the decision maker to decide how much weight to give to lower thresholds justified by local circumstances as compared with the new national policy”

As confirmed by the Court of Appeal decision in the West Berkshire case, whilst the WMS, and now the Framework, is clear with regard to the Government’s intentions on planning obligations in relation to small sites, the weight to attach to a development plan policy is a matter of discretion for the decision taker. Policies should not be applied rigidly or exclusively when material considerations may indicate an exception may be necessary.

In determining an appeal in Elmbridge, Surrey in August 2016 (appeal reference: APP/K3605/W/16/3146699) the Inspector found that *“whilst the WMS carries considerable weight, I do not consider it outweighs the development plan in this instance given the acute and substantial need for affordable housing in the Borough and the importance of delivering through small sites towards this.”* The existence of evidence of housing need is important in this context. That general principle has not been changed by the Revised NPPF.

2.4 Officers advise that whilst the Framework is a material consideration, breaches of Policy CP4 should not, in light of ongoing evidence of housing need in the Needs Analysis, be treated as outweighed by the Framework. This conclusion has been reached having had regard to the following relevant factors:

- **General House Price Affordability in Three Rivers**
- **Affordable Housing Supply Requirements in Three Rivers**
- **Affordable Housing Provision in Three Rivers**
- **Extent of residential development schemes proposed which are for sites delivering net gain of less than 10 dwellings**
- **The contribution towards the provision of affordable housing Policy CP4(e) has historically made in respect of small sites**
- **Relevant Appeal Decisions**
- **The fact that the adopted development plan policy does not impose burdens where they would render schemes unviable.**

General House Price Affordability in Three Rivers

2.5 Due to the District's close proximity to London, Three Rivers has traditionally been situated within a high house price area. According to data published by the Office of National Statistics (ONS) in the third quarter of 2016⁴, the lowest quartile house price in Three Rivers in 2016, representing the cheapest properties in the District was £325,000.00, making it the **seventh** most expensive local authority area in England and Wales (excluding London), out of a total of three hundred and six local authority areas (see table 1 below).

Number	Local Authority Name	Lowest Quartile House Prices (2016)
1	Elmbridge	£375,000.00
2	South Bucks	£370,000.00
3	St Albans	£355,000.00
4	Windsor and Maidenhead	£345,000.00
5	Chiltern	£335,000.00
6	Herstmere	£330,000.00
7	Three Rivers	£325,000.00

Table 1.

Since the publication of the above ONS data in 2016, the general house price affordability position has grown worse. According to data published by the Office of National Statistics (ONS), the lowest quartile house price in Three Rivers in September 2019 was £347,000⁵. The lowest quartile house price of £347,000 continues to place Three Rivers as the **seventh** most expensive local authority area in England and Wales (excluding London), out of a total of three hundred and six local authority areas (see table 2 below). Whilst Three Rivers' position as the seventh most expensive local authority area remains consistent, the lowest quartile house price has risen by £22,000 from 2016 to 2019.

Number	Local Authority Name	Lowest Quartile House Prices (2019)
1	South Bucks	£410,000
2	Elmbridge	£400,500
3	St Albans	£385,000
4	Chiltern	£370,000
5	Epsom and Ewell	£357,000
6	Windsor and Maidenhead	£355,667

⁴ ONS (2020) *Dataset: House price to residence-based earnings ratio Table 6a*

<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

⁵ Office for National Statistics (2020) *Dataset: House price to residence-based earnings ratio Table 6a*

<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

7	Three Rivers	£347,000
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Table 2.

Lowest quartile earnings in Three Rivers in 2016 were £24,518.00 and £24,811.00 in 2019, 13.3 times worsening to 14 below the lowest quartile house prices (ratio of lower quartile house prices to lower quartile gross annual, residence based earnings⁶). In a mortgage market where lenders are traditionally willing to lend 3.5 times a person's income, clearly a lending requirement at 14 times such an income means that most first time buyers are simply unable to purchase a dwelling in the District. Such a lending ratio would have required a first time buyer in 2019 to have a deposit of £260,161.00, or (without such a deposit) to earn £99,143.00 per annum to get onto the lowest/cheapest rung of the property ladder. An additional Stamp Duty payment would also have been due (subject to COVID related temporary relaxation).

When one considers the median affordability ratio⁷ for Three Rivers compared to the rest of England and Wales, the position is even more serious: in 2016, the median quartile income to median quartile house price affordability ratio was 13.77, the fifth worst affordability ratio in England and Wales (excluding London), as set out in table 3 below, again when compared against three hundred and six local authorities.

Number	Local Authority Name	Median quartile house price affordability ratio ⁸ (2016)
1	South Bucks	14.49
2	Hertsmere	14.23
3	Mole Valley	14.18
4	Elmbridge / Chiltern	13.87
5	Three Rivers	13.77

Table 3.

The median quartile house price affordability ratio has worsened since 2016. In 2019, Three Rivers had the third worst affordability ratio in England and Wales (excluding London), with its median quartile house affordability ratio measured at 14.53⁸, as set out in table 4 below. In 2017 and 2018, the median quartile house affordability ratios were 14.31 and 13.75 respectively. Whilst the ratio slightly improved from 2016 to 2018 with a decrease to 13.75, the 14.53 ratio measured in 2019 demonstrates a worsening position over the longer term 2016-2019 period.

Number	Local Authority Name	Median quartile house price affordability ratio ¹ (2019)
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⁶ Office for National Statistics (2020) *Dataset: House price to residence-based earnings ratio Table 6b*
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

⁷ Affordability ratio statistics are revised annually by the ONS to reflect revisions to the house price statistics and earnings data.

⁸ Office for National Statistics (2020) *Dataset: House price to residence-based earnings ratio Table 5c*
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

1	Isles of Scilly	17.71
2	Mole Valley	14.87
3	Three Rivers	14.53

Table 4.

