

PLANNING COMMITTEE – 21 OCTOBER 2021

PART I - DELEGATED

5. **20/2659/RSP – Retrospective: Change of use for open storage of builder's machinery, equipment and material at MAPLE LODGE, DENHAM WAY, MAPLE CROSS, HERTS, WD3 9XD**
(DCES)

Parish: Non-Parished

Ward: Chorleywood South and Maple Cross

Expiry of Statutory Period: 30.06.2021
EOT: to be confirmed

Case Officer: Matthew Roberts

Recommendation: That Retrospective Planning Permission be Refused.

Reason for consideration by the Committee: Called in by three Members of the Planning Committee given the concern locally over the storage use of the wider site.

1 **Relevant history at application site and wider site:**

- 1.1 8/97/78: Extension to form offices accommodation and car parking area. Permitted, temporary and personal permission to Thames Water.
- 1.2 01/01721/OUT: Mixed use scheme comprising 150 bedroom hotel, 18,580sq m office development, environment centre, park/land/meadows and landscaping. Refused.
- 1.3 17/0045/COMP: Unauthorised material change of use of land. Pending consideration, enforcement notice served on part of the wider site (land enclosed in blue on submitted location plan).
- 1.4 20/2827/RSP: Retrospective: Change of use to a concrete mixing demonstration facility including the display and exhibition of concrete making machinery and equipment. Refused, for the following reasons:

R1: The concrete plant and equipment (including associated silos) arising from the material change of use constitute inappropriate development within the Green Belt and therefore are, by definition, harmful to the Green Belt. In addition, by virtue of their height, industrial design, scale and siting they have a significant impact on the openness of the Green Belt. No very special circumstances of sufficient weight are considered to exist to outweigh the inappropriateness of the development and identified harm to openness. The concrete plant and equipment therefore fails to comply with Policies CP11 of the Core Strategy (adopted October 2011), Policy DM2 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2019).

R2: The concrete plant and equipment (including associated silos) arising from the material change of use by virtue of their height, industrial design, scale and siting have an adverse impact on the visual amenity of the locality and character of the area. The concrete plant and equipment therefore fails to comply Policy CP12 of the Core Strategy (adopted October 2011).

R3: It has not been demonstrated that the activities arising from the material change of use do not adversely impact on the quality of local groundwater quality and that the risk to potable water can be safely managed given the application site's location within Source Protection Zone 1. The development therefore fails to accord with Policy DM9 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2019).

R4: *It has not been demonstrated that the development would not be subject to unacceptable levels of air pollutants through on-site activities and vehicular movements. In the absence of an Air Quality Assessment the development is contrary to Policy DM9 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2019).*

R5: *In the absence of sufficient information it cannot be demonstrated that on-site parking levels are acceptable and that parking would not overflow onto the adjacent service road thereby impacting the usability of the pedestrian pavement and also adversely affecting the visual amenity of the area through the presence of on-street parking. The development is therefore contrary to Policy CP12 of the Core Strategy (adopted October 2011) and Policies DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).*

An appeal was lodged against the decision to refuse planning permission and was turned away by the Planning Inspectorate on 6 October 2021 - APP/P1940/W/21/3273755).

- 1.5 20/0068/ENFNOT: Enforcement Notice Appeal against Unauthorised material change of use of land to open storage. PINS reference: APP/P1940/C/20/3265160. Pending consideration.
- 1.6 21/0424/RSP: Retrospective: Change of use of hanger for the maintenance and repair of lorries. Pending consideration.
- 1.7 20/2774/RSP: Retrospective: Change of use of the site for vehicle hire along with the processing of construction waste materials aggregates and soil. Pending consideration.
- 1.8 20/2831/RSP: Part Retrospective: Change of use to self-contained offices and use of hanger building for car maintenance and repairs. Withdrawn (use now ceased).

2 Description of Application Site

- 2.1 The application site relates to a small parcel of land located within the south eastern part of a commercial yard (formerly owned and used by Thames Water), positioned on the northern side of the Thames Water service road which is accessed via Denham Way to the north west, in Maple Cross.
- 2.2 The wider site as enclosed in blue on the submitted location plan comprises a hanger type building and open yards, all of which are being used by a variety of different businesses, without planning permission. The elevated parcel of the wider site (referred to as Site 6 on the submitted location pan) is currently subject to an enforcement notice and appeal concerning unauthorised parking.
- 2.3 The application site is physically enclosed from the wider site (as enclosed in blue on the submitted location plan) which forms a commercial yard by metal fencing which also runs along the service road frontage. The application site has a single vehicular access point from the service road with the site used for open storage. Within the site there are two containers used as an office/storage (although only one container is shown on the submitted plans).
- 2.4 With regards to policy designations the application site falls within the Metropolitan Green Belt, Source Protection Zone 1, Flood Zone 1 and a Secondary Centre. It is also located opposite an allocated employment site (E(d)).

3 Description of Proposed Development

- 3.1 This application seeks retrospective planning permission for the change of use for open storage of builder's machinery, equipment and material, activities which would appear to fall within Use Class B8 (storage).

- 3.2 The submitted planning statement sets out that the site is used by Newtownstewart Construction Ltd, a building and civil engineering contractor. The application site is used by them to store construction related machinery, equipment and materials and to enable prompt despatch when required. The type of storage ranges from fencing, construction materials and a digger.
- 3.3 The use operates between the hours of 7am to 6pm Monday to Friday and between 8am and 1pm on Saturday, with it being closed on Sundays and Bank Holidays.
- 3.4 There is no full or part time member of staff on-site.

4 Consultation

4.1 Statutory Consultation

4.1.1 Environment Agency: [Objection]

*We **object** to this retrospective planning application, as submitted, because the applicant has not supplied adequate information to demonstrate that the risks posed to groundwater resources can be satisfactorily managed.*

The site is located within an inner groundwater protection zone (SPZ1) relating to a groundwater abstraction borehole located approximately 350m north east of the site.

Areas in SPZ1 are the catchment areas for sources of potable water, high quality water supplies usable for human consumption. Groundwater at this location is therefore particularly vulnerable to polluting uses on the surface.

The proposed use of the site for the storage of building material and equipment is potentially contaminative and may be a detriment to groundwater quality. We note that the nature of the material to be stored on site has not yet been characterised.

This objection is in line with paragraph 170 of the National Planning Policy Framework (NPPF) and Policy DM9 of the Three Rivers Local Plan (2013).

4.1.2 Highway Authority (HCC): [No objection]

The application site is located within a larger industrial area on the north-east side of Maple Cross and approximately 200m from the nearest highway on Denham Way, which is designated as a classified A (A412) main distributor road and subject to a speed limit of 40mph.

Access and Parking

The application site is accessed via a private industrial access road and then an existing dedicated gated vehicle access into site itself. The application does not include any new or altered access.

There are existing footways on Denham Way in addition to a footway on the south side of the private access road. HCC as Highway Authority would be supportive of measures to restrict vehicles from parking on the private footway to encourage and promote a safe and easy route for pedestrians to and from the site (and neighbouring properties). It is acknowledged however that the nature of the current use would limit the number of people walking to and from the site.

The submitted Planning Statement states that "the site can accommodate sufficient car parking space to cater for the needs of the business with 2/3 parking spaces available within

the site". HCC would therefore not have a specific objection to the application in this respect. Nevertheless TRDC would ultimately need to be satisfied with the overall level of parking.

Trip Generation

Following consideration of the size of the application site, with a number of vehicular trips of approximately 2-4 per month, any impacts from the trip generation from the site itself are not considered to be significant or severe enough to recommend refusal from a highways perspective.

Conclusion

HCC as Highway Authority would not wish to object to the granting of planning permission for this site. Nevertheless it is recommended that appropriate Transport Statements / Assessments are submitted for the adjacent sites (as previously responded to in relation to consultations for the adjacent sites) and to assess any cumulative impacts.

4.1.3 Thames Water: [No comments received. Any comments received will be verbally updated at the Committee meeting]

4.1.4 Affinity Water: [No comments received. Any comments received will be verbally updated at the Committee meeting]

4.1.5 National Grid: [No comments received. Any comments received will be verbally updated at the Committee meeting]

4.2 **Public/Neighbour Consultation**

4.2.1 Site Notice: Expired 16.06.2021.

4.2.2 Press Notice: Not applicable.

4.2.3 Number consulted: 17

4.2.4 No of responses received: 0

4.2.5 Summary of Responses: None.

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

5.1 National Planning Policy Framework and National Planning Practice Guidance

On 20 July 2021 the National Planning Policy Framework was revised. 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 2021 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.

5.2 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 PSP3, CP1, CP6, CP9, CP10, CP11 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 DM2, DM4, DM6, DM9, DM13 and Appendix 5.

5.3 Other

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

Policy SA2 (Site E(d)) of the Site Allocations Local Development Document (SALDD) (adopted November 2014).

Online National Planning Practice Guidance.

6 **Reason for Delay**

- 6.1 Allowed time to enable applicant to address technical objection from the Environment Agency however this has not progressed.

7 **Planning Analysis**

7.1 Overview

- 7.1.1 Following reports concerning a breach of planning control relating to unauthorised uses spanning the application site and wider site an enforcement case was opened and assigned the reference 17/0045/COMP. After site visits a number of Planning Contravention Notices were issued to various businesses operating from the site. From July 2019 all unauthorised uses ceased from the elevated parcels of land (outside the application site). One use recommenced and is subject to an enforcement notice and subsequent enforcement appeal which is currently pending with The Planning Inspectorate.

- 7.1.2 This application has been submitted (utilising section 73A of the TCPA 1990) after the land owner was made aware that the current use constituted a material change of use.

- 7.1.3 It is noted that the application site was formally used by Thames Water for commercial purposes when in their ownership.

7.2 Principle of development

- 7.2.1 The application site falls within a Secondary Centre as set out within PSP3 of the Core Strategy. This policy states that development in such centres will enhance employment

opportunities. The site is also located opposite an employment site (E(d) and falls within previously developed land by virtue of the presence of permanent structures / hard surfacing which formed part of a historic use by Thames Water. The historic use of the site was by Thames Water contractors linked to their function as a statutory undertaker and operated under permitted development.

7.2.2 As a result of the site circumstances a commercial presence within the application site is not unacceptable in principle, and clearly some weight must be given to its character which is dominated by existing buildings and hard surfacing. Nevertheless, the above view is caveated against other material planning considerations set out below which may make the development unacceptable.

7.3 Impact on Green Belt and openness

7.3.1 The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the most important attribute of Green Belts is their openness. Green Belts can shape patterns of urban development at sub-regional and regional scale, and help to ensure that development occurs in locations allocated in development plans. They help to protect the countryside, be it in agricultural, forestry or other use. They can assist in moving towards more sustainable patterns of urban development

7.3.2 Policy CP11 of the Core Strategy sets out that there is a general presumption against inappropriate development that would not preserve the openness of the Green Belt or which would conflict with the purposes of including land within it. Policy CP11 pre-dates the NPPF; however, it is considered to be consistent with the aims of national policy and thus can be given weight.

7.3.3 Policy DM2 of the Development Management Policies LDD is also a Green Belt local plan policy, however, it is silent with regards to 'material change of uses.'

7.3.4 Within the NPPF at paragraph 147 it states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It also states that local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

7.3.5 The NPPF makes certain exceptions for development in the Green Belt and these are set out within paragraph 149 with a number of requirements also set out at paragraph 150. At paragraph 150, it states that certain other forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. One such exception paragraph 150(e) is listed as 'material changes in the use of land'.

7.3.6 As such, subject to preserving openness and not conflicting with the purposes of Green Belts (paragraph 138) the proposed change of use of land to a storage use is considered appropriate.

7.3.7 The Planning Practice Guidance (PPG) states that when assessing the impact of a proposal on the openness of the Green Belt, this requires a judgement based on the circumstances of the case. It goes on to state that the courts have identified a number of matters which may be taken in account, such as, the spatial and visual aspects arising from the development, the duration of the development and the degree of activity.

7.3.8 The application site is limited in size and is enclosed to the north and east by a bank of mature trees and metal fencing with the wider site and service road. It also falls on a site which historically was used for commercial purposes by Thames Water. Due to the size constraint of the site, the amount of storage possible is relatively minimal in scale and does

not currently exceed the height of the metal boundary fencing. Further, there are low levels of vehicular movements and on-site activity. As a result of the site's locational context, limited visibility from outside the site and limited levels of storage and activity, it is not considered that the use (including stationing of two shipping containers) has a harmful impact on the openness of the Green Belt. Conditions controlling the height of storage, lighting (of which there is none at present) and hours of use are important to ensure that the use continues to preserve the openness of the Green Belt.

7.3.9 Due to the locational context of the site, it would not conflict with any of the purposes of the Green Belt. Accordingly, the material change of use would meet one of the requirements at paragraph 150(e) and thus would be appropriate development within the Green Belt. As it is considered appropriate development there would be no harm to openness as a direct result.

7.4 Impact on local character:

7.4.1 Policy CP1 of the Core Strategy seeks to promote buildings of a high enduring design quality that respect local distinctiveness and Policy CP12 of the Core Strategy 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'.

7.4.2 Due to the storage nature of the development, there is a visual impact. However, given its locational context and the size of the site it is not considered that the impact is harmful to the character of the area. As highlighted above, conditions are to be recommended, if approved, to ensure the storage levels on site are appropriate in terms of their height. As such, there would be no conflict with Policies CP1 or CP12 of the Core Strategy.

7.5 Impact on neighbouring amenity:

7.5.1 Policy DM9 of the Development Management Policies LDD states that planning permission will not be granted for development which has an unacceptable impact on the indoor and outdoor acoustic environment of existing or planned development.

7.5.2 Due to the location of the application site it is not considered that the activity arising from the application site is and will be harmful to local residents or nearby businesses.

7.5.3 It is recognised that residential properties (Froghall Farm) are located to the north; however, there is a substantial distance and varying land levels between which would largely mitigate any noise as a result of the use. To the south, and some distance away (over 200m) is Longmore Close.

7.5.4 Given the size constraints of the site and the limited levels of activity, it does not result in unacceptable harm. The hours of use are also not excessive and will be controlled by the imposition of a condition, if approved.

7.6 Parking and Access

7.6.1 Policy CP10 of the Core Strategy (adopted October 2011) states that all development should be designed and located to minimise the impacts of travel by motor vehicle on the District and demonstrate that it provides a safe and adequate means of access.

7.6.2 The NPPF states that "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe". The site is served by a formal access so no concerns are raised in this respect.

- 7.6.3 With regards to parking standards Appendix 5 of the Development Management Policies LDD states that for storage uses 1 space per 75sqm gross floor area (1 lorry space per 200sqm). No building exists on site; however there is adequate space on site for parking when required. The adjacent service road falls outside the controls of the applicant and is privately enforced by the land owner, Thames Water. There is also no highway objection.
- 7.6.4 Due to the nature of the development, it does not require cycle provision; however, space exists for such, if required.
- 7.7 Contamination
- 7.7.1 The application site falls within Source Protection Zone 1 relating to a groundwater abstraction borehole located approximately 350m north east of the site. The site is also potentially on or within close proximity to a historic landfill.
- 7.7.2 Paragraph 183(a) of the NPPF states that planning decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from instability and contamination and after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990. Additionally, paragraph 183(c) states that adequate site investigation information, prepared by a competent person, is available to inform these assessments.
- 7.7.3 Policy DM9 of the Development Management Policies LDD states that the Council will only grant planning permission for development, on, or near to, on land suspected to be contaminated, where the Council is satisfied that:
- i) There will no threat to the health of future users or occupiers of the site or neighbouring land; and
 - ii) There will be no adverse impact on the quality of local groundwater or surface water quality
- 7.7.4 The Environment Agency (EA) have commented that given the change of use involves the storage of building material and equipment it is potentially contaminative and may be detrimental to groundwater quality. Due to the site's location within Source Protection Zone 1, this is particularly important. Due to the absence of a Groundwater Risk Assessment the LPA and EA are unable to conclude that the risks to potable water can be safely managed, contrary to DM9 of the Development Management Policies LDD and the NPPF.
- 7.8 Air quality:
- 7.8.1 The NPPF at paragraph 185 states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment. Paragraph 186 also states that decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement.
- 7.8.2 Policy DM9 of the Development Management Policies LDD states that development will not be permitted where it would have an adverse impact on air pollution levels, particularly where it would adversely affect air quality in an Air Quality Management Area and/or be subject to unacceptable levels of air pollutants or disturbance from existing pollutant sources.
- 7.8.3 The application site does not fall within an Air Quality Management Area. Unlike other businesses operating from the wider site, the activity relating to the application site is

extremely limited. As such, it is not considered that the development unacceptably impacts air quality.