Looking at the ratio of lower quartile house prices to lower quartile to gross annual, residence based earnings, in 2016 the ratio was 13.26. By September 2019 that had risen to 13.99, showing a worsening ratio over the period from 2016 to 2019.

It is clear from the above that the affordability of housing in Three Rivers is getting worse with time.

Affordable Housing Requirements in Three Rivers

- 2.6 The South West Hertfordshire Strategic Housing Market Assessment January 2016 (SHMA) found that at that time there were approximately 658 households within Three Rivers that were situated in unsuitable housing. Unsuitability is based on the number of households shown to be overcrowded in the 2011 Census (updated to a 2013 base for the purposes of the SHMA). 59.4% of these households were unable to afford market housing, which meant the revised gross need was reduced to 391 households.⁹
- 2.7 The SHMA also looked into newly-arising (projected future) need within the District, which was accepted as arising from newly forming households and existing households falling into this need. In South West Herts, the SHMA estimated a need totalling 2,760 new households per annum from 2013-2036. 15% of this need falls within Three Rivers, which equates to an estimated level of affordable housing need in the District from newly forming households of 419 per annum.
- 2.8 With these figures in mind, the SHMA calculated the net affordable housing need within the five local authority areas of the South West Herts area as being 54,997 units over the 23 year period from 2013 to 2036. This is 2,391 units per annum.¹⁰ The net need within Three Rivers was calculated as being 357 units per annum or 8,211 units over the same 23 year period. The SMHA identified the district's OAN for the next plan period as being 514 dwellings a year; thus affordable housing need equates to 69% of total housing need.

Affordable Housing Provision in Three Rivers

- 2.9 Core Strategy CP4 requires around 45% of all new housing in the District to be affordable. As stated previously, prior to the WMS, all new developments that had a net gain of one or more dwellings would, subject to viability, be expected to contribute towards this.
- 2.10 Since the start of the plan period from 1 April 2001 to 31st March 2020 (the latest date where the most recent completion figures are available), 4,689 gross dwellings were completed. From this, 1,037 were secured as affordable housing, a total of 22.1%. This percentage is significantly below the Core Strategy target of 45% which means there was a shortfall of 1,073 or 23% in order to fulfil the

⁹ Table 33: Estimated Current Need, South West Hertfordshire Housing Market Assessment (January 2016).

¹⁰ Table 38: South West Hertfordshire Housing Market Assessment (January 2016). Net need = Current Need + Need from Newly-Forming Households + Existing Households falling into Need – Supply of Affordable Housing.

45% affordable housing requirement up to 31 March 2020. This shortfall only exacerbates the already pressing need for small sites to contribute towards the provision of affordable housing.

2.11 In the latest monitoring period of 2019/20 (financial year), 17 sites¹¹ delivered a net gain of one or more dwellings and would therefore be required to contribute to affordable housing under Policy CP4 (either through an on-site or off-site contribution). These were made up of five major developments (29%) and 12 minor developments (71%). Only five schemes contributed to affordable housing provision:

- Four out of the 17 provided viability justification, in line with CP4 policy, for the absence of affordable housing provision.
- Eight of the applications were determined during the 2014/15 and 2016/17 periods noted at 1.2 above (when the Council was dealing with applications on the basis that the WMS should be given overriding effect regardless of the viability position on specific schemes). Affordable housing provision was forgone on them on this basis, which is now reflected in the low affordable provision as they are built out.
- Of the five sites which contributed to affordable housing delivery in 2019/20 four were major developments and one was a minor development (17/2628/FUL – Thrive Homes (Registered Provider) scheme). This reflects the pattern of on-site delivery from large schemes, with commuted sums from minor developments (see para. 2.12).

Extent of residential development schemes proposed which are for sites delivering a net gain of less than 10 dwellings

2.12 In 2017/2018 (financial year), there were 67 planning applications determined¹² for net gain residential schemes, of which 57 were small site schemes (85%). In 2018/19 (financial year), there were 50 planning applications determined for net gain residential schemes, of which 46 were small site schemes (92%). In 2019/20 (financial year), there were 60 planning applications for net gain residential schemes determined, of which 55 were small sites schemes (92%). It is therefore clear that a high proportion of small site schemes have been proposed in the District, equating to 89% of applications over the past three years.

2.13 In terms of numbers of completed dwellings proposed by those small site schemes, between 2011-2020 (financial years) some 341 net dwellings were completed which equates to 38 net dwellings per annum and to 20.8% over the 2011-2020 period. 20.8% is a significant proportion of the overall supply. Whilst such numbers are significant, it is acknowledged that major developments, whilst far less frequent, provided significantly greater quantities of housing. However CP4(e) does not generally require small site schemes to provide on-site affordable housing (small-scale piecemeal development is unattractive to RP's). Instead commuted sums in lieu of on-site provision are required and thus it is the sums of money secured and the contribution those make towards the provision of additional much needed affordable housing in the District which the policy should be tested against. This has been acknowledged by Planning Inspectors on appeal, as referred to at paragraph 2.21 below:

¹¹ Sites with completions in 2019/20

¹² Includes refused and approved applications. Excludes prior approval developments.

APP/P1940/W/19/3230999, 27 Gable Close, Abbots Langley: *“It also identifies the importance of small sites in providing affordable housing with contributions from small sites amounting to over £2.1 million since 2011 being spent towards the delivery of 38 affordable dwellings.”*

Contributions towards the provision of affordable housing Policy CP4(e) has made in respect of small sites

- 2.14 As set out at paragraphs 1.7 and 1.8 above, the commuted payments (£2.1 million) to be spent on the provision of affordable housing which have been collected by the Council to date have made a direct contribution towards the identified affordable housing shortfall in the district: providing some 21 units with some of the monies being utilised to assist in the delivery of a further 17 units (38 in total). Furthermore, as set out at paragraph 1.8 above, small scale (1-9 unit) schemes have (as at December 2019) secured a further **£2.5million - £3.8million** (see footnote 2) in respect of unimplemented but current planning permissions. The Council has several large scale future residential developments planned which will aim to deliver substantial quantities of further affordable housing in the District in the medium term future, utilising those additional affordable housing contributions as and when they are received. It is clear therefore that CP4(e) has made and will continue to make a significant contribution towards the provision of much needed affordable housing in the District in the future.

Adopted development plan policy does not impose burdens where they would render schemes unviable

- 2.15 As set out at paragraph 1.9 above, Policy CP4 makes it clear that a requirement for a scheme to contribute towards the provision of affordable housing is subject to viability considerations and is therefore consistent with paragraph 122 of the Framework. The application of CP4, which includes this in built viability allowance, cannot properly be said to be a barrier to delivery. The Council accepts that if, properly tested, viability cannot be established on current day costs and values then a scheme should not currently be required to provide or contribute to affordable housing delivery. Between 1 October 2011 and 31 March 2020 there were 226 planning permissions granted for minor (net gain) residential developments in the District. Of those only 21 have lapsed (9%). This demonstrates that the application of CP4 has not acted as a brake on small scale residential developments.

Relevant Appeal Decisions

- 2.16 There have been a number of appeal decisions since the WMS was upheld by the High Court in May 2016. As an example, the Planning Inspectorate has dismissed appeals that were submitted against the decisions made by Elmbridge Borough Council (appeal no: 3146699), Reading Borough Council (appeal ref: 315661), South Cambridgeshire District Council (appeal ref: 3142834) and Islington Borough Council (3154751, 3164313, 3174582, 3177927 and 3182729). These were for small scale housing schemes where those Councils had attached greater weight to their affordable housing policy than to the WMS as a consequence of local evidence of substantial affordable housing need. Copies of these three appeals are attached to Appendix 1. The Council considers these appeal decisions to be of continuing relevance post the new Framework.
- 2.17 The Inspectors appointed to determine these appeals stated that the WMS needed to be addressed alongside existing Local Plan policy. Within each case, the Inspectors found that there was substantial evidence of a pressing need for affordable housing within these three local authority areas. On this

basis, it was considered that local policy had significant weight and there was strong evidence to suggest that these issues would outweigh the WMS within these three cases.

2.18 In March 2017 the Planning Inspectorate issued a response to a letter from Richmond and Wandsworth Councils regarding the perceived inconsistency of approach by the inspectorate in relation to a further five appeal decisions made in 2016, regarding the weight that was made to the WMS. A copy of this letter is attached to Appendix 2.

2.19 Out of these five decisions, the Planning Inspectorate considered that three appeal decisions were reasonable, and fairly reflected the Court of Appeal's decision that although great weight should be attached to the WMS as a material circumstance; planning applications must be decided in accordance with the development plan, unless material considerations indicate otherwise.

2.20 However, the Planning Inspectorate considered that the decision taken on the two remaining appeals which stated that lesser weight was afforded to local policies because they were now, in part, inconsistent with national policy, was not appropriate. The seventh paragraph in the response from the Inspectorate, summarised the approach that the Inspectorate acknowledges should be taken:

"...an Inspector to start with the development plan and any evidence presented by the LPA supporting the need for an affordable housing contribution, establish whether the proposal is in conflict with those policies if no contribution is provided for, and, if there is conflict, only then go on to address the weight to be attached to the WMS as a national policy that post-dates the development plan policies."¹³

2.21 It is clear therefore that the Planning Inspectorate considered that although the WMS (and now the Framework) was a material consideration, this should be balanced against the policies within a plan along with any further evidence that supports a Local Planning Authority's application of the policy.

2.22 The Council's stance has been tested on appeal on numerous occasions and the Planning Inspectorate have repeatedly concluded (16 decisions as at the date of this document) that whilst the NPPF carries considerable weight, it does not outweigh CP4 of the Councils development plan given the acute and substantial need for affordable housing in the District and the important contribution small sites make towards addressing this shortfall. Below are extracts from a few of those decisions:

- **APP/P1940/W/19/3222318, Eastbury Corner, 13 Eastbury Avenue, Northwood, Decision date: 21st June 2019:**

"The Council has however provided robust evidence to demonstrate high affordable housing need locally and that affordability in the District continues to deteriorate. Indeed, needs analysis carried out by the Council highlights the importance of small sites in addressing shortfall and the lack of affordability that exists in the District. I apply substantial weight to this local evidence due to its recentness and the clear conclusions that can be drawn from it. Policy CP4 makes it clear that site circumstances and financial viability will be taken into account when seeking affordable housing provision."

- **APP/P1940/W/19/3221363, The Swallows, Shirley Road, Abbots Langley Decision date: 27th June 2019:**

¹³ Paragraph 7, Planning Inspectorate Letter, March 2017.

“The Council has however provided robust evidence to demonstrate high affordable housing need locally and that affordability in the District continues to deteriorate. Indeed, needs analysis carried out by the Council highlights the importance of small sites in addressing shortfall and the lack of affordability that exists in the District. I apply substantial weight to this local evidence due to its recentness and the clear conclusions that can be drawn from it.”

- **APP/P1940/W/19/3225445, 6 Berkely Close, Abbots Langley**

Decision date 5th August 2019:

“The Council has provided robust evidence of high affordable housing need in the District, and in line with the findings of other appeal decisions cited by the Council, I attribute substantial weight to that need as a consequence and consider that a contribution towards the provision of affordable housing is necessary.”