7.9 Ecology impacts

7.9.1 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.

7.9.2 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 document. Paragraph 170 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by proposals minimising impacts on and providing net gains for biodiversity, including by minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

7.9.3 A Local Biodiversity Checklist has been completed by the applicant and submitted with the application.

7.9.4 Due to the previously developed nature of the site it is not considered that any harm results to biodiversity. In order to minimise any impact, it would be appropriate to control external lighting.

7.10 Flooding and drainage

7.10.1 Policy DM9 of the Development Management Policies LDD states that development will only be permitted where it would not be subject to unacceptable risk of flooding; and would unacceptably exacerbate risk of flooding elsewhere.

7.10.2 The application site is located in Flood Zone 1; however, it is at medium to low risk of surface water flooding. The current surface of the site is partially hard surfaced; however, there is clear evidence from site visits that parts of the site are prone to a build-up of surface water and greater drainage could be implemented.

7.10.3 Due to the concerns regarding groundwater quality, it is considered that improvements to the surface are likely to be required which will enhance drainage across the site.

8 **Recommendation**

8.1 That RETROSPECTIVE PLANNING PERMISSION BE REFUSED for the following reason:-

It has not been demonstrated that the activities arising from the change of use which involves the storage of building material and equipment does not adversely impact on the quality of local groundwater and that the risk to potable water can be safely managed given the application site's location within Source Protection Zone 1. The development therefore fails to accord with Policy DM9 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2021).

8.2 **Informative:**

11 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.

PLANNING COMMITTEE – 21 OCTOBER 2021

PART I - DELEGATED

6. **20/2774/RSP – Retrospective: Change of use of the site for vehicle hire along with the processing of construction waste materials aggregates and soil at MAPLE LODGE, DENHAM WAY, MAPLE CROSS, HERTS, WD3 9XD (DCES)**

Parish: Non-Parished

Ward: Chorleywood South and Maple Cross

Expiry of Statutory Period: 18.06.2021
EOT: to be confirmed

Case Officer: Matthew Roberts

Recommendation: That Retrospective Planning Permission be Refused.

Reason for consideration by the Committee: Called in by three Members of the Planning Committee given distress the unauthorised use has caused to local residents.

1 **Relevant history at application site and wider site:**

- 1.1 8/97/78: Extension to form offices accommodation and car parking area. Permitted, temporary and personal permission to Thames Water.
- 1.2 01/01721/OUT: Mixed use scheme comprising 150 bedroom hotel, 18,580sq m office development, environment centre, park/land/meadows and landscaping. Refused.
- 1.3 17/0045/COMP: Unauthorised material change of use of land. Pending consideration, enforcement notice served on part of the wider site (land enclosed in blue on submitted location plan).
- 1.4 20/2827/RSP: Retrospective: Change of use to a concrete mixing demonstration facility including the display and exhibition of concrete making machinery and equipment. Refused, for the following reasons:

R1: The concrete plant and equipment (including associated silos) arising from the material change of use constitute inappropriate development within the Green Belt and therefore are, by definition, harmful to the Green Belt. In addition, by virtue of their height, industrial design, scale and siting they have a significant impact on the openness of the Green Belt. No very special circumstances of sufficient weight are considered to exist to outweigh the inappropriateness of the development and identified harm to openness. The concrete plant and equipment therefore fails to comply with Policies CP11 of the Core Strategy (adopted October 2011), Policy DM2 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2019).

R2: The concrete plant and equipment (including associated silos) arising from the material change of use by virtue of their height, industrial design, scale and siting have an adverse impact on the visual amenity of the locality and character of the area. The concrete plant and equipment therefore fails to comply Policy CP12 of the Core Strategy (adopted October 2011).

R3: It has not been demonstrated that the activities arising from the material change of use do not adversely impact on the quality of local groundwater quality and that the risk to potable water can be safely managed given the application site's location within Source Protection Zone 1. The development therefore fails to accord with Policy DM9 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2019).

R4: *It has not been demonstrated that the development would not be subject to unacceptable levels of air pollutants through on-site activities and vehicular movements. In the absence of an Air Quality Assessment the development is contrary to Policy DM9 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2019).*

R5: *In the absence of sufficient information it cannot be demonstrated that on-site parking levels are acceptable and that parking would not overflow onto the adjacent service road thereby impacting the usability of the pedestrian pavement and also adversely affecting the visual amenity of the area through the presence of on-street parking. The development is therefore contrary to Policy CP12 of the Core Strategy (adopted October 2011) and Policies DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).*

An appeal had been lodged against the decision to refuse planning permission but was turned away by the Planning Inspectorate on 6 October 2021 - APP/P1940/W/21/3273755.

- 1.5 20/0068/ENFNOT: Enforcement Notice Appeal against Unauthorised material change of use of land to open storage. PINS reference: APP/P1940/C/20/3265160. Pending consideration.
- 1.6 21/0424/RSP: Retrospective: Change of use of hanger for the maintenance and repair of lorries. Pending consideration.
- 1.7 20/2659/RSP: Retrospective: Change of use for open storage of builder's machinery, equipment and material. Pending consideration.
- 1.8 20/2831/RSP: Part Retrospective: Change of use to self-contained offices and use of hanger building for car maintenance and repairs. Withdrawn (use now ceased).

2 Description of Application Site

- 2.1 The application site relates to a rectangular parcel of land located within the north western part of a commercial yard (formerly owned and used by Thames Water), positioned on the northern side of the Thames Water service road which is accessed via Denham Way to the north east, in Maple Cross.
- 2.2 The wider site as enclosed in blue on the submitted location plan comprises two attached hanger type buildings and open yards, all of which are being used by a variety of different businesses, without planning permission. The elevated parcel of the wider site (referred to as Site 6 on the submitted location pan) is currently subject to an enforcement notice and appeal concerning unauthorised parking linked to one of the unauthorised businesses operating within a hanger type building (subject to application 21/0424/RSP).
- 2.3 The application site is physically enclosed from the wider site by the hanger buildings and metal fencing which runs along the service road frontage. To the immediate north west there is an earth bank which rises upwards away from the site and to the north the site is bounded by mature vegetation.
- 2.4 The application site has a single vehicular access point from the service road. Internally, the site is hard surfaced.
- 2.5 With regards to policy designations the application site falls within the Metropolitan Green Belt, Source Protection Zone 1, Flood Zone 1 and a Secondary Centre. It is also located opposite an allocated employment site (E(d)).

3 Description of Proposed Development

- 3.1 This application seeks retrospective planning permission for the change of use of the site for vehicle hire along with the processing of construction waste materials aggregates and soil.

- 3.2 The submitted planning statement sets out that the site is used by A1 Grab Hire Ltd, a construction vehicle hire company that receives aggregates and hires out vehicles that deliver aggregates. The grab lorries operating from the site pick up excess soil which is transferred to landfill sites.
- 3.3 A number of shipping containers exist on site, one of which is used as a waste container. Towards the front of the site there is a double stacked container (one of which is used as an office) which is proposed to be reduced to a single height container.
- 3.4 An area towards the north (side) and rear is used for the storage of excess soil with the remainder of the site used for parking.

4 Consultation

4.1 Statutory Consultation

4.1.1 Environment Agency: [Objection]

*We **object** to this retrospective planning application, as submitted, because the applicant has not supplied adequate information to demonstrate that the risks posed to groundwater resources can be satisfactorily managed.*

Reason:

The site is located within an inner groundwater protection zone (SPZ1) relating to a groundwater abstraction borehole located approximately 350m north east of the site. Areas in SPZ1 are the catchment areas for sources of potable water, high quality water supplies usable for human consumption. Groundwater at this location is therefore particularly vulnerable to polluting uses on the surface.

In this instance the proposed change of usage includes the processing of construction waste material aggregates and soils. The information submitted does not characterise the nature of this material. Leachate from these materials can result in contaminative run-off that could be a detriment to groundwater quality beneath the site.

This objection is in line with paragraph 170 of the National Planning Policy Framework (NPPF) and Policy DM9 of the Three Rivers Local Plan (2013).

Overcoming our objection

The applicant should submit a groundwater risk assessment that demonstrates that the risks to potable water supplies posed by the change in use at this site can be safely managed.

4.1.2 Highway Authority (HCC): [Objection]

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 recommends that permission be refused for the following reason:

- 1. The application form for the above site refers to a site area of 280sqm, which is significantly less than the actual area of the site (approximately 900sqm). The application and planning statement would therefore need to be updated / corrected to reflect the total area of the site including more detailed trip rates and distribution for vehicle trips to and from the site. A Transport Statement would be beneficial when taking into consideration the size and nature of the site and in order for a full assessment of the highway / transport impacts of the use to be made and in the context of any nearby existing and proposed uses and the cumulative impact of such uses.*

4.1.3 Thames Water: [No comments received. Any comments received will be verbally updated at the Committee meeting]

4.1.4 Affinity Water: [Objection]

You should be aware that the proposed development site is located within an Environment Agency defined groundwater Source Protection Zone (SPZ1) corresponding to our Pumping Stations (SPRW). These are for public water supply, comprising a number of Chalk abstraction boreholes, operated by Affinity Water Ltd.

*We are writing to **object** to this Application as we require further information in order for us to assess the risks posed to groundwater with regards to material storage and on site activities. Further information should include the following:*

- *An **Intrusive Ground Investigation** to identify the current state of the site and appropriate techniques/set ups for on site activities to avoid aquifer contamination.*
- *A **Risk Assessment** identifying both the aquifer and the abstraction point(s) as potential receptor(s) of contamination.*
- *Details of the **Surface Water Drainage** that ensures aquifer protection with regards to onsite activities such as the storage of materials and vehicles. We would like to see oil/water interceptors present but no infiltration methods.*
- *Details of any substance tanks, generators and filling areas that demonstrate **bunding** of 110% capacity.*
- *Details of **leak detection systems** and procedures that includes directly notifying Affinity Water along with the Environment Agency immediately if any substance leak (including leachate from materials) is suspected.*

4.1.5 National Grid: [No comments received. Any comments received will be verbally updated at the Committee meeting]

4.2 **Public/Neighbour Consultation**

4.2.1 Site Notice: Expired 27.05.2021.

4.2.2 Press Notice: Not applicable.

4.2.3 Number consulted: 20

4.2.4 No of responses received: 1 [Objection from Maple Cross & West Hyde Residents Association]

4.2.5 Summary of Responses:

- Open storage is unacceptable in a Green Belt location
- No precedent that can be example to support this
- Does not protect the tranquillity of the farmland which it backs onto
- It has not and has never been an industrial area and should not now be regarded as one
- Ground water impacts
- Vehicles and the materials on site are both possible sources of pollution
- Business concerns not significant enough to outweigh the harm caused as a direct result of A1 Grab Hire occupying this site
- Vehicles cannot use service road to park

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

5.1 National Planning Policy Framework and National Planning Practice Guidance

On 20 July 2021 the National Planning Policy Framework was revised. 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 2021 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.

5.2 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 PSP3, CP1, CP6, CP9, CP10, CP11 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 DM2, DM4, DM6, DM9, DM13 and Appendix 5.

5.3 Other

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

Policy SA2 (Site E(d)) of the Site Allocations Local Development Document (SALDD) (adopted November 2014).

Online National Planning Practice Guidance.

6 **Reason for Delay**

- 6.1 Allowed time to enable applicant to address technical objection from the Environment Agency however this has not progressed.
- 7 Planning Analysis**
- 7.1 Overview
- 7.1.1 Following reports concerning a breach of planning control relating to unauthorised uses spanning the application site and wider site, an enforcement case was opened and assigned the reference 17/0045/COMP. After site visits a number of Planning Contravention Notices were issued to various businesses operating from the site. From July 2019 all unauthorised uses ceased from the elevated parcels of land (outside the application site). One use re-commenced and is subject to an enforcement notice and subsequent enforcement appeal which is currently pending with The Planning Inspectorate.
- 7.1.2 This application has been submitted (utilising section 73A of the TCPA 1990) after the land owner was made aware that the current use constituted a material change of use.
- 7.1.3 It is noted that the application site was formally used by Thames Water for commercial purposes when in their ownership.
- 7.2 Principle of development
- 7.2.1 The application site falls within a Secondary Centre as set out within PSP3 of the Core Strategy. This policy states that development in such centres will enhance employment opportunities. The site is also located opposite an employment site (E(d) which is safeguarded for business, industrial and storage or distribution uses and falls within previously developed land by virtue of the presence of hard surfacing which formed part of a historic use by Thames Water. The historic use of the site was by Thames Water contractors linked to their function as a statutory undertaker and operated under permitted development.
- 7.2.2 As a result of the site circumstances a commercial presence within the application site is not unacceptable in principle, and clearly some weight must be given to its character which is dominated by existing buildings and hard surfacing. Nevertheless, the above view is caveated against other material planning considerations set out below which may make the development unacceptable.
- 7.3 Impact on Green Belt and openness
- 7.3.1 The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the most important attribute of Green Belts is their openness. Green Belts can shape patterns of urban development at sub-regional and regional scale, and help to ensure that development occurs in locations allocated in development plans. They help to protect the countryside, be it in agricultural, forestry or other use. They can assist in moving towards more sustainable patterns of urban development
- 7.3.2 Policy CP11 of the Core Strategy sets out that there is a general presumption against inappropriate development that would not preserve the openness of the Green Belt or which would conflict with the purposes of including land within it. Policy CP11 pre-dates the NPPF; however, it is considered to be consistent with the aims of national policy and thus can be given weight.
- 7.3.3 Policy DM2 of the Development Management Policies LDD is also a Green Belt local plan policy, however, it is silent with regards to 'material change of uses.'
- 7.3.4 Within the NPPF at paragraph 147 it states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved expect in very special circumstances.

It also states that local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

- 7.3.5 The NPPF makes certain exceptions for development in the Green Belt and these are set out within paragraph 149 with a number of requirements also set out at paragraph 150. At paragraph 150, it states that certain other forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. One such exception at paragraph 150(e) is listed as 'material changes in the use of land'.
- 7.3.6 As such, subject to preserving openness and not conflicting with the purposes of Green Belts (paragraph 138) the proposed change of use of land to vehicle hire and processing construction waste materials could be considered appropriate.
- 7.3.7 The Planning Practice Guidance (PPG) states that when assessing the impact of a proposal on the openness of the Green Belt, this requires a judgement based on the circumstances of the case. It goes on to state that the courts have identified a number of matters which may be taken in account, such as, the spatial and visual aspects arising from the development, the duration of the development and the degree of activity.
- 7.3.8 The application site is fairly limited in size and is enclosed by vegetated banks, existing hanger buildings and metal fencing/gate, the latter of which is set back from the service road. As such views into the site are limited to the service road, a private road.
- 7.3.9 Prior to its unauthorised use, the site already contained hard surfacing which aided its historic use by Thames Water. Due to the size constraints of the site, activity is confined to the existing area of hard surfacing. It is acknowledged and agreed that the site prior to its unauthorised use had not been in active use for some time (since 2010/2011). As it stands, the use is uncontrolled in a planning sense and therefore is and has the potential to impact on openness through on-site activity and the presence of high storage of materials and double stacked shipping containers. Nevertheless, when considering the site's locational context in the sense that it already has hard surfacing, is adjacent to existing buildings which clearly utilised the yards in and around them historically for ancillary purposes and its limited visibility, the principal of the use in the Green Belt is not considered unacceptable. However, it is recognised that there could be an impact from the use on openness if no controls were recommended. It is therefore considered important to impose a number of planning conditions, if the application is approved, so the impact can be controlled to ensure it does not adversely affect openness to such an extent that fails to meet the requirement of paragraph 150 of the NPPF. Notwithstanding the potential impact on openness, given the location of the site and its condition prior to the unauthorised use, the development does not conflict with any of the purposes of Green Belts.
- 7.3.10 In order to ensure that the use preserves the Green Belt it would be necessary to impose conditions limiting the height of any construction waste aggregate, soil and associated materials to no more than 3m. Additionally, no other temporary structures (other than vehicles associated with the use) shall be erected/stored on site other than those shown on the proposed site plan, which includes three single storey containers, one of which would be used for storage of waste. It will also be reasonable and necessary to controls the hours of use to 7am to 5pm Monday to Friday which limits on-site activity, restrictions on external lighting and ensuring vehicles under the control of the applicant are not parked on the adjacent service road as the subsequent use of this private service has the potential to harm openness.
- 7.3.11 Accordingly, subject to conditions the development would meet one of the requirements at paragraph 150(e) and thus would be appropriate development within the Green Belt. As a direct result it would not harm openness.

7.4 Impact on local character:

- 7.4.1 Policy CP1 of the Core Strategy seeks to promote buildings of a high enduring design quality that respect local distinctiveness and Policy CP12 of the Core Strategy 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'.
- 7.4.2 Due to the commercial nature of the development, there is a visual impact arising from its use. However, given its locational context and the size of the site it is not considered that the impact is harmful to the character of the immediate area which is predominately dominated by office buildings and open land falling in a designated employment site.
- 7.4.3 Objections have been raised stating that the development fails to protect the tranquillity of the farmland which it backs onto and has not and never has been an industrial area and should not now be regarded as one. In response, the application site is well-contained and is physically separated from shrub land immediately behind and is not readily visible from such vantage points due to the topography. Whilst acknowledging that the activity on site generates noise, it is not considered that the noise impacts associated with the use, which is on a relatively limited scale, would have a harmful impact on the character of the area. The application site is previously developed and sited a significant distance from residential properties making it an appropriate site for the existing use.
- 7.4.4 It is recognised that the parking on the service road and the general condition of the verges which front the application site and wider site could be improved; however, these fall outside the controls of the applicant and the application site. Nevertheless, on-going discussions are taking place about enhancing the condition of the verges.
- 7.4.5 As highlighted above, the conditions which are to be recommended, if approved, will also ensure that the character of the area is maintained and not unacceptably harmed. As such, there would be no conflict with Policies CP1 or CP12 of the Core Strategy.

7.5 Impact on neighbouring amenity:

- 7.5.1 Policy DM9 of the Development Management Policies LDD states that planning permission will not be granted for development which has an unacceptable impact on the indoor and outdoor acoustic environment of existing or planned development.
- 7.5.2 Due to the location of the application site it is not considered that the activity arising from the application site is and will be harmful to local residents or nearby businesses.
- 7.5.3 It is recognised that residential properties (Froghall Farm) are located to the north, however, there is a substantial distance (in excess of 130m) and varying land levels between which would mitigate noise as a result of the use, which would be controlled in terms of its hours of use. To the south, and some distance away (over 200m) is Longmore Close. Again, due to the nature of the use and its location, it will not have an adverse impact on nearby residential amenity.
- 7.5.4 Given the size constraints of the site and the limited levels of activity, it does not result in unacceptable harm. The hours of use are also not excessive and will be controlled by the imposition of a condition.

7.6 Parking and Access

- 7.6.1 Policy CP10 of the Core Strategy (adopted October 2011) states that all development should be designed and located to minimise the impacts of travel by motor vehicle on the District and demonstrate that it provides a safe and adequate means of access.

- 7.6.2 The NPPF states that “Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”. The site is served by a formal access so no concerns are raised in this respect. However, the Highway Authority have objected due to the lack of information pertaining to trip rates and the distribution for vehicle trips to and from the site and the possible cumulative impact from nearby uses. On that basis they are unable to appropriately assess the highway implications resulting from the use.
- 7.6.3 With regards to parking standards Appendix 5 of the Development Management Policies LDD states that for sui generis uses the car parking standards are to be decided in each case on individual merits.
- 7.6.4 From the information provided and despite attempts to seek greater clarity, the number of vehicles on site is unclear. However, through a number of site visits it is apparent that vehicles are contained on site; although it is unclear where the staff who drive the trucks park.
- 7.6.5 Due to the nature of the development, it does not require cycle provision; however, space exists for such, if required.
- 7.6.6 Notwithstanding the above, there is a lack of information pertaining to the application in respect of trip distributions and whether acceptable levels of parking exists on-site.
- 7.7 Contamination
- 7.7.1 The application site falls within Source Protection Zone 1 relating to a groundwater abstraction borehole located approximately 350m north east of the site. The site is also potentially on or within close proximity to a historic landfill.
- 7.7.2 Paragraph 183(a) of the NPPF states that planning decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from instability and contamination and after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990. Additionally, paragraph 183(c) states that adequate site investigation information, prepared by a competent person, is available to inform these assessments.
- 7.7.3 Policy DM9 of the Development Management Policies LDD (adopted July 2013) states that the Council will only grant planning permission for development, on, or near to, on land suspected to be contaminated, where the Council is satisfied that:
- i) There will no threat to the health of future users or occupiers of the site or neighbouring land; and
 - ii) There will be no adverse impact on the quality of local groundwater or surface water quality
- 7.7.4 The Environment Agency (EA) have commented that given the change of use includes the processing of construction waste material aggregates and soils the applicant should submit a groundwater risk assessment that demonstrates that the risks to potable water supplies posed by the change of use can be safely managed. The EA have also advised that leachate (by product derived from solid wastes due to their physical, chemical and biological changes) from construction waste/aggregate can result in contaminative run-off that could be a detriment to groundwater quality beneath the site.
- 7.7.5 The applicant was advised some time ago to undertake a holistic (site wide including application site and wider site) ground water risk assessment; however no assessment has been forthcoming which conflicts with the requirements of the NPPF.

- 7.7.6 Affinity Water have also objected to the application as they require further information on the risks posed to groundwater. They require an Intrusive Ground Investigation, details on the surface water drainage and details of leak detection systems / procedures in the event of a substance leak.
- 7.7.7 In light of the above, due to the absence of a groundwater risk assessment the LPA, EA and Affinity Water are unable to conclude that the risks to potable water can be safely managed. This is contrary to Policy DM9 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2021).
- 7.8 Air quality:
- 7.8.1 The NPPF at paragraph 185 states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment. Paragraph 186 also states that decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement.
- 7.8.2 Policy DM9 of the Development Management Policies LDD states that development will not be permitted where it would have an adverse impact on air pollution levels, particularly where it would adversely affect air quality in an Air Quality Management Area and/or be subject to unacceptable levels of air pollutants or disturbance from existing pollutant sources.
- 7.8.3 The application site does not fall within an Air Quality Management Area; however, the site is located near to the Reach Free School, whereby local children and residents walk along Denham Way. Due to the nature of the business, it is considered reasonable to assume that emissions and vehicle movements would have an impact on air quality. However, due to the lack of information, this along with any mitigation cannot be quantified as part of the current application and thus conflicts with Policy DM9 and the NPPF (2021).
- 7.9 Ecology impacts
- 7.9.1 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.
- 7.9.2 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 document. Paragraph 170 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by proposals minimising impacts on and providing net gains for biodiversity, including by minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 7.9.3 A Local Biodiversity Checklist has been completed by the applicant and submitted with the application. A single lighting column exists close to the site entrance however no further lighting is proposed. A planning condition could be recommended to control external lighting in the event of an approval.

7.10 Flooding and drainage

- 7.10.1 Policy DM9 of the Development Management Policies LDD states that development will only be permitted where it would not be subject to unacceptable risk of flooding; and would unacceptably exacerbate risk of flooding elsewhere.
- 7.10.2 The application site is located in Flood Zone 1; however, it is at high risk of surface water flooding. The current surface of the site is hard surfaced; however, there is clear evidence from site visits that parts of the site are prone to a build-up of surface water.
- 7.10.3 Due to the concerns regarding groundwater quality, it is considered that improvements to the surface of the site are likely to be required which will in-turn enhance drainage across the site.

8 **Recommendation**

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

R1: It has not been demonstrated that the activities arising from the change of use including the processing of construction waste do not adversely impact on the quality of local groundwater and that the risk to potable water can be safely managed given the application site's location within Source Protection Zone 1. The development therefore fails to accord with Policy DM9 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2021).

R2: In the absence of sufficient information it cannot be demonstrated that on-site parking levels are acceptable and that parking would not overflow onto the adjacent service road thereby impacting the usability of the pedestrian pavement and also adversely affecting the openness of the Green Belt and the visual amenity of the area through the presence of on-street parking. In addition, due to the absence of more detailed trip rates and distribution of vehicles trips to and from the site a proper assessment of the highway/transport impacts and the cumulative impact of adjacent/nearby uses cannot be made. The development is therefore contrary to Policies CP10 and CP11 of the Core Strategy (adopted October 2011) and Policies DM2 and DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

R3: It has not been demonstrated that the development would not cause unacceptable levels of air pollutants through on-site activities and vehicular movements nor can any mitigation be quantified. The development is contrary to Policy DM9 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2021).

8.2 **Informative:**

- 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.

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PLANNING COMMITTEE – 21 OCTOBER 2021

PART I - DELEGATED

7. **21/0424/RSP – Retrospective: Change of use of hanger for the maintenance and repair of lorries at MAPLE LODGE, DENHAM WAY, MAPLE CROSS, HERTS, WD3 9XD**

Parish: Non-Parished

Ward: Chorleywood South and Maple Cross

Expiry of Statutory Period: 20.05.2021
(EOT: tbc)

Case Officer: Matthew Roberts

Recommendation: That Retrospective Planning Permission be Refused.

Reason for consideration by the Committee: Called in by the Head of Regulatory Services given two other applications within the wider site have been called in by members of the Planning Committee.

1 **Relevant history at application site and wider site:**

- 1.1 8/97/78: Extension to form offices accommodation and car parking area. Permitted, temporary and personal permission to Thames Water.
- 1.2 01/01721/OUT: Mixed use scheme comprising 150 bedroom hotel, 18,580sq m office development, environment centre, park/land/meadows and landscaping. Refused.
- 1.3 17/0045/COMP: Unauthorised material change of use of land. Pending consideration, enforcement notice served on part of the wider site (land enclosed in blue on submitted location plan).
- 1.4 20/2827/RSP: Retrospective: Change of use to a concrete mixing demonstration facility including the display and exhibition of concrete making machinery and equipment. Refused, for the following reasons:

R1: The concrete plant and equipment (including associated silos) arising from the material change of use constitute inappropriate development within the Green Belt and therefore are, by definition, harmful to the Green Belt. In addition, by virtue of their height, industrial design, scale and siting they have a significant impact on the openness of the Green Belt. No very special circumstances of sufficient weight are considered to exist to outweigh the inappropriateness of the development and identified harm to openness. The concrete plant and equipment therefore fails to comply with Policies CP11 of the Core Strategy (adopted October 2011), Policy DM2 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2019).

R2: The concrete plant and equipment (including associated silos) arising from the material change of use by virtue of their height, industrial design, scale and siting have an adverse impact on the visual amenity of the locality and character of the area. The concrete plant and equipment therefore fails to comply Policy CP12 of the Core Strategy (adopted October 2011).

R3: It has not been demonstrated that the activities arising from the material change of use do not adversely impact on the quality of local groundwater quality and that the risk to potable water can be safely managed given the application site's location within Source Protection Zone 1. The development therefore fails to accord with Policy DM9 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2019).

R4: It has not been demonstrated that the development would not be subject to unacceptable levels of air pollutants through on-site activities and vehicular movements. In

the absence of an Air Quality Assessment the development is contrary to Policy DM9 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2019).

R5: In the absence of sufficient information it cannot be demonstrated that on-site parking levels are acceptable and that parking would not overflow onto the adjacent service road thereby impacting the usability of the pedestrian pavement and also adversely affecting the visual amenity of the area through the presence of on-street parking. The development is therefore contrary to Policy CP12 of the Core Strategy (adopted October 2011) and Policies DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

An appeal has been lodged against the decision to refuse planning permission (turned away on 6 October 2021 - APP/P1940/W/21/3273755).

- 1.5 20/0068/ENFNOT: Enforcement Notice Appeal against Unauthorised material change of use of land to open storage. PINS reference: APP/P1940/C/20/3265160. Pending consideration.
- 1.6 20/2659/RSP: Retrospective: Change of use of the site for vehicle hire along with the processing of construction waste materials aggregates and soil. Pending consideration.
- 1.7 20/2774/RSP: Retrospective: Change of use of hanger for the maintenance and repair of lorries. Pending consideration.
- 1.8 20/2831/RSP: Part Retrospective: Change of use to self-contained offices and use of hanger building for car maintenance and repairs. Withdrawn (use now ceased).

2 Description of Application Site

- 2.1 The application site incorporates a hanger type building, associated yard on the northern side of the Thames Water service road which is accessed via Denham Way to the north east, in Maple Cross. The application site is used by Bulk Transfer, a waste management and aggregate company.
- 2.2 The wider site as enclosed in blue on the submitted location plan comprises the other attached hanger type building (previously subjected to 20/2831/RSP) and open yards either side, all of which are being used by a variety of different businesses, without planning permission. The elevated parcel of the wider site (referred to as Site 6 on the submitted location pan) is currently subject to an enforcement notice and appeal concerning unauthorised parking which is linked to Bulk Transfers' use of the application site.
- 2.3 Internally within the hanger type building is a lorry pit and a small mezzanine used for storage associated with the use. Outside the building there is an open yard which contains a number of shipping containers and a porta-cabin used as an office (previously was a double stacked porta-cabin as shown on the submitted plans). Access through the site is also possible to the adjoining hanger, the site used by A1 Concrete (referred to as Site 4) and to the elevated parcel of land (referred to as Site 6).
- 2.4 The application site is bounded to the north east by mature vegetation.
- 2.5 With regards to policy designations the application site falls within the Metropolitan Green Belt, Source Protection Zone 1, Flood Zone 1 and a Secondary Centre. It is also located opposite an allocated employment site (E(d)).

3 Description of Proposed Development

- 3.1 This application seeks retrospective planning permission for the change of use of the hanger for the maintenance and repair of lorries.

- 3.2 The submitted planning statement states that as a waste collection and delivery service it also repairs and maintains its fleet of vehicles. The business utilises tripper trucks and articulated lorries who deliver 6F2 (recycled aggregate) and Type 1 materials which undergo a complete recycling process from landfills in Bletchley and Buckden. An average of 7-8 vehicles, dependent on breakdowns and the need to replace tyres, are serviced on a daily basis, with this increased throughout the winter months. The statement comments that four cars are parked at the site in front of the porta-cabin which is used as a canteen and office.
- 3.3 In terms of staffing levels for the business, there are 4/5 office staff, 4 mechanics and 26 drivers.
- 3.4 The submitted statement also clarifies that the lorry parking area (Site 6) does not form part of this planning application.