- **APP/P1940/W/19/3230999, 27 Gable Close, Abbots Langley**

Decision Date: 1st November 2019:

“The Council has provided detailed evidence of acute affordable housing need locally: a Needs Analysis was undertaken in May 2016 after the publication of the Written Ministerial Statement which introduced the affordable housing thresholds now included in the Framework. Based on the Needs Analysis, the Council’s evidence highlights the issue of general house price affordability in the District, plus an exceptionally high need for affordable housing exacerbated by a significant shortfall in supply. It also identifies the importance of small sites in providing affordable housing with contributions from small sites amounting to over £2.1 million since 2011 being spent towards the delivery of 38 affordable dwellings.

A further Needs Analysis following publication of the revised Framework in July 2018 demonstrated that housing stress had increased since 2016. The Council has therefore revisited its position following the update to national policy. There is no evidence before me that affordable housing contributions are acting as a brake on development. Rather, the evidence is that contributions from small sites collected since the policy was adopted in 2011 are delivering affordable housing on the ground. Due to its recentness and the clear conclusions that can be drawn from it, I give this local evidence substantial weight. It underpins the approach in Policy CP4 as an exception to national policy.”

- **APP/P1940/W/19/3230911, 67 & 69 St Georges Drive, Carpenders Park, Decision date 22nd October 2019:**

“The Council has undertaken several needs analyses, the latest being July 2018, to demonstrate the acute shortage of affordable housing in the District, especially in light of high house prices and that much of the District is also constrained by the Metropolitan Green Belt. It further highlights the importance small sites make to the contribution to the overall provision of affordable housing. Up until the end of March 2017 there has only been 22.6% of affordable housing provision which falls short of the policy requirement of 45% The shortfall demonstrates that the provision of affordable housing is still very much needed, such that Policy CP4 should continue to apply to small sites, despite the Framework and the WMS. In light of the Council’s body of evidence that demonstrates the particular housing circumstances and needs of the District, I attach substantial weight to this local evidence and consider that the national policy position does not outweigh the development plan and Policy CP4 in this instance.”

- **APP/P1940/W/19/3230458, 19 Lynwood Heights, Rickmansworth,**

Decision date 11th October 2019:

“The Council states that its Strategic Housing Market Assessment (2010) has demonstrated that there is a significant affordable housing need locally due to very high house prices and

rents and a constricted supply of suitable housing sites. Further, the South West Hertfordshire Strategic Housing Market Assessment (2016) estimated a net affordable housing need of 14,191 in the District between 2013-36 and there is also a worsening situation with regards to affordability. Based on the Council's evidence the District is the 7th most expensive local authority area in England and Wales in 2016 and demonstrates that its application of Policy CP4 has delivered a significant contribution of over £2.1 million towards the delivery of affordable housing without disrupting the supply of small residential sites. Decisions should be made in accordance with the development plan unless material considerations indicate otherwise. The robust evidence referred to in footnote 1 and the clear need to deliver affordable housing in the District underpins the Council's approach in Policy CP4 as an exception to national policy and therefore in this case, the Framework's threshold would not outweigh the conflict with the development plan. I therefore attach considerable weight to Policy CP4. I am also referred to a number of recent appeal decisions in the District which support this approach and are therefore relevant to the scheme before me and as such carry considerable weight."

- **APP/P1940/W/18/3213370: No.9 Lapwing Way, Abbots Langley.**

Decision Date 22nd May 2019:

"In considering whether provision should be made for affordable housing, there are two matters that need to be addressed. Firstly, whether in principle the provisions of Policy CP4 are outweighed by more recent Government policy. Secondly, if not, whether for reasons of financial viability a contribution is not required... There is no evidence before me that the application of Policy CP4 has put a brake on small windfall sites coming forward. Indeed, such sites have contributed over £2m to the affordable housing pot since 2011... Decisions should be made in accordance with the development plan unless material considerations indicate otherwise. There are very important factors in support of the continued application of Policy CP4. These factors are not unique to Three Rivers. Government policy does not suggest that areas where affordability is a particular issue should be treated differently. Nonetheless, although a weighty matter, the national policy threshold is not a material consideration which outweighs the conflict with the development plan in this case. In making this policy judgment I have given considerable but not full weight to Policy CP4. I have also had regard to the other appeal decisions in the south-east referred to by the Council where Inspectors considered development plan policies seeking affordable housing against national policy. My approach is consistent with these decisions."

- **APP/P1940/W/19/3219890: 4 Scots Hill, Croxley Green**

Decision Date 5th May 2019:

Whilst the appeal was allowed the Inspector considered that when "having regard to TRDCS Policy CP4 and the Council's Affordable Housing Supplementary Planning Document 2011, I consider that a contribution towards the provision of affordable housing is necessary. A draft unilateral undertaking was submitted at appeal stage and was agreed by the Council."

- **APP/1940/W/19/3229274: 101 Durrants Drive, Croxley Green**

Decision Date 16th August 2019:

"Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise... Therefore, I find that the proposal would fail to make appropriate provision for affordable housing and as such, would be contrary to policy CP4 of the CS which seeks to secure such provision, which although does not attract full weight, in light of the evidence provided, attracts significant weight sufficient to outweigh paragraph 63 of the Framework."

- **APP/P1940/W/19/3238285: Bell Public House, 117 Primrose Hill, Kings Langley**
Decision Date 9th March 2020

“Even taking the appellants figures that 22.8% of affordable units have arisen from non major sites, I consider this to be an important and meaningful contribution...even taking the appellant’s figures my conclusion remains unaltered.”