4 Consultation

4.1 Statutory Consultation

4.1.1 Environment Agency: [Objection]

*We **object** to this retrospective planning application, as submitted, because the applicant has not supplied adequate information to demonstrate that the risks posed to groundwater resources can be satisfactorily managed.*

Reasons

The site is located within an inner groundwater protection zone (SPZ1) relating to a groundwater abstraction borehole located approximately 350m north east of the site.

Areas in SPZ1 are the catchment areas for sources of potable water, high quality water supplies usable for human consumption. Groundwater at this location is therefore particularly vulnerable to polluting uses on the surface.

In particular, the proposed change of usage includes vehicle maintenance that could result in accidental or uncontrolled release of pollutants to ground (motor oil, hydrocarbons, brake fluid coolant) that could have a detrimental impact on groundwater quality beneath the site. This objection is in line with paragraph 170 of the National Planning Policy Framework (NPPF) and Policy DM9 of the Three Rivers Local Plan (2013).

Overcoming our objection

The applicant should submit a groundwater risk assessment that demonstrates that the risks to potable water supplies posed by the change in use at this site can be safely managed.

Final comments

Thank you for contacting us regarding the above application. Our comments are based on our available records and the information submitted to us. Please quote our reference number in any future correspondence. Please provide us with a copy of the decision notice for our records. This would be greatly appreciated.

If you are minded to approve the application contrary to our objection, I would be grateful if you could re-notify us to explain why, and to give us the opportunity to make further representations

- 4.1.2 Highway's Authority (HCC): [No comments received. Any comments received will be verbally updated at the Committee meeting]

4.1.3 Thames Water: [Advisory comments submitted]

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.

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-forservices/Wastewater-services>

A Trade Effluent Consent will be required for any Effluent discharge other than a 'Domestic Discharge'. Any discharge without this consent is illegal and may result in prosecution. (Domestic usage for example includes - toilets, showers, washbasins, baths, private swimming pools and canteens). Typical Trade Effluent processes include: - Laundrette/Laundry, PCB manufacture, commercial swimming pools, photographic/printing, food preparation, abattoir, farm wastes, vehicle washing, metal plating/finishing, cattle market wash down, chemical manufacture, treated cooling water and any other process which produces contaminated water. Pre-treatment, separate metering, sampling access etc may be required before the Company can give its consent.

Applications should be made at <https://wholesale.thameswater.co.uk/Wholesaleservices/Businesscustomers/Trade-effluent> or alternatively to Waste Water Quality, Crossness STW, Belvedere Road, Abbeywood, London. SE2 9AQ. Telephone: 020 3577 9200.

Thames Water would recommend that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of petrol / oil interceptors could result in oil-polluted discharges entering local watercourses. 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.

The applicant is advised that their development boundary falls within a Source Protection Zone for groundwater abstraction. These zones may be at particular risk from polluting activities on or below the land surface. To prevent pollution, the Environment Agency and Thames Water (or other local water undertaker) will use a tiered, risk-based approach to regulate activities that may impact groundwater resources. The applicant is encouraged to read the Environment Agency's approach to groundwater protection (available at <https://www.gov.uk/government/publications/groundwaterprotection-position-statements>) and may wish to discuss the implication for their development with a suitably qualified environmental consultant.

4.1.4 Affinity Water: [No comments received. Any comments received will be verbally updated at the Committee meeting]

4.1.5 National Grid: [No comments received. Any comments received will be verbally updated at the Committee meeting]

4.2 **Public/Neighbour Consultation**

4.2.1 Site Notice: Expired 28.04.2021.

4.2.2 Press Notice: Not applicable.

4.2.3 Number consulted: 17

4.2.4 No of responses received: 0

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

5.1 National Planning Policy Framework and National Planning Practice Guidance

On 20 July 2021 the National Planning Policy Framework was revised. 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 2021 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.

5.2 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 PSP3, CP1, CP6, CP9, CP10, CP11 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 DM2, DM4, DM6, DM9, DM13 and Appendix 5.

5.3 Other

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

Policy SA2 (Site E(d)) of the Site Allocations Local Development Document (SALDD) (adopted November 2014).

Online National Planning Practice Guidance.

6 **Reason for Delay**

6.1 Allowed time to overcome technical objection from the Environment Agency however this has not progressed.

7 **Planning Analysis**

7.1 Overview

7.1.1 Following reports concerning a breach of planning control relating to unauthorised uses spanning the application site and wider site, an enforcement case was opened and assigned the reference 17/0045/COMP. After site visits a number of Planning Contravention Notices were issued to various businesses operating from the site. From July 2019 all unauthorised uses ceased from the elevated parcels of land (outside the application site). One use re-commenced and is subject to an enforcement notice and subsequent enforcement appeal which is currently pending with The Planning Inspectorate.

7.1.2 This application has been submitted (utilising section 73A of the TCPA 1990) after the land owner was made aware that the current use constituted a material change of use.

7.1.3 It is noted that the application site was formally used by Thames Water for commercial purposes when in their ownership.

7.2 Principle of development

7.2.1 The application site falls within a Secondary Centre as set out within PSP3 of the Core Strategy. This policy states that development in such centres will enhance employment opportunities. The site is also located opposite an employment site (E(d)) which is safeguarded for business, industrial and storage or distribution uses and falls within previously developed land by virtue of the presence of buildings and hard surfacing which formed part of a historic use by Thames Water. The historic use of the site was by Thames Water contractors linked to their function as a statutory undertaker and operated under permitted development.

- 7.2.2 As a result of the site circumstances a commercial presence within the application site is not unacceptable in principle, and clearly some weight must be given to its character which is dominated by existing buildings and hard surfacing. Nevertheless, the above is caveated against other material planning considerations set out below which may make the development unacceptable
- 7.3 Impact on Green Belt and openness
- 7.3.1 The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the most important attribute of Green Belts is their openness. Green Belts can shape patterns of urban development at sub-regional and regional scale, and help to ensure that development occurs in locations allocated in development plans. They help to protect the countryside, be it in agricultural, forestry or other use. They can assist in moving towards more sustainable patterns of urban development
- 7.3.2 Policy CP11 of the Core Strategy sets out that there is a general presumption against inappropriate development that would not preserve the openness of the Green Belt or which would conflict with the purposes of including land within it. Policy CP11 pre-dates the NPPF; however, it is considered to be consistent with the aims of national policy and thus can be given weight.
- 7.3.3 Policy DM2 of the Development Management Policies LDD is also a Green Belt local plan policy, however, it is silent with regards to 'material change of uses.'
- 7.3.4 Within the NPPF at paragraph 147 it states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It also states that local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 7.3.5 The NPPF makes certain exceptions for development in the Green Belt and these are set out within paragraph 149 with a number of requirements also set out at paragraph 150. At paragraph 150, it states that certain other forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. Two relevant exceptions at paragraph 150(d) and (e) are listed as 'the re-use of buildings provided that the buildings are of permanent and substantial construction' and 'material changes in the use of land'.
- 7.3.6 As such, subject to preserving openness and not conflicting with the purposes of Green Belts (paragraph 138) the proposed use of the existing building and associated yard areas for ancillary purposes could be considered appropriate.
- 7.3.7 The Planning Practice Guidance (PPG) states that when assessing the impact of a proposal on the openness of the Green Belt, this requires a judgement based on the circumstances of the case. It goes on to state that the courts have identified a number of matters which may be taken in account, such as, the spatial and visual aspects arising from the development, the duration of the development and the degree of activity.
- 7.3.8 The existing hanger building is of permanent and substantial construction and had previously been used to service vehicles given the presence of the service pit. As such, when vehicles are being serviced within the building, there is no impact on the openness of the Green Belt nor any conflict with the purposes of Green Belts.
- 7.3.9 Notwithstanding the above, the subsequent activities associated with the use do have an impact on the openness of the Green Belt, excluding the current unauthorised parking use (within the wider site) which is subject to an enforcement appeal. From site visit observations and from the submitted planning statement there are a number of vehicles

which are serviced on a daily basis and many vehicles are required to park up and wait as there is only space for one vehicle at a time within the building. The planning statement states that typically, lorries go to and from the site for maintenance purposes between the hours of 6am to 5pm Monday to Friday. In addition, within the yard area there are double stacked shipping containers which are positioned against the building. The porta-cabin is no longer double stacked in height which has reduced its presence given its position, immediately adjacent to the mature vegetation along the north eastern boundary.

- 7.3.10 The yard area in front of the building is hard surfaced, albeit in poor condition and as highlighted above does have a vegetated backdrop when viewed from the service road. From other vantage points from Denham Lane and from Froghall Farm the use and associated activities would not be readily visible; however, lack of visibility is not the sole means of assessing the impact on openness.
- 7.3.11 The applicant has put forward a number of mitigation measures to reduce the impact of the development. These include painting the porta-cabin green, planting new landscaping and implementing an ecological zone on parts of the wider site.
- 7.3.12 Whilst the painting of the porta-cabin would assist further in reducing the visual impact from their current height, having regard to the site circumstances there are no areas on site to incorporate new planting nor have sufficient details been provided in respect of the ecological zone and how this could be achieved.
- 7.3.13 With limited information, it is unclear as to how large vehicles will be parked when waiting to be serviced given the size constraints of the site and the fact that parking on the service road falls outside of the applicant's control and any use of the service road by large lorries would have a significant impact on openness. In order to mitigate this, the vehicles would need to be booked in advance via appropriate booking management system to ensure that sufficient time exists between servicing to prevent them from turning up at the site at the same time. Any servicing would also need to be restricted to the business operating from the building, to ensure that the use is not more widely used. Additionally, a condition can be imposed to ensure that vehicles under the applicant's control (which are easy to recognise) do not park on the service road, thus requiring the applicant to ensure that bookings are well managed.
- 7.3.14 At the moment vehicles are utilising the elevated parcel of land due to the fact the yard contains other businesses thereby limiting the ability to park the vehicles close to the hanger, within the established part of the site. The elevated parcel of land falls within an open part of the wider site and the use of it has, in officers' opinion, significant impacts on the openness of the Green Belt. The parcel of land does not part form of this application, nor would the parking of vehicles within the wider elevated site be considered acceptable.
- 7.3.15 In light of the above, subject to conditions relating to painting of the port-cabin, submission of a booking management plan, parking controls on the service road, hours of use (in-line with other businesses) and restrictions on external lighting, it is not considered that the impacts arising from the use would have a harmful impact on the openness of the Green Belt. As a result the development subject to those controls would preserve the openness of the Green Belt and given its locational context would not conflict with any of the purposes of the Green Belts. As a result the development would be appropriate within the Green Belt, meeting the requirements of paragraph 150 (d) and (e).

7.4 Impact on local character:

- 7.4.1 Policy CP1 of the Core Strategy seeks to promote buildings of a high enduring design quality that respect local distinctiveness and Policy CP12 of the Core Strategy 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'.

- 7.4.2 The immediate area is generally dominated by office buildings and open undeveloped land which falls within a designated employment site. Within the application site there is a pre-existing hanger building and a commercial yard enclosed by metal fencing. As such, notwithstanding the uses which are currently taking place there is a commercial character to the site. Therefore, understandably such sites are generally not the most attractive. However, the use of the building and the subsequent external activities arising from the use, subject to the controls detailed above, would not have a demonstrable adverse impact on the overall character of the area.
- 7.4.3 Efforts from the land owner could be made to enhance soft landscaping verges to the front of the wider site, adjacent to the service road which would go some way in enhancing the site's appearance. It is hoped through discussions outside of this application (which have occurred) that such improvements could be achieved.
- 7.4.4 As highlighted above, the conditions which are to be recommended, if approved, will ensure that the character of the area is maintained and not unacceptably harmed. As such, there would be no conflict with Policies CP1 or CP12 of the Core Strategy.
- 7.5 Impact on neighbouring amenity:
- 7.5.1 Policy DM9 of the Development Management Policies LDD states that planning permission will not be granted for development which has an unacceptable impact on the indoor and outdoor acoustic environment of existing or planned development.
- 7.5.2 Due to the location of the application site it is not considered that the activity arising from the application site is and will be harmful to local residents or nearby businesses.
- 7.5.3 It is recognised that residential properties (Froghall Farm) are located to the north, however, there is a substantial distance (in excess of 130m) and varying land levels between which would mitigate noise as a result of the use, which would be controlled in terms of its hours of use which would be from 7am to 6pm Monday to Friday. To the south, and some distance away (over 200m) is Longmore Close. Again, due to the nature of the use and its location, it will not have an adverse impact on nearby residential amenity.
- 7.5.4 Given the suggested controls, the development will not result in unacceptable harm and thus would not conflict with Policy DM9.
- 7.6 Parking and Access
- 7.6.1 Policy CP10 of the Core Strategy (adopted October 2011) states that all development should be designed and located to minimise the impacts of travel by motor vehicle on the District and demonstrate that it provides a safe and adequate means of access.
- 7.6.2 The NPPF states that "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe". The site is served by a formal access so no concerns are raised in this respect.
- 7.6.3 With regards to parking standards Appendix 5 of the Development Management Policies LDD states that for workshops 3 spaces per 4 employees plus 3 spaces per bay (for waiting and finished vehicles) in addition to repair bays is required.
- 7.6.4 From the information provided there are 4/5 office staff, 4 mechanics and one bay within the building. Whilst there are 26 drivers within the company these are not linked to the current application but the area used for unlawful parking which is subject to an on-going enforcement appeal. As a result, 9 spaces are required (6 for staff and 3 for the bay). The planning statement confirms that four parking spaces (informal) can be parked in front of

the porta-cabins and from site observations this is possible, albeit it is informal. A shortfall of 5 spaces would therefore exist.

7.6.5 As highlighted above, concerns exist in respect of vehicles waiting on the highway and without greater information the impact of this is hard to quantify. Whilst controls via a planning condition can ensure that parking under the applicant's control does not take place along the service road (including private enforcement from the land owner), this would be harder to enforce for private cars belonging to staff who drive to the site as they will not be indistinguishable from any other private car. Based on the limited information submitted and given the shortfall, it is not considered that acceptable on-site parking provision can be achieved which has the ability to impact the use of the service road.

7.6.6 Due to the nature of the development, it does not require cycle provision; however, space exists for such, if required.

7.6.7 Notwithstanding the above, there is a lack of information pertaining to the application in respect of trip distributions and whether acceptable levels of parking exists on-site.

7.7 Contamination

7.7.1 The application site falls within Source Protection Zone 1 relating to a groundwater abstraction borehole located approximately 350m north east of the site. The site is also potentially on or within close proximity to a historic landfill.

7.7.2 Paragraph 183(a) of the NPPF states that planning decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from instability and contamination and after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990. Additionally, paragraph 183(c) states that adequate site investigation information, prepared by a competent person, is available to inform these assessments.

7.7.3 Policy DM9 of the Development Management Policies LDD states that the Council will only grant planning permission for development, on, or near to, on land suspected to be contaminated, where the Council is satisfied that:

- i) There will no threat to the health of future users or occupiers of the site or neighbouring land; and
- ii) There will be no adverse impact on the quality of local groundwater or surface water quality

7.7.4 The Environment Agency (EA) have commented that given the change of use includes the processing of construction waste material aggregates and soils the applicant should submit a groundwater risk assessment that demonstrates that the risks to potable water supplies posed by the change of use can be safely managed. The EA have advised that accidental or uncontrolled release of pollutants to ground (motor oil, hydrocarbons, brake fluid coolant) could have a detrimental impact on groundwater quality beneath the site.

7.7.5 The applicant was advised some time ago to undertake a holistic (site wide including application site and wider site) ground water risk assessment; however no assessment has been forthcoming which conflicts with the requirements of the NPPF.

7.7.6 In light of the above, due to the absence of a groundwater risk assessment the LPA and EA are unable to conclude that the risks to potable water can be safely managed. This is contrary to Policy DM9 of the Development Management Policies LDD and the NPPF (2021).

7.8 Air quality:

- 7.8.1 The NPPF at paragraph 185 states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment. Paragraph 186 also states that decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement.
- 7.8.2 Policy DM9 of the Development Management Policies LDD states that development will not be permitted where it would have an adverse impact on air pollution levels, particularly where it would adversely affect air quality in an Air Quality Management Area and/or be subject to unacceptable levels of air pollutants or disturbance from existing pollutant sources.
- 7.8.3 The application site does not fall within an Air Quality Management Area; however, the site is located near to the Reach Free School, whereby local children and residents walk along Denham Way. Due to the nature of the business, it is considered reasonable to assume that emissions and vehicle movements would have an impact on air quality. However, due to the lack of information, this impact along with any mitigation cannot be quantified as part of the current application and thus conflicts with Policy DM9 and the NPPF (2021).
- 7.9 Ecology impacts
- 7.9.1 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.
- 7.9.2 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 document. Paragraph 170 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by proposals minimising impacts on and providing net gains for biodiversity, including by minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 7.9.3 A Local Biodiversity Checklist has been completed by the applicant and submitted with the application. A portable mobile lighting column exists on site (adjacent to the porta-cabin) but is relatively low level. To avoid excessive lighting of the site, a condition can be imposed if approved to ensure all lighting is turned off after the hours of use (excluding any security lights which may be attached to the building) and that no further lighting (mobile or permanent) is erected. If controlled in this manner it is considered that no harm would arise.
- 7.10 Flooding and drainage
- 7.10.1 Policy DM9 of the Development Management Policies LDD states that development will only be permitted where it would not be subject to unacceptable risk of flooding; and would unacceptably exacerbate risk of flooding elsewhere.
- 7.10.2 The application site is located in Flood Zone 1; however, it is at low risk of surface water flooding. The current surface of the site is hard surfaced; however, there is clear evidence from site visits that parts of the site are prone to a build-up of surface water.

7.10.3 Due to the concerns regarding groundwater quality, it is considered that improvements to the hard surface are likely to be required which will ensure appropriate measures are placed on site to mitigate surface water flooding.

8 **Recommendation**

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

R1: It has not been demonstrated that the activities arising from the change of use including vehicle maintenance does not adversely impact on the quality of local groundwater and that the risk to potable water can be safely managed given the application site's location within Source Protection Zone 1. The development therefore fails to accord with Policy DM9 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2021).

R2: In the absence of sufficient information it cannot be demonstrated that on-site parking levels (including parking for waiting and finished vehicles) are acceptable and that parking would not overflow onto the adjacent service road thereby impacting the usability of the pedestrian pavement and also adversely affecting the openness of the Green Belt and the visual amenity of the area through the presence of on-street parking. In addition, due to the absence of more detailed trip rates and distribution of vehicles trips to and from the site a proper assessment of the highway/transport impacts and the cumulative impact of adjacent/nearby uses cannot be made. The development is therefore contrary to Policies CP10, CP11 of the Core Strategy (adopted October 2011) and Policies DM2 and DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

R3: It has not been demonstrated that the development would not cause unacceptable levels of air pollutants through on-site activities and vehicular movements nor can any mitigation be quantified. The development is contrary to Policy DM9 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2021).

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.

PLANNING COMMITTEE – 21 OCTOBER 2021

PART I - DELEGATED

8. **21/0573/FUL - Comprehensive redevelopment to provide 2 no. warehouse Class E(giii)/B2/B8 units comprising a total of 16,115 sqm including 1,882 sqm ancillary E(gi) office space, access, landscaping and associated works, at DEVELOPMENT SITE, MAPLE LODGE, MAPLE LODGE CLOSE, MAPLE CROSS, HERTFORDSHIRE (DCES)**

Parish: Non-Parished

Ward: Chorleywood South & Maple Cross

Expiry of Statutory Period: 29.10.2021 (Agreed Extension)

Case Officer: Claire Westwood

Recommendation: That the decision be delegated to the Director of Community and Environmental Services and that PLANNING PERMISSION BE GRANTED, subject to conditions (see section 8 below) and subject to the completion of a S106 Agreement.

Reason for consideration by the Committee: Called in by 3 Members of the Planning Committee in view of considerable amount of public interest in the previous application for substantial warehouses on this site and the concerns about impact on neighbour amenity.

1 Relevant Planning History

- 1.1 19/2106/EIA - Request for Screening Opinion. Not EIA development.
- 1.2 19/1179/FUL - Comprehensive redevelopment to provide 2 no. warehouse Class B1c/B2/B8 units comprising a total of 16,140 sqm including 1,986 sqm ancillary B1a office space, access, landscaping and associated works. Refused 19.11.2019 for the following reasons;

1. (Trees) *The development would result in the loss of protected trees and fails to demonstrate that other protected trees would not be harmed as a consequence of the proposal. The development therefore fails to comply with Policies CP1 and CP12 of the Core Strategy (adopted October 2011), Policies DM1, DM6 and Appendix 2 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2019).*

2. (Sustainable Transport) *In order to maximize sustainable travel options, a financial contribution towards supporting the implementation, processing and monitoring of a full travel plan is required. In the absence of a signed agreement under the provisions of Section 106 of Town and Country Planning Act 1990, the development fails to meet this requirement. The application therefore fails to meet the requirements of Policies CP1, CP8 and CP10 of the Core Strategy (adopted October 2011) and the NPPF (2019).*

3. (Drainage) *It has not been demonstrated that surface water run-off can be adequately handled within the site, and that the development will not result in flooding of adjacent properties and within the site itself. Accordingly the development fails to comply with Policy CP1 of the Core Strategy (adopted October 2011), Policy DM8 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2019).*

4. (Groundwater) *It has not been demonstrated that the proposed development, particularly due to the proposed use of piling and the dewatering of the site, would not have an adverse impact on the amount and quality of groundwater, any impacts on which has the potential to adversely impact the public water supply and adjacent Local Wildlife Site. Accordingly the development fails to comply with Policies CP1 and CP9*

of the Core Strategy (adopted October 2011), Policies DM6 and DM9 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2019).

5. (Biodiversity Net Gain) *In the absence of a signed agreement under the provisions of Section 106 of Town and Country Planning Act 1990, the application does not provide net gain for biodiversity and therefore fails to meet the requirements of Policies CP1 and CP9 of the Core Strategy (adopted October 2011), Policy DM6 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2019).*

6. (Residential Amenity) *The proposed development by virtue of its mass, bulk, height and design, and proximity to the western site boundary would result in an overbearing, visually intrusive and unneighbourly form of development to the detriment of the residential amenities of occupiers of No. 19 Longmore Close. The development would therefore be contrary to Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and the NPPF (2019).*

7. (Heritage) *The proposed development, by reasons of scale and design with block-like appearance, would detract from the overall appearance of the wider landscape and result in less than substantial harm to the setting and significance of the Grade II Listed Maple Lodge Farm and Maple Lodge Barn. The harm is not considered to be outweighed by public benefits and the proposed development is therefore considered to be contrary to Policy CP1 of the Core Strategy (adopted October 2011), Policy DM3 of the Development Management Policies DPD and paragraph 196 of the NPPF (2019).*

- 1.3 An appeal was subsequently lodged against the refusal of planning application 19/1179/FUL and was dealt with by way of an Informal Hearing.
- 1.4 A signed Unilateral Undertaking was submitted with the appeal to secure contributions in relation to sustainable transport and biodiversity net gain. As such reasons for refusal (2) and (5) were considered by the Local Planning Authority (LPA) to have been addressed.
- 1.5 Similarly, following the receipt of additional information, HCC as Lead Local Flood Authority (LLFA) removed their objection subject to conditions and therefore reason for refusal (3) was also considered by the LPA to have been addressed.
- 1.6 Reasons for refusal 1 (trees), 4 (groundwater), 6 (residential amenity) and 7 (heritage) were defended by the LPA at the appeal Hearing.
- 1.7 The appeal was dismissed on 19.12.2019 solely in relation to reason for refusal 4 (groundwater). The appeal decision is discussed in more detail in the relevant sections of the analysis below.

2 Description of Application Site

- 2.1 The site comprises an undeveloped open grassed area of approximately 3.4 hectares. Mature trees and vegetation align the eastern, southern and western site boundaries, some of these are protected. The site is accessed via an existing access road leading from the A412 (Denham Way). There is informal pedestrian access to the site but no existing vehicular crossovers. The access road serves the Thames Water Treatment Works which lie to the south east beyond a further undeveloped site. Further south, there is a locally designated nature reserve and wildlife site, Maple Lodge Nature Reserve.
- 2.2 To the north of the site is an area of land which fronts the A412 (Denham Way) which benefits from an extant planning permission which has been implemented (but not built out) for the erection of a hotel. To the east are open fields while to the north east there are two hanger style buildings which are established commercial premises and land which is used

for vehicle storage which is subject of an open enforcement investigation/appeal. There are residential and commercial properties to the west of the site.

- 2.3 To the north and west of the site is Maple Cross/Maple Lodge Employment Site, a designated employment area within the Site Allocations Local Development Document (adopted October 2014) (site ref. E(d)) and of which the application site forms part.
- 2.4 The A412 (Denham Way) runs north to south through Maple Cross connecting Rickmansworth to the north and West Hyde to the south. It also provides access to Junction 17 of the M25 (approximately 1.5km north of the application site).
- 2.5 Whilst the majority of the site is outside of the Metropolitan Green Belt, the Green Belt does overlap the eastern site boundary and a narrow strip which is outlined in red on the submitted site location plan linking to Maple Lodge Close to the south. The Green Belt adjoins the southern and eastern site boundaries. The majority of the site is located within Flood Zone 1, however, a narrow strip to the eastern and southern boundaries lies within Flood Zone 2. The site lies within Groundwater Source Protection Zone 1. Maple Lodge Farm Ditch Main River runs along the west boundary of the site. The site is located within the Colne Valley Regional Park.

3 Description of Proposed Development

- 3.1 Planning permission is sought for the redevelopment of the site to provide 2 no. warehouse Class E(giii)/B2/B8 units comprising a total of 16,115 sqm including 1,882 sqm ancillary E(gi) office space, access, landscaping and associated works. In summary, the proposed development comprises:
 - Erection of 2 no. warehouse Class E(giii)/B2/B8 units comprising:
 - Unit 1 totalling 8,827sqm (GIA) including 1,004sqm ancillary office space
 - Unit 2 totalling 7,289sqm (GIA) including 878sqm ancillary office space;
 - 141 car parking spaces, including 29 active Electric Vehicle Charging spaces and 43 passive Electric Vehicle Charging Point provision;
 - 38 HGV (lorry) parking spaces;
 - Up to 57 long-term cycle parking spaces;
 - Integrated landscaping works; and
 - Associated technical works including provision of relevant accesses.
- 3.2 Unit 1 would be located to the north of the site. It would have a maximum width of approximately 96 metres (west to east) and a maximum depth of approximately 83 metres (north to south). The south-west corner of the building would be sited approximately 7.5 metres off the western site boundary.
- 3.3 Unit 1 would have a haunch height of 12.5 metres. It would comprise two shallow pitched roofs running east-west with a central valley. The roof would have an overall maximum height of 16 metres to the ridge. The northern (front) elevation would include 2 level access operational doors and 6 operational doors with dock levellers. Rooflights are proposed within the shallow pitched roof. Glazing (over 3 floors) is proposed to the northern and eastern elevations, wrapping around the north-east corner (this would serve the office areas). Rooflights are also proposed in the southern and western elevations. Personnel access doors are proposed to all elevations.
- 3.4 Unit 1 would be accessed via a new vehicular crossover from the existing access road. This would provide access to a car park to the eastern flank of the building which would provide 75 car parking spaces (including 4 disabled) and a cycle shelter. The new vehicular crossover would also provide access to a car park to the north of Unit 1 which would accommodate 21 HGV parking spaces/loading bays and 4 car parking spaces. A refuse store is also proposed within this area.

- 3.5 Unit 2 would be located to the south of the site. It would have a maximum width of approximately 97 metres (north to south) and a maximum depth of approximately 66 metres (east to west). The north west corner would be sited 27 metres from the western boundary and the south west corner would be sited 16 metres from this boundary. Unit 2 would be located approximately 11 metres from the western boundary at the closest point.
- 3.6 Unit 2 would have a haunch height of 10 metres. It would comprise two shallow pitched roofs running north-south with a central valley. The roof would have an overall maximum height of 13 metres to the ridge. The eastern (front) elevation would include 2 level access operational doors and 6 operational doors with dock levellers. Glazing (over 3 floors) is proposed to the eastern and southern elevations, wrapping around the south-east corner (this would serve the office areas). Rooflights are proposed to the eastern, western and northern elevations. Personnel access doors are proposed to all elevations.
- 3.7 Unit 2 would be accessed via two new vehicular crossovers from the existing access road. The first would provide access to a car park to the front (east) of the building which would provide 15 car parking spaces, 17 HGV parking spaces/loading bays and a refuse store. The second crossover would provide access to a smaller car park to the south-east which would provide 47 car parking spaces (including 4 disabled) and a cycle shelter.
- 3.8 Both Units are proposed to be finished in a mix of different insulated metal cladding, with a grey pallet with the main entrances emphasised by full height glazing systems. Three shades of grey are proposed to the elevations, with the darkest at the base and getting lighter as the building increases in height. The colours proposed are 'anthracite' to the base, 'merlin or pure grey' to the mid-section and 'hamlet' to the upper section. The roofs are to be finished with a profiled insulated metal cladding. Doors and windows will have a polyester powder coated finish.
- 3.9 The application proposes the removal of three category C trees and four category U trees and one category C and two category U groups to facilitate the proposed works, these are identified within the Tree Survey and Arboricultural Impact Assessment and are predominantly located to the west site boundary. A number of trees are also proposed to be retained, and these will be supplemented by additional planting, with soft landscaping proposed around the Units and perimeter of the site. 46 new trees are proposed to the perimeter of the site to supplement the retained vegetation.
- 3.10 Highways works proposed include the widening of the existing access road to provide a new footpath and provision of three vehicular crossovers to access the site.
- 3.11 The application is accompanied by various reports, a full list of those submitted at the time of validation is provided in the covering letter dated 4 March 2021. Any updated/amended/additional documents or reports are available to view online with the application documents.
- 3.12 The proposed development remains the same as the refused application (LPA ref. 19/1179/FUL)/appeal scheme in terms of scale, layout and massing, with only minor amendments to car parking layouts and entrances.

4 Consultation

4.1 Summary of Consultation Responses

Affinity Water	4.2.7	No objection
Colne Valley Partnership	4.2.16	Objection
Environment Agency	4.2.3	No objection
Herts & Middlesex Wildlife Trust	4.2.21	Objection
Hertfordshire Constabulary	4.2.20	No objection

Hertfordshire County Council – Growth & Infrastructure Unit	4.2.18	No objection
Hertfordshire County Council – Highway Authority	4.2.1	No objection
Hertfordshire County Council – Lead Local Flood Authority	4.2.4	No objection
Hertfordshire County Council – Waste & Minerals Team	4.2.19	No objection
Hertfordshire Ecology	4.2.5	Advisory Comments
Highways England	4.2.2	No objection
London Borough of Hillingdon	4.2.14	No objection
Maple Lodge Conservation Society	4.2.22	Objection
Natural England	4.2.23	No objection
National Grid	4.2.8	No response received
Thames Water	4.2.10	No objection
Three Rivers District Council – Heritage Officer	4.2.17	No objection
Three Rivers District Council – Development Plans	4.2.6	No objection
Three Rivers District Council – Environmental Health (Residential)	4.2.11	No objection
Three Rivers District Council – Environmental Protection	4.2.13	No objection
Three Rivers District Council – Landscape Officer	4.2.9	No objection
Three Rivers District Council – Traffic Engineer	4.2.15	No response received
Watford Borough Council – Environmental Health (Commercial)	4.2.12	No objection

4.2 Consultation Responses

4.2.1 Hertfordshire County Council – Highway Authority: [No objection subject to conditions]

4.2.1.1 Initial comment 31.03.2021: [No objection subject to conditions]

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. No development shall commence until full details have been submitted to and approved in writing by the Local Planning Authority to illustrate the following:
 - a. Details and further information as to how vehicle access to the development site would be restricted from using Maple Lodge Close.