- **APP/P1940/W/19/3229189: Glenwood, Harthall Lane, Kings Langley**

Decision Date 7th May 2020

“The Council’s evidence sets out the acute need for affordable housing in the area and the importance of small sites in contributing to the provision of such housing. They also highlighted a large number of recent appeal decisions for small residential schemes where it has been considered that the exceptional local need should outweigh government policy, as set out in the Framework... Despite the appellant’s evidence, which included reference to a Local Plan Consultation Document (October 2018) and an analysis undertaken by them based on the Council’s Housing Land Supply Update (December 2018), it was clear to me, in the light of all the evidence before me, that a pressing need for affordable housing in the area remains. It was also clear that small sites play a key role in ensuring this provision. As such, in this case, I am satisfied that although considerable weight should be given to the Framework, it does not outweigh the development plan policy.”

- **APP/P1940/W/20/3249107: 2 Church Cottages, Old Uxbridge Road, West Hyde Decision Date: 21st October 2020**

“The Framework at paragraph 63 sets out that the provision of affordable housing should not be sought for residential developments that are not major developments other than in designated rural areas where policies may set out a lower threshold of 5 units or fewer. That said, there is clear evidence to suggest that there is an acute need for affordable housing in the Three Rivers District and there have been several appeal decisions which supported this view... I agree that there are special circumstances which justify the provision of affordable housing below the Framework’s suggested threshold... As a result, the proposal would be contrary to Policy CP4 of the CS which amongst other matters seeks to increase the provision of affordable homes including by means of a commuted sum payment for sites of between one and nine dwellings... I have also had regard to the obvious benefits in relation to the provision of a much-needed new dwelling. However, the benefits of this are outweighed by the lack of provision for affordable housing”

Conclusion

- 2.23 Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Having regard to the Framework as a material consideration of significant weight, officers' view is that the local evidence of affordable housing need continues to deserve significant weight in deciding whether, for the purposes of Section 38(6), the revised Framework policies weigh sufficiently against the Core Strategy Policy CP4. Having undertaken this assessment in 2017 and further reviewed it post the new NPPF in 2018, in December 2019 and 2020 with regard to more up to date evidence, where available, officers are of the view that the Framework does not outweigh the weight to be attached to the local evidence of affordable housing need. That evidence shows that the need for affordable housing in Three Rivers is great and the contribution that small sites have made has been significant. Furthermore comparisons between 2016 and 2019 ONS data shows that the affordability of housing in Three Rivers is deteriorating year on year and the need for affordable housing is growing. As such proposals for the residential development of sites of 10 dwellings or less (not “major development”) will currently be expected to contribute towards the provision of affordable housing in accordance with Policy CP4 as a condition of grant. The Council will keep this evidence under review.

Appendix 1: Appeal Decisions 3146699 (Elmbridge Borough Council), 315661 (Reading Borough Council), 3142834 (South Cambridgeshire District Council) and Islington Borough Council (3154751, 3164313, 3174582, 3177927 and 3182729), Three Rivers District Council (3222318, 3221363, 3225445, 3230999, 3230911, 3230458, 3213370, 3219890, 3229274, 3238285, 3229189, 3249107)

Appendix 2: Letter from the Planning Inspectorate to Richmond and Wandsworth Councils, March 2017

Sources Used:

1. Core Strategy (October 2011)
<http://www.threerivers.gov.uk/egcl-page/core-strategy>
2. Annual Monitoring Report 2019/2020 (December 2020)
<http://www.threerivers.gov.uk/egcl-page/annual-monitoring-report>
3. Affordable Housing Supplementary Planning Document (June 2011)
<http://www.threerivers.gov.uk/egcl-page/supplementary-planning-documents>
4. South West Hertfordshire Strategic Housing Market Assessment (January 2016)
<http://www.threerivers.gov.uk/egcl-page/shma-and-economic-study-for-future-review-of-local-plan>
5. Office of National Statistics Housing Data 2002-19
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

December 2020

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PLANNING COMMITTEE - 15 JULY 2021

PART I - DELEGATED

10. 21/1395/RSP – Part retrospective: Extension to existing raised patio and additional landscaping works to rear garden at 173 ABBOTS ROAD, ABBOTS LANGLEY, WD5 0BN (DCES)

Parish: Abbots Langley Parish Council
Expiry of Statutory Period: 27.07.2021

Ward: Abbots Langley And Bedmond
Case Officer: Aaron Roberts

Recommendation: That Part Retrospective Planning Permission be Granted

Reason for consideration by the Committee: The previous withdrawn application (21/0417/RSP) was called in by three Members of the Planning Committee due to the extent of land levels changes meaning that the proposal may affect the privacy of the neighbour. This application has been called in, given the previous application was withdrawn.

1 Relevant Planning and Enforcement History

- 1.1 18/0506/FUL - Proposed two storey rear extension, single storey side and rear extension, front bay, internal alterations and extension to raised patio to the rear - Permitted, partly implemented.
- 1.2 18/0166/COMP - Breach of Conditions 5 & 6 of Planning Permission 18/0506/FUL – Case Closed (breach remedied via the approval of planning application 19/0946/RSP).
- 1.3 19/0946/RSP - Retrospective: Proposed two storey rear extension, single storey side & rear extension, internal alteration, front bay, and raised rear patio – Permitted and implemented.
- 1.4 21/0417/RSP-Part retrospective: Extension to existing patio and additional landscaping works to rear garden- Withdrawn.

2 Description of Application Site

- 2.1 The application site contains a detached dwelling located along the southern side of Abbots Road. The dwelling is finished in brick to the front and finished in white render to the rear.
- 2.2 The dwelling has a stepped front elevation. The land levels drop from the front to the rear of the site and the dwelling is served by a series of raised patios to the rear, which are subject to this application. The front amenity space contains a drive that provides provision for three car parking spaces. The host dwelling also contains an attached garage towards the south-western boundary.
- 2.3 The property has been extended via a two storey rear extension and a single storey side and rear extension.
- 2.4 The neighbouring property to the south-west, No.175 is set on a lower ground level and has a similar original rear building line to that of the application dwelling. The main part of the dwelling of No.175 is set in approximately 1m from the common boundary. The neighbouring property to the north-east, No.171 is set on higher ground level and extends deeper than the extension at No.173.
- 2.5 The site contains protected trees, however, some of these were agreed to be removed as part of planning permission 18/0506/FUL.
- 2.6 During a recent site visit it was apparent that works had almost been completed. This included the planting of hedging along the boundary with No.175 as well as the partial

demolition of the pre-existing patio and extension of the patio. A pergola has also been installed on the lowest level of patio (not subject of this application) and from measurements taken on site conforms to permitted development (see explanation below).