Reason: To ensure suitable, safe and satisfactory planning and development of the site in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018).

Note: Maple Lodge Close is a private road and not highway maintainable at public expense. Therefore HCC as Highway Authority would not be able to enforce any restrictions over the private access road. Nevertheless the Highway Authority would encourage and support restrictions for vehicles to the development site via this route through the whole construction period and use as the route is not considered to be acceptable to support the level and type of vehicles associated with the proposed use.

2. A. Highway Improvements – Offsite (Design Approval)

Notwithstanding the details indicated on the submitted drawings no on-site works above slab level shall commence until a detailed scheme for the offsite highway improvement works as indicated on drawing number MLC-BWB-GEN-XX-DR-TR-0001 S2 rev. P3 have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority.

Reason: To ensure construction of a satisfactory development and that the highway improvement works are designed to an appropriate standard in the interest of highway safety and amenity and in accordance with Policy 5, 13 and 21 of Hertfordshire's Local Transport Plan (adopted 2018).

B. Highway Improvements – Offsite (Implementation / Construction)

Prior to the first use of the development hereby permitted the offsite highway improvement works referred to in Part A of this condition shall be completed in accordance with the approved details.

Reason: To ensure construction of a satisfactory development and that the highway improvement works are designed to an appropriate standard in the interest of highway safety and amenity and in accordance with Policy 5, 13 and 21 of Hertfordshire's Local Transport Plan (adopted 2018).

3. Provision of Parking & Access

Prior to the first use of the development hereby permitted the proposed access road, on-site car parking, electric vehicle charging provision, cycle parking and turning areas shall be laid out, demarcated, surfaced and drained in accordance with the approved plans and retained thereafter available for that specific use.

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

4. Construction Management Plan

No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Management Plan shall include details of:

- a. Construction vehicle numbers, type, routing;
- b. Access arrangements to the site;
- c. Traffic management requirements
- d. Construction and storage compounds (including areas designated for car parking, loading / unloading and turning areas);
- e. Siting and details of wheel washing facilities;
- f. Cleaning of site entrances, site tracks and the adjacent public highway;
- g. Timing of construction activities (including delivery times and removal of waste);
- h. Provision of sufficient on-site parking prior to commencement of construction activities;
- i. Post construction restoration/reinstatement of the working areas and temporary access to the public highway;

Reason: In order to protect highway safety and the amenity of other users of the public highway and rights of way in accordance with Policies 5, 12, 17 and 22 of Hertfordshire's Local Transport Plan (adopted 2018).

Planning Obligations

A Full Travel Plan would be required to be in place from first occupation until 5 years post full occupation. A £1,200 per annum (index-linked RPI March 2014) Evaluation and Support Fee would need to be secured via a Section 106 agreement towards supporting the implementation, processing and monitoring of a full travel plan including any engagement that may be needed. For further information please see the following link <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> OR by emailing travelplans@hertfordshire.gov.uk

Highway Informatives

Hertfordshire County Council (HCC) recommends inclusion of the following highway informative / advisory note (AN) to ensure that any works within the public highway are carried out in accordance with the provisions of the Highway Act 1980:

AN1) Construction standards for works within the highway (s278 works):

The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated highway improvements. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website:

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> or by telephoning 0300 1234047

Comments / Analysis

The application comprises of the construction of two warehouse units with office space, access and associated works at a development site at the north eastern side of Maple Cross village. The site is currently unoccupied and the land is zoned as an allocated employment site as part of Three Rivers District Council (TRDC)'s Local Plan.

A previous application for the site (planning ref. 19/1179/FUL) was refused, the decision of which was upheld at appeal in relation to piling and ground water. HCC as Highway Authority did not object to the application subject to recommended conditions, off-site highway works and a Section 106 planning obligation towards a full travel plan.

A Transport Assessment (TA), Framework Travel Plan (FTP) and Construction Logistics Management Plan (CLMP) have been submitted as part of the application documents. The TA has been updated from the previous application taking into consideration both the original TA and TA Addendum.

Existing Access

The site is approximately 1.5km from junction 17 of the M25. The site is approximately 220m from its north-eastern corner to the highway on Denham Way and accessed via a priority T-junction with Denham Way (with a right turn lane provided for vehicles turning into the private road when travelling north along Denham Way) and then a private access road. Denham Way is a single-carriageway road and designated as a classified A (A412) main distributor road, subject to a speed limit of 40mph within the vicinity of the junction and is highway maintainable at public expense. There is a shared cycleway/footway on the eastern side of Denham Way; a pedestrian only footway on the western side and a signal controlled pedestrian crossing approximately 40m south of the T-junction.

There is a pedestrian footway on the south side of the private access road leading to the site, which is not part of the highway. On previous site visits it has been observed that vehicles are regularly parked on much of the length of the private footway.

The site can also be accessed via Maple Lodge Close, which is a private road and not highway maintainable at public expense. However this route is not suitable to provide vehicle access to the development site and HCC as Highway Authority would therefore request details as to how vehicles accessing the proposed use would be restricted from

using Maple Lodge Close, although this would not be something that the Highway Authority would be able to enforce due to the private nature of the road.

Existing Trip Generation

As the site is currently unoccupied, the applicant has not provided any existing trip generation for the proposed development site, which is considered to be acceptable.

Proposed Trip Generation

The TRICS database has been used to calculate the expected trip generation in Section 6 of the TA. This has included a calculation for both weekday AM and PM peak hours, which is acceptable.

Scoping Note – B8 Trip Generation

The applicant developed a Scoping Note (copy in Appendix 2 of the TA) subject to and agreed as part of pre-application discussions with HCC as Highway Authority in November /December 2018, which outlines the anticipated trip generation of the proposed development site based on a GFA of 15,500 sqm and a B8 land use. The applicant has stated that to be robust in their approach, they applied the 85th percentile trip rate from the survey sites selected in TRICs to the GFA of the proposed development.

It is also noted that the TRICs reports are dated 2017 and are therefore 4 years old. An interrogation of TRICs shows that there are new surveys and on this basis the TRICs reports would normally need to be updated as there are new sites in TRICs to be considered and the search should exclude Greater London (the current submitted TA states that “all sites in Greater London....have been deselected” although this is not the case according to the submitted data). However HCC have undertaken their own TRICs interrogation to corroborate the results and the 85th percentile AM and PM peak hour trip rates are the same in HCC’s interrogation as those presented in the TA and are as follows:

AM Peak

- Vehicle driver (per 100sqm): 0.634 arrivals, 0.083 departures resulting in 0.717 two-way trips

- Vehicle driver (15,500 sqm): 98 arrivals, 13 departures resulting in 111 two-way trips

PM Peak

- Vehicle driver (per 100sqm): 0.055 arrivals, 0.607 departures resulting in 0.662 two-way trips

- Vehicle driver (15,500 sqm): 9 arrivals, 94 departures resulting in 103 two-way trips.

Proposed Trip Generation

The applicant has used the same trip rates used by the original scoping note to calculate trip generation for the actual gross floor area of the current proposals of 16,570sqm. As previously noted, the applicant has used sites within Greater London and surveys conducted prior to September 2017 to derive the original trip rates. This is considered to be acceptable due to the use of 85th percentile AM and PM peak hour trip rates, as opposed to the average trip rate. For reference, the TRICs parameters, peak hour trip rates and anticipated trip generation for a 16,570 sqm floor area are as follows:

AM Peak

- Vehicle trips (per 100sqm): 0.634 arrivals, 0.083 departures resulting in 0.717 two-way trips

- Vehicle trips (16,570 sqm): 105 arrivals, 14 departures resulting in 119 two-way trips

PM Peak

- Vehicle driver (per 100sqm): 0.055 arrivals, 0.607 departures resulting in 0.662 two-way trips
- Vehicle trips (16,570 sqm): 9 arrivals, 101 departures resulting in 110 two-way trips

Following a review of the traffic generation, it is considered that the information provided is acceptable and HCC as Highway Authority would not have an objection to the methods used as per the previous application also (planning ref. 19/1179/FUL).

Junction Modelling

An assumed opening year (2022) and 2031 assessment of the local highway network have been completed. PICADY and ARCADY model assessments using baseline traffic data, TEMPRO growth factors and the above TRICs vehicle trip rates, have been prepared for the A412 / private site access road T-junction; M25 J17 and Maple Cross roundabouts and included as part of the TA.

Following a review of the TA, it is considered that each model is acceptable and they have considered the impact of surrounding committed developments including HS2 construction traffic movements. The model results for the Maple Cross roundabout and M25 J17 illustrate that the junctions would continue to operate within capacity in 2031 (including committed development) and are therefore considered acceptable by HCC as Highway Authority. Highways England would also need to be satisfied with the approach and results, specifically for the M25 junction.

The results do identify capacity issues at the A412 and private access road T-junction and therefore necessitating off-site highway works at this junction. These works are considered in further detail below and would be necessary to make overall proposals acceptable.

Proposed Access

The proposals include extending the existing private access road to run along the full front of the site in addition to a new footway on the western/development side of carriageway. There are three proposed vehicle entrances / exits from the private road providing access to three separate car parks fronting the two warehouses. The general layout is shown on submitted drawing no.17019-C4P-AV-00-DR-A-0500 P16.

The proposed access arrangements including details of kerb radii, visibility splays and widths are shown on submitted plan numbers MLC-BWB-GEN-XX-DR-TR-100 S2 rev. P5 and MLC-BWB-GEN-XX-DR-TR-101 rev. P5 and described in section 5.4 of the Transport Assessment. Following assessment and review of the proposals, the access arrangements on the proposed access road and within the site are considered to be acceptable and in accordance with Roads in Hertfordshire: Highway Design Guide and MfS.

Vehicle tracking / swept path analysis has been included as part of the submitted TA (drawing number MLC-BWB-GEN-XX-DR-TR-110 rev. P5). The details are considered to be sufficient to illustrate that an HGV could safely manoeuvre into and out of the site accesses in addition to a car moving in and out of the car park only access.

It is unlikely that HCC as Highway Authority would agree to adopt the new and existing industrial access roads if they were ever offered for dedication as the proposals would not demonstrate a utility to the wider public as outlined in Roads in Hertfordshire (Sec. 3, 12.3). The developer would need to put in place a permanent arrangement for long term maintenance and the road name plate would need to indicate that it is a private road.

Highway Mitigation Works

The proposed off-site highway mitigation works are shown on drawing number MLC-BWB-GEN-XX-DR-TR-0001 S2 P3 and summarised in section 8.4 of the TA. The proposed works, which include the signalization of the junction of Denham Way (A412) with the private access road, would be necessary to mitigate the impacts from the proposal and enable traffic generated by the proposals to egress safely from and onto the highway work (as indicated by the capacity issues identified in sections 7.11 to 7.14 of the TA) .

The measures would also be necessary to provide a safe crossing point for pedestrians and cyclists across Denham Way and across the mouth of the entrance to the private access road to ensure that the proposals are in accordance with Hertfordshire's Local Transport Plan (LTP4) and the National Planning Policy Framework (NPPF). A LinSig model for the proposed signalised junction has been included in the TA and illustrates that the proposed highway scheme operates within capacity, the details of which are considered acceptable by HCC as Highway Authority.

Nevertheless the applicant would need to enter into a Section 278 Agreement with HCC as Highway Authority in relation to the design and implementation of the necessary off-site highway works. The highway design would be subject to a detailed review and road safety audits as part of the Section 278 agreement process and would include the following works:

- The signalization of the junction of Denham Way (A412) and the private access road and any associated carriageway widening or alterations at the junction and the Maple Cross roundabout;
- The provision of two toucan crossings (one across Denham Way and one across the mouth / entrance of the private access road) to replace the two existing pedestrian signalized crossings on Denham Way;
- The relocation of the two bus stops with easy access kerbing, shelters and real-time bus information display screens.

It would be recommended that a Stage One Road Safety Audit for the proposed highway works is submitted and included as part of the initial 278 application.

Please also refer to the recommended conditions 1 and 2 and the suggested highway informative.

There have been some concerns from local residents that the number of vehicles associated with the development would detrimentally impact on the safety of the surrounding highway network in Maple Cross specifically for pedestrians. Following consideration that the majority of vehicles associated with the development would travel via the M25 and Maple Cross roundabout to the site in accordance with the road hierarchy, it is not anticipated that a significant number of vehicles would travel through Maple Cross and therefore the impact in this respect would not be severe.

Nevertheless in response to those occasions where vehicles would need to travel through Maple Cross, a LinSig model has been used to assess the performance of the existing signalised Chalfont Road / Denham Way / Maple Lodge Close junction and the results in the submitted TA (sections 7.22 to 7.27) show that the junction works within capacity and the proposals would not have demonstrable impact on the functioning of this junction.

Furthermore, the proposed signalised junction and associated improvements to pedestrian and cycling accessibility / safety has previously been requested by HCC and agreed as part of the pre-application discussions to take into consideration any adverse impacts from the proposals and to ensure that the proposals are acceptable from a highways and transport perspective. The proposed highway improvements would also have the additional benefit of improving the accessibility and safety for those pedestrians and cyclists travelling between Maple Cross and Rickmansworth (including to and from the Reach Free School).

Car Parking Level and Design

The proposals include the provision of 142 car parking spaces and 38 HGV parking spaces – split over the two proposed units, the layout of which is shown on submitted plan no. 17019-C4P-AV-00-DR-A-0500. The area directly to the north and east of the site is located in accessibility zone 3 as documented in Three Rivers District Council's (TRDC) Development Management Policies: Local Development Document, although the site itself is not within the zone 3 area and on the edge of an urban area. The levels of car parking have been based on guidance for zone type 3, which states that the car parking levels may be adjusted to 50-75% of the indicative demand-based standard.

Following consideration of the use class, location and details submitted in Section 5.5 to 5.9 of the Transport Assessment, HCC as Highway Authority would not have an objection to the overall level of parking and the layout is acceptable and in accordance with MfS. All vehicles would be able to access the site, turn around and egress to the network in forward gear. Nevertheless TRDC as the planning and parking authority would ultimately need to be satisfied with the overall level of car parking.

The TA (sec. 5.14) states that 20% of all car parking spaces would have provision for active electric vehicle charging (EVC) whilst a further 20 to 30% of spaces would have passive EVC provision. HCC as Highway Authority would be supportive of this to ensure that the development is in accordance with LTP4 and HCC'S Sustainability Strategy.

Accessibility & Sustainability

The site is located on the north-east side of Maple Cross within approximately 1.2km of the whole of the settlement. The settlement edge of Rickmansworth is approximately 800m north of the site and the town centre (and train station) approximately 3.5km north-east of the site.

The site is therefore within an acceptable cycling and walking distance from the rest of Maple Cross and parts of Rickmansworth. There is footway and cycleway provision along Denham Way south into Maple Cross and north in Rickmansworth although parts of the shared foot/cycle way could be widened and improved to maximise pedestrian and cycling accessibility. HCC as Highway Authority would however recommend that measures are explored to ensure that the existing (and new extended) footway on the private access road is kept free of car parking – this would require discussion with the land owners of the existing private access road.

The nearest bus stops are located on Denham Way between approximately 350m and 550m from the development site. This is greater than the normally recommended 400m walking distance from some parts of the site. The bus stops are also proposed to be relocated slightly further north along Denham Way as part of the signalisation of the access junction. This is acceptable when taking into consideration the proposed improvements to pedestrian and cycling accessibility at the junction and walking distances still within an acceptable level.