3 Description of Proposed Development

- 3.1 This application seeks part retrospective planning permission an extension to existing raised patio and additional landscaping works to rear garden. The pre-existing patio approved under 19/0946/RSP has been partially demolished and works have taken place to extend the patio's depth and width, with the works almost complete. Hedging along the boundary with No.175 has also been planted.
- 3.2 Under application 19/0946/RSP a raised patio was permitted and implemented. This included Level +2 and a significant proportion of Level +1, which is to be extended in depth, via steps and composite decking. Level +0 was not permitted under 19/0946/RSP and forms part of this currently pending application.
- 3.3 The section of patio directly adjacent to the bi-folding doors of the rear extension (level +2 as denoted on the submitted plans) measures approximately 1.6m in depth and has a width of 7.3m. Steps lead down to the next section of patio (level +1). This 'middle section' of the patio has an overall maximum depth of approximately 10.6m, including the proposed composite decking and a maximum width of approximately 8.4m, up to the point adjoining the steps leading down to the lower level of the patio (level +0). The lowest level of patio has a depth of approximately 13.5m and a maximum width of 7.8m (when incorporating the steps leading down to the lawn). Given the western boundary's splayed nature, level +0 of the patio is set off the boundary with No.175 by a minimum of approximately 0.3m and a maximum of 0.7m. The lowest level of this section of patio is set a maximum of 0.5m higher than the pre-existing land level and adjoins the natural level of the side alleyway, although the majority of the 'raised patio' of level +0 is less than 0.3m high.
- 3.4 Towards the rear of the patio, there are retaining walls. The retaining walls serving level +1 of the patio have a height of 1.6m from the current external ground level, approximately 0.15m higher than the patio/decking level. The retaining wall serving level +0 of the patio has a height of 0.8m, approximately 0.35m higher than the patio level. Between these walls are steps leading down to the main garden. Additional retaining walls are located between Level +1 and Level +0 as well as separating part of the decking from Level +1.
- 3.5 Privacy measures have been included within the development. These include planting Leylandii hedging along the boundary with No.175 and cedar slatted fencing along the flank of the patio closest to the boundary with No.171, as well as retaining a solid screen along the western flank of level +2 of the patio.
- 3.6 A pergola has been erected on Level +0, which does not form part of this planning application. Given the pergola's height of less than 2.5m from the natural land level, it is considered that this would fall under Schedule 2, Part 1, Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 3.7 During the course of the application, amended plans were submitted to better reflect the works on site.

4 Consultation

4.1 Statutory Consultation

4.1.1 Abbots Langley Parish Council: [Concerns raised]

'Members have concerns about the height of the privacy screen and overlooking of the neighbouring property'.

4.1.2 National Grid: [No comments received]

4.1.3 Landscape Officer: [No Objections, subject to conditions]

'Vegetation is present within the rear garden of number 173. No trees are planned to be removed, as part of the proposed landscaping plans.

Protection of trees (non-dischargeable)

During construction of the development hereby permitted, the trees present within the rear garden of 173 Abbots Road Abbots Langley WD5 0BN shall not be lopped or felled without the written consent of the local planning authority. During construction of the development hereby permitted, any trees within or near to the site shall be protected in accordance with the requirements of BS5837 (2012) 'Trees in Relation to Design, Demolition and Construction'. The protection measures shall be implemented prior to any below ground works and shall be retained for the entire period of the duration of any work at the site, in connection with the development hereby permitted'.

4.2 **Public/Neighbour Consultation**

4.2.1 Number consulted: 7

4.2.2 No of responses received: 1 objection.

4.2.3 Site and Press Notice: Not applicable

4.2.4 Summary of Responses: One Objection

- Overdevelopment
- Overshadowing
- There is a large pergola structure which is not on the plans. **Officers Note:** given the height of the pergola, which is less than 2.5m, it is considered that this is permitted development
- There are 10 conifer trees approximately 5m tall on the boundary, this is not in accordance with Planning Guidelines that stipulate a maximum of no more than 2 conifer trees and hedging a maximum of 2m. **Officers Note:** TRDC planning policy or guidance does not refer to the above
- Tree roots will damage No.175's fence. **Officers Note:** potential damage to property is not a material planning consideration.
- The trees will not be able to be maintained due to the fence and pergola. **Officers Note:** The High Hedges Act enables the Council to intervene if the height of the hedge is having an adverse impact on the neighbour's enjoyment of their home. This act is under the remit of the Environmental Health department.
- A side gate has been erected attached to No.175's fence. **Officers Note:** The side gate does not form part of this planning application and potential damage to property is not a material planning consideration.
- The trees are overhanging into No.175 and obscure light
- Trees have been removed, which may be protected. **Officers Note:** As will be discussed in the Trees and Landscape section, it is not considered that any protected trees were detrimentally impacted as a result of the development

5 **Reason for Delay**

5.1 Not applicable

6 **Relevant Planning Policy, Guidance and Legislation**

6.1 National Planning Policy Framework and National Planning Practice Guidance

In 2019 the new National Planning Policy Framework was published. This is read alongside the National Planning Practice Guidance (NPPG). The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another. The NPPF is clear that “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework”.

The NPPF states that ‘good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities’. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would ‘significantly and demonstrably’ outweigh the benefits.