The proposals include the provision of 57 cycle parking spaces, which is considered acceptable at this stage. The recommended levels for cycle parking are normally based on the number of full time staff members, the details of which are not yet known for the application site at this stage of the application. HCC as Highway Authority would recommend that the level of cycle parking is increased accordingly dependent on the number of potential staff members. This is to ensure that cycling is encouraged and maximised as a form of sustainable travel for staff members and visitors to and from the site and to ensure that the development is in accordance with NPPF and LTP4.

National Cycle Route 6 is located approximately 1km from the site by bike (accessed via Denham Way, Uxbridge Road and Springwell Lane), which therefore demonstrates that the

wider cycle network could be utilised as a form of travel to and from the site, particularly for any future employees.

Planning Obligations – Travel Plan

TRDC has adopted the Community Infrastructure Levy (CIL) and therefore contributions towards local transport schemes as outlined in the South West Herts Growth & Transport Plan would be sought via CIL in appropriate.

A Framework Travel Plan (FTP) has been submitted as part of the application and is considered to be generally acceptable at this stage of the application/ development. Nevertheless the following amendments would be required to be submitted in an amended FTP prior to occupation:

- Local Policy Context should include LTP4 strategy.
- A statement of senior commitment is required within the FTP stating that developers/ businesses are committed to implementing the travel plan.
- Freight and delivery measures should be included with the TP if appropriate.
- If the employment figures are low, it is recommended to consider car park management as an oversupply of parking spaces may encourage car use.
- Staff surveys should be collected annually.
- Multi modal surveys should be carried out every other year (in years 1, 3 and 5 of travel plan monitoring).
- It should be noted in the FTP that annual monitoring reports should/ will be shared with HCC at least 3 months after completion.

Following consideration of the size and nature of the development, developer contributions of £6000 (£1,200 per annum for a five year period and index linked RPI from March 2014) are sought via a Section 106 Agreement towards supporting the implementation, processing and monitoring of the FTP including any engagement that may be needed. For further information please see the following link

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> OR by emailing travelplan@hertfordshire.gov.uk

The request for a financial contribution via a planning obligation under section 106 (Town and Country Planning Act 1990) for a travel plan meets the 3 tests as outlined in regulation 122(2) of The Community Infrastructure Levy Regulations 2010 (as amended) as follows:

a) it is necessary to make the development acceptable in planning terms because travel plans are a necessary tool in ensuring that sustainable travel modes are encouraged, promoted and regulated to be in accordance with the NPPF and LTP4. NPPF states that “all developments that will generate significant amounts of movement should be required to provide a Travel Plan”. The securing of a travel plan via a planning obligation allows for a greater level of detail to be agreed than could reasonably be achieved by a planning condition particularly in relation to the implementation and monitoring of the plan.

b) it is directly related to the development because the travel plan would provide a long-term management strategy for the site and its proposed use as an employment site. The travel plan would support the need to secure specific objectives, targets and commitments (including details of survey methods, funding and any required third party engagement) and be required to address the transport impacts generated by: employees commuting to and from the site; visitor movements and freight/delivery movements.

c) it is fairly and reasonably related in scale and kind to the development because the development proposals meet the thresholds for requiring a full travel plan and its associated level of financial contribution as laid out in Hertfordshire County Council’s Travel Plan Guidance (TPG, 2020), which is a supporting document to LTP4. A planning obligation is

“the only mechanism to secure Travel Plan Evaluation and Support Contributions, that allow for the Travel Plan to be supported by the County Council for a minimum period of 5 years” TPG, 2020.

The monitoring and enforcement of travel plans is not a statutory function of HCC and therefore it is justified to request a reasonable level of contribution to support this. Section 93 of the Local Government Act 2003 gives the power to local authorities to charge for discretionary services. These are services that an authority has the power for, but not the duty to, provide.

Construction Logistics Management Plan

The general details submitted in the CLMP are considered to be acceptable by HCC as Highway Authority. Nevertheless the applicant would be required to submit a full Construction Management Plan with more specific information (as detailed in the enclosed recommended condition). The details would need to be approved in writing by the planning and highway authority prior to the commencement of any works on site.

Conclusion

HCC as Highway Authority can only recommend the refusal of planning permission or object to the proposals in the context of paragraph 109, National Planning Policy Framework (NPPF) (update 2019), which states that: “Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”. In this context, following consideration of the above points, there would not be an unacceptable highway safety reason nor a severe road network reason to justify the recommendation of refusal of the proposals from a highways or transport perspective, particularly as the site is a previously approved allocated employment site. Nevertheless the acceptability of the proposals would be subject to the approval and completion of the necessary off-site highway work and inclusion of the above recommended highway conditions, 106 obligations and highway informative.

4.2.1.2 Further comment 07.04.2021: [Additional information requested]

A couple of supplemental recommendations and comments in respect of the above application.

Permitted Hotel Development

Following consideration of the permitted hotel development (which was granted planning permission in 2008 and then subsequently confirmed in 2018 through the issuing of the Certificate of Lawfulness as part of application 18/1424/CLPD), HCC as Highway Authority (HA) are requesting that the applicant submit the following as an addendum to the full Transport Assessment (TA):

- . TRICs assessment for a hotel of the permitted size for both the AM and PM peak;
- . Updated Linsig model and results for the proposed signalised junction at Denham Way / Private Access road, factoring in the additional predicted trips from the hotel site.

It is acknowledged that no trip generation was submitted as part of the original planning application for the hotel in 2007 (07/1401/FUL) nor requested by the HA at that time. Nevertheless due to the original planning permission being granted 14 years ago, it would enable a robust assessment of the proposed signalised junction in the context of the current application (21/0573/FUL) and other committed developments in the area.

In the absence of the HA being consulted on the CoL, our Authority were unaware that the 2007 consent was considered committed. The HA does recognise that the TA for

21/0573/FUL has acknowledged the hotel development, but that it has failed to provide any traffic generation associated.

Trip Rates to the Thames Water Sewage Works

We have had a number of queries from local residents in relation to a apparent increase in the number of trips by Thames Water to and from their Sewage Works site via Maple Lodge Close. Are you aware of any material changes to the Thames Water site that may have resulted in an increase in trips?

4.2.1.3 Further comment 12.05.2021: [No objection subject to conditions]

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. A. Highway Improvements – Offsite (Design Approval)

Notwithstanding the details indicated on the submitted drawings no on-site works above slab level shall commence until a detailed scheme for the offsite highway improvement works as indicated on drawing number MLC-BWB-GEN-XX-DR-TR-0001 S2 rev. P3 have been submitted to and approved in writing by the Local Planning Authority.

B. Highway Improvements – Offsite (Implementation / Construction)

Prior to the first use of the development hereby permitted the offsite highway improvement works referred to in Part A of this condition shall be completed in accordance with the approved details.

Reason: To ensure construction of a satisfactory development and to ensure that the highway improvement works are designed to an appropriate standard in the interest of highway safety and amenity and in accordance with Policy 1, 5, 7, 8, 13 and 21 of Hertfordshire's Local Transport Plan (adopted 2018).

2. Provision of Parking & Access

Prior to the first use of the development hereby permitted the proposed access road, on-site car parking, electric vehicle charging provision, cycle parking and turning areas shall be laid out, demarcated, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.

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

3. Construction Management Plan

No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Management Plan shall include details of:

- a. Construction vehicle numbers, type, routing;*
- b. Access arrangements to the site;*
- c. Traffic management requirements*
- d. Construction and storage compounds (including areas designated for car parking, loading / unloading and turning areas);*
- e. Siting and details of wheel washing facilities;*
- f. Cleaning of site entrances, site tracks and the adjacent public highway;*
- g. Timing of construction activities (including delivery times and removal of waste);*
- h. Provision of sufficient on-site parking prior to commencement of construction activities;*
- i. Post construction reinstatement of the working areas and/or temporary access to the highway;*

Reason: In order to protect highway safety and the amenity of other users of the public highway and rights of way in accordance with Policies 5, 12, 17 and 22 of Hertfordshire's Local Transport Plan (adopted 2018).

Planning Obligations

A Full Travel Plan would be required to be in place from first occupation until 5 years post full occupation. A £1,200 per annum (index-linked RPI March 2014) Evaluation and Support Fee would need to be secured via a Section 106 agreement towards supporting the implementation, processing and monitoring of a full travel plan including any engagement that may be needed. For further information please see the following link

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> OR by emailing travelplans@hertfordshire.gov.uk

Highway Informatives

Hertfordshire County Council (HCC) recommends inclusion of the following highway informative / advisory note (AN) to ensure that any works within the public highway are carried out in accordance with the provisions of the Highway Act 1980:

AN) Construction standards for works within the highway (s278 works):

The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the necessary off-site highway improvements. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website:

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx>

Comments / Analysis

1. Introduction

The application comprises of the construction of two warehouse units with office space, access and associated works at a development site at the north eastern side of Maple Cross village. The site is currently unoccupied and the land is zoned as an allocated employment site as part of Three Rivers District Council (TRDC)'s Local Plan.

A previous application for the site for a development of two warehouse units class B1c/B2/B8 (planning ref. 19/1179/FUL) was refused planning permission in November 2019, the decision of which was upheld at appeal in relation to piling and ground water. HCC as Highway Authority did not object to the application subject to recommended conditions, off-site highway works and a Section 106 planning obligation towards a full travel plan.

A Transport Assessment (TA), Framework Travel Plan (FTP) and Construction Logistics Management Plan (CLMP) have been submitted as part of the application documents. The TA has been updated from the previous application taking into consideration both the original TA and TA Addendum.

Following consideration of the permitted hotel development located on the corner of the Denham Way / private access road (which was granted planning permission in 2008 and then subsequently confirmed in 2018 through the issuing of the Certificate of Lawfulness as

part of application 18/1424/CLPD), HCC as HA requested (on 07/04/2021) the following information to be provided and submitted by the applicant including:

- Trip generation assessment for a hotel of the permitted size for both the AM and PM peak;
- Updated Linsig model and results for the proposed signalised junction at Denham Way / Private Access road, factoring in the additional predicted trips from the hotel site.

It is acknowledged by HCC as HA that no trip generation was submitted as part of the original planning application for the hotel in 2007 (07/1401/FUL) nor requested by the HA at that time. Nevertheless due to the original planning permission being granted 14 years ago, it was requested to enable a robust assessment of the proposed signalised junction in the context of the current application (21/0573/FUL), other committed developments and the permitted hotel. In the absence of the HA being consulted on the Certificate of Lawfulness in 2018, this Authority was unaware that the 2007 consent was considered committed. The HA does recognise that the TA for 21/0573/FUL has acknowledged the hotel development, but that it has failed to provide any traffic generation associated.

An additional Transport Note (TN) dated 07/05/2021 has subsequently been submitted by BWB Consulting (on behalf of the applicant) in response to the request for this additional information and this response refers to both the original TA and the supplemental TN.

2. Existing Highway Network and Access

The site is approximately 1.5km from junction 17 of the M25. The site is approximately 220m from its north-eastern corner to the highway on Denham Way and accessed via a priority T-junction with Denham Way (with a right turn lane provided for vehicles turning into the private road when travelling north along Denham Way) and then a private access road. Denham Way is a single-carriageway road and designated as a classified A (A412) main distributor road, subject to a speed limit of 40mph within the vicinity of the junction and is highway maintainable at public expense. There is a shared cycleway/footway on the eastern side of Denham Way; a pedestrian only footway on the western side and a signal controlled pedestrian crossing approximately 40m south of the T-junction.

There is a pedestrian footway on the south side of the private access road leading to the site, which is not part of the highway. On previous site visits it has been observed that vehicles are regularly parked on much of the length of the private footway.

The site can also be accessed via Maple Lodge Close, which is a private road and not highway maintainable at public expense. However this route is not suitable to provide vehicle access to the development site and HCC as Highway Authority would therefore request details as to how vehicles accessing the proposed use would be restricted from using Maple Lodge Close, although this would not be something that the Highway Authority would be able to enforce due to the private nature of the road.

3. Trip / Traffic Generation

a. Existing Trip Generation – application site

As the application site is currently unoccupied, the applicant has not provided any existing trip generation for the proposed development site, which is considered to be acceptable.

b. Trip / Traffic Generation for the Proposed Use

The TRICs (Trip Rate Information Computer System) database has been used to determine the anticipated traffic levels (including vehicle trip rates) for the proposed use (and is included as part of the submitted TA).

• Pre-application Scoping Note – B8 Trip Generation

The applicant developed a Scoping Note (copy in Appendix 2 of the TA) subject to and agreed as part of pre-application discussions with HCC as HA in November /December 2018, which outlines the anticipated trip generation of the proposed development site based

on a GFA of 15,500 sqm and a B8 land use. The applicant has stated that to be robust in their approach, they applied the 85th percentile trip rate from the survey sites selected in TRICs to the GFA of the proposed development.

It is also noted that the TRICs reports are dated 2017 and are therefore 4 years old. An interrogation of TRICs shows that there are new surveys and on this basis the TRICs reports would normally need to be updated as there are new sites in TRICs to be considered and the search should exclude Greater London (the current submitted TA states that "all sites in Greater London....have been deselected" although this is not the case according to the submitted data). However HCC have undertaken their own TRICs interrogation to corroborate the results and the 85th percentile AM and PM peak hour trip rates are the same in HCC's interrogation as those presented in the TA and are as follows:

AM Peak:

- *Vehicle driver (per 100sqm): 0.634 arrivals, 0.083 departures resulting in 0.717 two-way trips*

- *Vehicle driver (15,500 sqm): 98 arrivals, 13 departures resulting in 111 two-way trips*

PM Peak:

- *Vehicle driver (per 100sqm): 0.055 arrivals, 0.607 departures resulting in 0.662 two-way trips*

- *Vehicle driver (15,500 sqm): 9 arrivals, 94 departures resulting in 103 two-way trips.*

• Full Application - Site Trip Generation

The applicant has used the same trip rates used by the original scoping note to calculate trip generation for the actual gross floor area of the current proposals of 16,570sqm. As previously noted, the applicant has used sites within Greater London and surveys conducted prior to September 2017 to derive the original trip rates. This is considered to be acceptable due to the use of 85th percentile AM and PM peak hour trip rates, as opposed to the average trip rate. For reference, the TRICs parameters, peak hour trip rates and anticipated trip generation for a 16,570 sqm floor area are as follows:

AM Peak:

- *Vehicle trips (per 100sqm): 0.634 arrivals, 0.083 departures resulting in 0.717 two-way trips*

- *Vehicle trips (16,570 sqm): 105 arrivals, 14 departures resulting in 119 two-way trips*

PM Peak:

- *Vehicle driver (per 100sqm): 0.055 arrivals, 0.607 departures resulting in 0.662 two-way trips*

- *Vehicle trips (16,570 sqm): 9 arrivals, 101 departures resulting in 110 two-way trips*

The proposals have been predicted as generating up to 695 daily two way trips with 119 two-way trips in the AM peak (0800-0900) and 110 two-way trips in the PM peak (1700-1800) as summarised in table 5 of the TA. None of these figures need to be doubled as they are a total of both arrivals and departures. The peak hours assessment period was previously agreed by both HCC and Highways England.

The methodology used is considered robust and the results have been verified in TRICs by HCC as HA. The actual figure would most likely be lower due to the use of the 85th percentile rather than the mean, which provide a lower figure. The TA (and the methods within) would therefore be the normal method under which the trip generation would be robustly reviewed and assessed and the HA would not have an objection to the methods used as per the previous application also (planning ref. 19/1179/FUL). HCC as HA does not endorse, support or consider the vehicle movements from schedule 19/0333/SCH1 of the submitted Planning Noise Assessment as being appropriate, and is not borne out by the predictions in TRICs.

• Proposed Hotel Trip / Traffic Generation

The TRICs database has been used to determine the predicted vehicle trip rates for the permitted hotel. The use of TRICs is the normal method under which the trip generation would be reviewed and assessed and therefore HCC as HA would not have an objection to the methods used in this respect.