6.2 The Three Rivers Local Development Plan

The application has been considered against the policies of the Local Plan, including the Core Strategy (adopted October 2011), the Development Management Policies Local Development Document (adopted July 2013) and the Site Allocations Local Development Document (adopted November 2014) as well as government guidance. The policies of Three Rivers District Council reflect the content of the NPPF.

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies CP1, CP9, CP10, and CP12.

The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM1, DM6, DM13 and Appendices 2 and 5.

6.3 Other

The Community Infrastructure Levy (CIL) Charging Schedule (adopted February 2015).

The Localism Act received Royal Assent on 15 November 2011. The growth and Infrastructure Act achieved Royal Assent on 25 April 2013.

The Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, the Natural Environment and Rural Communities Act 2006 and the Habitat Regulations 1994 may also be relevant.

7 **Planning Analysis**

7.1 Design and Impact on Character

7.1.1 Policy CP12 of the Core Strategy (adopted October 2011) relates to the Design of Development and states that the Council will expect all development proposals to have regard to the local context and conserve or enhance the character, amenities and quality of an area.

7.1.2 Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013) set out that development should not have a significant impact on the visual amenities of the area. Development proposals must not be excessively prominent in relation to adjacent properties or to the general street scene; respect the character of the

property/street scene particularly with regard to the roof form, positioning and style of windows and doors and materials.

7.1.3 The raised patio would be to the rear of the property and therefore would not be readily visible from the streetscene. Given the nature of the land levels within the gardens of properties along Abbots Road, raised patios are common within rear gardens in Abbots Road. Due to its scale, design and the fact that both neighbouring properties contain a raised patio, it is not considered that the raised patio and associated privacy screens result in any harm to the character of the dwelling or wider area.

7.1.4 The development therefore does not result in unduly prominent additions and is acceptable with regard to its impact on the host dwelling, street scene and wider area. The development complies with Policies CP1 and CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the DMP LDD.

7.2 Impact on amenity of neighbours

7.2.1 Policy CP12 of the Core Strategy advises that development will be expected to protect residential amenity. Appendix 2 of the DMP LDD comments that all developments are expected to maintain acceptable standards of privacy for both new and existing residential buildings and development should not result in loss of light to the windows of neighbouring properties nor allow overlooking.

7.3 The rear patios extend a total depth of approximately 12.9m from the rear wall of the existing dwelling and due to the drop in land levels and height of the fencing along the boundary with No.175 there is potential for overlooking into this neighbouring property. It must be noted, however, that prior to the works, there was a pre-existing situation of mutual overlooking between properties along this part of Abbots Road due to the sloping land levels and existing raised patios. In order to resolve the issues relating to potential overlooking, along the south-western boundary with No. 175, Leylandii hedging has been planted, the full depth of the patio. According to the agent, this will grow to a height of approximately 12-14ft, which will offer comprehensive screening. Given the relative proximity of level +0 to the boundary with No.175 and the maximum 0.5m raised height to level off the patio, it could be argued that there is the potential for overlooking. However, it is considered that overlooking from level +0 is limited given the hedging along the boundary with No.175. Additionally, the highest section of Level +0 relative to No.175's fence is at the very rear of the patio, a significant distance from the private amenity space of No.175 and this area of patio is unlikely to be readily used. Without the hedging, overlooking from level +1 would be achievable and would not be acceptable in terms of impact to neighbouring amenity without the provision of a higher boundary enclosure/screen to protect the amenities of neighbours. As such, a condition would be added to ensure that the hedging is maintained permanently, to act as a privacy screen. Additionally, to prevent overlooking from level +2 into No.175, a solid screen along the western flank of level +2 of the patio has been erected, with a height of 1.8m from the patio level and would be conditioned to be maintained permanently. Given the proposed privacy measures including hedging along the western boundary and solid privacy screen at level +2, it is not considered that the proposed alterations to the patio leads to a perceived sense of or actual overlooking into No.175. The objection comments refer to the hedging resulting in a loss of light. Whilst the newly planted hedging is visible above the fencing, it is not considered that it is so prominent so as to appear overbearing or result in unacceptable loss of light to the neighbouring garden given the orientation of the sun to warrant the refusal of the planning application. A condition has been recommended which seeks to control the height of the hedging.

7.4 The patio would also be extended in depth close to the boundary with the other neighbouring dwelling, No.171. The pre-existing cedar slatted fence along the flank of the patio closest to the boundary with No.171, has been extended the entire depth of the patio. This has a height of approximately 2m from level +1 of the patio. Given the vegetation along the eastern boundary and that this neighbour sits on a higher land level, the screening does not

detrimentally impact the amenity of this neighbour and prevents a perceived sense of or actual overlooking.

7.4.1 In summary, subject to conditions, the proposed development does not result in any adverse impact on the residential amenity of any neighbouring dwelling and the development is therefore acceptable in accordance with Policy CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies LDD.

7.5 Amenity Space

7.5.1 Policy CP12 of the Core Strategy states that development should take into account the need for adequate levels and disposition of amenity and garden space. Section 3 (Amenity Space) of Appendix 2 of the Development Management Policies document provides indicative levels of amenity/garden space provision.

7.5.2 The proposed development has not altered the levels of amenity space provided. Sufficient amenity space provision therefore has been maintained in accordance with the standards as set out within the Design Criteria of the DMP LDD.

7.6 Parking

7.6.1 Policy DM13 of the DMP LDD requires development to make provision for parking in accordance with the parking standards set out at Appendix 5 of the same document.

7.6.2 The number of bedrooms within the dwelling has not changed as a result of the development. The dwelling has four bedrooms. According to Appendix 5 of the DMP LDD a four-bedroom dwelling should have three assigned spaces. The front amenity space provision can accommodate three cars in accordance with the requirements of the DMP LDD.

7.7 Wildlife and Biodiversity

7.7.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive. The Habitats Directive places a legal duty on all public bodies to have regard to the habitats directive when carrying out their functions.

7.7.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of this application in accordance with Policy CP9 of the Core Strategy and Policy DM6 of the Development Management Policies LDD. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications where biodiversity may be affected prior to the determination of a planning application. The application is accompanied by a biodiversity checklist which states that no protected species or biodiversity interests have been affected as a result of the development. The Local Planning Authority is not aware of any records of protected species within the immediate area that would necessitate further surveying work being undertaken.

7.8 Trees and Landscaping

7.8.1 Policy DM6 of the DMP LDD sets out that development proposals should seek to retain trees and other landscape and nature conservation features, and that proposals should demonstrate that trees will be safeguarded and managed during and after development in accordance with the relevant British Standards.

7.8.2 The application site is not located within a conservation area, however the site contains a number of individually protected trees. Records show that a protected tree (Blue Spruce) was located in close proximity to the rear of the dwelling however it no longer exists and

this was also noted within the delegated report for 18/0506/FUL. As such there is not a protected tree located near the vicinity of the dwelling or patio. It is not known when the protected Blue Spruce was removed. The un-protected tree close to the boundary with No.171 would be retained within the composite decking. Following previous correspondence with the agent, the decking would be built around the tree, with a gap between the decking and tree. As part of the application process, the Landscape Officer was consulted. They suggested a condition relating to felling and lopping and tree protection measures. However, given that the works are substantially complete and the remaining works are not in the vicinity of any protected trees, it is not considered that their recommended conditions are necessary in this case.

7.8.3 It is not considered that the development has resulted in any direct harm to any protected trees within the site.

8 **Recommendation:**

8.1 That PART RETROSPECTIVE PLANNING PERMISSION BE GRANTED and has effect from the date on which the development was started and is subject to the following conditions:

C1 Those parts of the development hereby permitted that have not yet been carried out shall be begun before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 91(1) of the Town and Country Planning Act 1990 and as amended by the Planning and Compulsory Purchase Act 2004.

C2 The development hereby permitted shall be carried out and maintained in accordance with the following approved plans: DPM.21.173AR.SITE.01 REV A, DPM.21.173AR.P01 REV G, DPM.21.173AR.P02 REV A, DPM.21.173AR.P03 REV G.

Reason: For the avoidance of doubt and in the proper interests of and in accordance with Policies CP1, CP9, CP10, and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM6, DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013).

C3 Within ONE MONTH from the date of this permission, a Landscape Management Plan for the hedging adjacent to the boundary with No.175 Abbots Road for the full depth of the rear patio level +0 (as shown on drawing number DPM.21.173AR.P01 REV G) shall be submitted to and approved in writing by the Local Planning Authority. The Landscape Management Plan shall include details as to the on-going future maintenance (to ensure the planting does not fall below a height of 2.5m) and confirmation that replacement planting of a similar height will be planted in the event of death or damage. The Landscape Management Plan as approved shall be carried out as agreed.

Reason: To ensure that the planting will provide acceptable screening to prevent unacceptable levels of overlooking into 175 Abbots Road, in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

C4 The privacy screen along the western side of level +2 of the rear patio shall be permanently maintained in accordance with drawing numbers DPM.21.173AR.P01 REV G and DPM.21.173AR.P03 REV G.

Reason: To safeguard the amenities of the occupiers of neighbouring residential properties in accordance with Policies CP1 and CP12 of the Core Strategy (adopted

October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

Informatives:

- 11 With regard to implementing this permission, the applicant is advised as follows:

All relevant planning conditions must be discharged prior to the commencement of work. Requests to discharge conditions must be made by formal application. Fees are £116 per request (or £34 where the related permission is for extending or altering a dwellinghouse or other development in the curtilage of a dwellinghouse). Please note that requests made without the appropriate fee will be returned unanswered.

There may be a requirement for the approved development to comply with the Building Regulations. Please contact Hertfordshire Building Control (HBC) on 0208 207 7456 or at buildingcontrol@hertfordshirebc.co.uk who will be happy to advise you on building control matters and will protect your interests throughout your build project by leading the compliance process. Further information is available at www.hertfordshirebc.co.uk.

Community Infrastructure Levy (CIL) - If your development is liable for CIL payments, it is a requirement under Regulation 67 (1) of The Community Infrastructure Levy Regulations 2010 (As Amended) that a Commencement Notice (Form 6) is submitted to Three Rivers District Council as the Collecting Authority no later than the day before the day on which the chargeable development is to be commenced. DO NOT start your development until the Council has acknowledged receipt of the Commencement Notice. Failure to do so will mean you will lose the right to payment by instalments (where applicable), lose any exemptions already granted, and a surcharge will be imposed.

Care should be taken during the building works hereby approved to ensure no damage occurs to the verge or footpaths during construction. Vehicles delivering materials to this development shall not override or cause damage to the public footway. Any damage will require to be made good to the satisfaction of the Council and at the applicant's expense.

Where possible, energy saving and water harvesting measures should be incorporated. Any external changes to the building which may be subsequently required should be discussed with the Council's Development Management Section prior to the commencement of work

- 12 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority suggested modifications to the development during the course of the application and the applicant and/or their agent submitted amendments which result in a form of development that maintains/improves the economic, social and environmental conditions of the District.
- 13 The applicant is reminded that the Control of Pollution Act 1974 allows local authorities to restrict construction activity (where work is audible at the site boundary). In Three Rivers such work audible at the site boundary, including deliveries to the site and running of equipment such as generators, should be restricted to 0800 to 1800 Monday to Friday, 0900 to 1300 on Saturdays and not at all on Sundays and Bank Holidays.