The details of the methods used for the hotel development are summarised in section 3 of the submitted TN, including the criteria used and justification for the site selection. A full copy of the Hotel TRICs extracts is included in Appendix 2 of the TN.

TRICs selected four sites based on the appropriate criteria, of which one has been focused on for comparison. For reference, the TRICs parameters, peak hour vehicular trip rates and anticipated trip/traffic generation for the hotel is:

AM Peak (0800-0900):

- Vehicle trip rate (per 100sqm): 0.499 arrivals, 0.380 departures resulting in 0.879 two-way trips.

- Total Vehicle trips (total based on number of bedrooms): 103 arrivals, 79 departures resulting in 182 two-way trips.

- Total Vehicle trips (based on GFA of 13,289sqm): 66 arrivals, 50 departures resulting in 116 two-way trips.

PM Peak (1700-1800):

- Vehicle trip rate (per 100sqm): 0.153 arrivals, 0.374 departures resulting in 0.527 two-way trips.

- Total Vehicle trips (total based on number of bedrooms): 32 arrivals, 77 departures resulting in 109 two-way trips.

- Total Vehicle trips (based on GFA of 13,289sqm): 20 arrivals, 50 departures resulting in 70 two-way trips.

NOTE: THE VEHICLE TRIP FIGURES ABOVE ARE PER 100SQM BUT HAVE BEEN USED TO CALCULATE AGAINST THE NUMBER OF TOTAL BEDROOMS WHICH ACTUALLY PROVIDES A HIGHER TOTAL NUMBER OF TRIPS THAN IF USED AGAINST A TOTAL SIZE OF 13,289M².

HCC as HA would normally ask for more than one site for comparison. Nevertheless following the justification for the site selection (sections 3.2 to 3.5 of the TN), in addition to an independent corroboration of the results in TRICs by HCC as HA, the methodology used and site selection is considered robust and acceptable.

Indeed the use of the one site results in a larger trip generation than that of the mean value of comparable sites and the use of trip rate per 100m² (multiplied by the number of bedrooms, which is what has been calculated above) forecasts a larger vehicle trip rate therefore worst case scenario. The vehicular trip rates used (GFA trip rate multiplied by bedrooms) are therefore considered robust in order for a full assessment of the impact on the surrounding highway network and proposed junction to be made.

4. Impact on the Surrounding Highway Network and Junction Modelling

a. Baseline Traffic Data

Baseline traffic flow data is used (which is actual recorded data not assumed) for existing traffic flows and the directional distribution of these flows on the surrounding highway network. The parameters for the necessary area, scope and duration of baseline traffic data was agreed between HCC as HA, Highways England and the applicant at the pre-application stage. As part of the assessment of the TA, the HA evaluates whether or not the baseline data used is sufficient and in accordance with any previous pre-app discussions. The HA also uses any of its own available traffic model data, recorded traffic flow data and

accident data to assess and verify any submitted data in addition to identifying any known capacity or safety issues on the surrounding highway network.

The baseline data used for this application includes manual classified counts and existing baseline surveys from other sources (including data recorded and held by HCC as HA) and is detailed in section 3.12 to 3.14 and appendix 3 of the submitted TA. This baseline data would include existing traffic flows on the surrounding highway network including traffic from the Thames Water site; Hertford Place, Woodoaks Farm and any other existing uses.

Growth factors have then been used (as outlined in sections 6.6 to 6.7 of the TA) to determine suitable future growth rates for the recorded baseline traffic flows i.e. take into consideration any predicted future increase in the levels of traffic on the highway network. For this application future assessment years of 2022 and 2031 have been used and therefore the HA has assessed the acceptability of the proposals in the context of the baseline data and future assessment years to ensure a robust assessment of the any impacts.

The baseline data, assessment years and growth factors used in respect of this application are considered sufficient and acceptable.

b. Traffic Distribution / Directional Flow

In respect of the flow of traffic to and from the site, the application has not assumed that all traffic would access the application site via the M25. The submitted TA and subsequent TN take into consideration that a proportion of development traffic would access the site via the A412 to and from the south and the junction modelling included in the TA and TN reflect this. For example, the traffic flows in the TA show between 23% and 27% of development traffic would turn left in the peak hours when exiting onto the A412 (i.e. the direction of Maple Cross and not the M25). Furthermore the submitted TN shows that the baseline traffic flows + committed development (including the hotel) + proposed development + 2031 growth factors show a percentage flow of traffic from the south-west to and from the private access road (i.e. the direction of Maple Cross and not the M25) of between 20% to 26% for the AM and PM peak hours, which is consistent with this (refer to figure 5 and 6 of the TN for figures).

This is considered to be reasonable and robust when taking into consideration: that the 2031 model incorporates baseline (i.e. actual measured flows) in addition to the committed and proposed development; the status of Denham Way as part of the A road network and the close proximity of the site to the M25.

c. Junction Modelling

An assumed opening year (2022) and 2031 assessment of the local highway network have been completed as part of the TA and subsequent TN, which is an acceptable scope to assess the current and future impacts of the development on the surrounding highway network. PICADY (for priority junctions), ARCADY (for roundabouts) and LinSig (for traffic signalized junctions) model assessments have been prepared for the A412 / private site access road t-junction; M25 J17 and Maple Cross roundabouts and included as part of the TA. The junctions have been modelled using baseline traffic data, committed developments (including HS2 and the Reach Free School) TEMPRO growth factors and the above TRICs vehicle trip rates. The models take into consideration the actual features and constraints of a junction and therefore reflect how existing junctions work and how any design proposals would operate if implemented.

The model results for the Maple Cross roundabout and M25 J17 illustrate that the junctions would continue to operate within capacity in 2031 (including committed development) and are therefore considered acceptable by HCC as HA. A LinSig model has been used to assess the performance of the existing signalised Chalfont Road / Denham Way / Maple

Lodge Close junction and the results in the submitted TA (sections 7.22 to 7.27) show that the junction works within capacity.

Highways England would also need to be satisfied with the modelling approach and results, specifically for the M25 junction.

A Junctions 9 PICADY assessment has been included in both the TA and the TN to assess the operation of the existing A412 / site access road ghost island priority-controlled junction, which would provide access to both the consented hotel and the proposed warehouse development. The results identify significant capacity issues when using the current layout of the junction. Consequently, off-site highway works at this junction have previously been deemed necessary for the proposed warehouse development (and agreed in principle) and would have the additional benefit of improving the access arrangements for the permitted hotel. Further details on the proposed off-site highway works are included in section 5a of this response.

A LinSig model assessment has been carried out to assess the performance and functioning of the proposed signalization of the A412/site access junction, which is part of the proposed off-site highway works (the full results of which can be found in Appendix 5 of the TN). The proposed signalized junction has been modelled using baseline traffic data + committed developments (including HS2, the Reach Free School and hotel) TEMPRO growth factors to 2031 and the above TRICs vehicle trip rates in the AM and PM peak.

HCC as HA has reviewed the LinSig modelling methods used in the TN, the approach of which reflects the 2031 trip rates and proposed highway junction layout. The methods used would be the standard way of presenting and assessing a proposed signalized junction and are therefore considered acceptable in this respect. The results of the LinSig modelling for all lanes/links of the proposed signalized junction show that the Degree of Saturation (DoS) (which is defined as the ratio of flow to capacity for a lane) is acceptable (at a level of below the recommended 90% for all arms/lanes) and the Practical Reserve Capacity (PCR) (which is a measure of the degree of spare capacity / degree of overload at the arm/lane with the worst DoS) is within capacity. Furthermore the predicted mean maximum queue levels on the highway would not be deemed to have a severe impact on the nearest junctions in either direction.

d. Modelling - conclusion

From a highways and transport perspective, HCC as HA has assessed and reviewed the capacity and modelling results from the proposals in the context of paragraph 109, National Planning Policy Framework (NPPF) (update 2019), which states that: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe". In this context and in conjunction with a review of traffic flows using the HA's COMET model, the application and above model results have demonstrated that there would not a severe impact on the road network including when assessing the cumulative impact of baseline traffic data + committed developments (including HS2, the Reach Free School and hotel) + TEMPRO growth factors to 2031 + the development in the AM and PM peak. Furthermore the site is an allocated employment site in TRDC's Local Plan and the A412 form part of A road network. Therefore the number of additional trips from the application site itself onto the A road would not be considered to be severe in this context.

NOTE: COMET is a multimodal transport model, developed by HCC using Department for Transport guidance. It is able to predict changes in travel demand for vehicles, buses and rail. It currently covers all A, B, main C roads and some key 'rat runs' in residential areas. The model was built to represent typical weekday conditions in the AM peak (8–9am) Inter peak (an average hour between 10am–4pm) and PM peak (5–6pm), with the current base year representing 2014 and the main forecast year corresponding to 2036.

5. Proposed Access and Off-site Highway Works

The proposals include extending the existing private access road to run along the full front of the site in addition to a new footway on the western/development side of carriageway. There are three proposed vehicle entrances / exits from the private road providing access to three separate car parks fronting the two warehouses. The general layout is shown on submitted drawing no. 17019-C4P-AV-00-DR-A-0500 P16.

The proposed access arrangements including details of kerb radii, visibility splays and widths are shown on submitted plan numbers MLC-BWB-GEN-XX-DR-TR-100 S2 rev. P5 and MLC-BWB-GEN-XX-DR-TR-101 rev. P5 and described in section 5.4 of the Transport Assessment. Following assessment and review of the proposals, the access arrangements on the proposed access road and within the site are considered to be acceptable and in accordance with Roads in Hertfordshire: Highway Design Guide and MfS.

Vehicle tracking / swept path analysis has been included as part of the submitted TA (drawing number MLC-BWB-GEN-XX-DR-TR-110 rev. P5). The details are considered to be sufficient to illustrate that an HGV could safely manoeuvre into and out of the site accesses in addition to a car moving in and out of the car park only access. It is unlikely that HCC as Highway Authority would agree to adopt the new and existing industrial access roads if they were ever offered for dedication as the proposals would not demonstrate a utility to the wider public as outlined in Roads in Hertfordshire (Sec. 3, 12.3). The developer would need to put in place a permanent arrangement for long term maintenance and the road name plate would need to indicate that it is a private road.

a. Off-site Highway Mitigation Works

The proposed off-site highway mitigation works are shown on drawing number MLC-BWB-GEN-XX-DR-TR-0001 S2 P3 and summarised in section 8.4 of the TA. The proposed works, which include the signalization of the junction of Denham Way (A412) with the private access road, would be necessary to mitigate the impacts from the proposal and enable traffic generated by the proposals to egress safely from and onto the highway work (as indicated by the capacity issues identified in sections 7.11 to 7.14 of the TA and sections 5.1 to 5.3 of the TN). The measures would also be necessary to provide a safe crossing point for pedestrians and cyclists across Denham Way and across the mouth of the entrance to the private access road to ensure that the proposals are in accordance with Hertfordshire's Local Transport Plan (LTP4) and the NPPF (paragraphs 102 and 108 to 110). A LinSig model for the proposed signalised junction has been included in the TN illustrating that the proposed highway scheme operates within capacity at 2031, the details of which are considered acceptable by HCC as HA (and detailed earlier in section 4c of this response).

The applicant would need to enter into a Section 278 Agreement with HCC as HA in relation to the design and implementation of the necessary off-site highway works. The highway design would be subject to a detailed review and road safety audits as part of the Section 278 agreement process and would include the following works:

- The signalization of the junction of Denham Way (A412) and the private access road including the associated carriageway widening, additional filter lanes and any associated works at the junction and to/from the Maple Cross roundabout;
- The provision of signalized crossings points for pedestrians and cyclists (across Denham Way and one across the mouth / entrance of the private access road) to replace the existing pedestrian signalized crossing on Denham Way;
- The relocation of the two bus stops with easy access kerbing, shelters and real-time bus information display screens.

A Stage One Road Safety Audit for the proposed highway works would be required to be submitted as part of the initial 278 application.

Please also refer to the recommended conditions 1 and 2 and the suggested highway informative. Please refer to section 7 of this response in relation to more details of the proposed off-site highway works in the context of pedestrian and cycling accessibility and safety.

6. Car Parking Level and Design

The proposals include the provision of 142 car parking spaces and 38 HGV parking spaces – split over the two proposed units, the layout of which is shown on submitted plan no. 17019-C4P-AV-00-DR-A-0500. The area directly to the north and east of the site is located in accessibility zone 3 as documented in Three Rivers District Council's (TRDC) Development Management Policies: Local Development Document, although the site itself is not within the zone 3 area and on the edge of an urban area. The levels of car parking have been based on guidance for zone type 3, which states that the car parking levels may be adjusted to 50-75% of the indicative demand-based standard.

Following consideration of the use class, location and details submitted in Section 5.5 to 5.9 of the Transport Assessment, HCC as HA would not have an objection to the overall level of parking and the layout is acceptable and in accordance with MfS. All vehicles would be able to access the site, turn around and egress to the network in forward gear. Nevertheless TRDC as the planning and parking authority would ultimately need to be satisfied with the overall level of car parking.

The TA (sec. 5.14) states that 20% of all car parking spaces would have provision for active electric vehicle charging (EVC) whilst a further 20 to 30% of spaces would have passive EVC provision. HCC as Highway Authority would be supportive of this to ensure that the development is in accordance with LTP4 and HCC'S Sustainability Strategy.

7. Accessibility & Sustainability

The site is located on the north-east side of Maple Cross within approximately 1.2km of the whole of the settlement. The settlement edge of Rickmansworth is approximately 800m north of the site and the town centre (and train station) approximately 3.5km north-east of the site.

The site is therefore within an acceptable cycling and walking distance from the rest of Maple Cross and parts of Rickmansworth. There is footway and cycleway provision along Denham Way south into Maple Cross and north in Rickmansworth although parts of the shared foot/cycle way could be widened and improved to maximise pedestrian and cycling accessibility. HCC as Highway Authority would however recommend that measures are explored to ensure that the existing (and new extended) footway on the private access road is kept free of car parking – this would require discussion with the land owners of the existing private access road.

The nearest bus stops are located on Denham Way between approximately 350m and 550m from the development site. This is greater than the normally recommended 400m walking distance from some parts of the site. The bus stops are also proposed to be relocated slightly further north along Denham Way as part of the signalisation of the access junction. Nevertheless this is acceptable when taking into consideration the proposed improvements to pedestrian and cycling accessibility at the junction and walking distances still within an acceptable level.

The proposals include the provision of 57 cycle parking spaces, which is considered acceptable at this stage. The recommended levels for cycle parking are normally based on the number of full time staff members, the details of which are not yet known for the application site at this stage of the application. HCC as Highway Authority would

recommend that the level of cycle parking is increased accordingly dependent on the number of potential staff members (and should be considered as part of the necessary Travel Plan – referred to later in this section). This is to ensure that cycling is encouraged and maximised as a form of sustainable travel for staff members and visitors to and from the site and to ensure that the development is in accordance with NPPF and LTP4.

National Cycle Route 6 is located approximately 1km from the site by bike (accessed via Denham Way, Uxbridge Road and Springwell Lane), which therefore demonstrates that the wider cycle network could be utilised as a form of travel to and from the site, particularly for any future employees.

There have been some concerns from local residents that the number of vehicles associated with the development would detrimentally impact on the safety of the surrounding highway network in Maple Cross, specifically for pedestrians. The proposed signalised junction and associated improvements to pedestrian and cycling accessibility / safety have previously been requested by HCC as HA and agreed in principle as part of the pre-application discussions to take into consideration and mitigate any adverse impacts from the proposals and to ensure that the proposals are acceptable from a highways and transport perspective, specifically in relation to access for pedestrians and cyclists (to be in accordance with LTP4 policies: 1: Transport User Hierarchy; 5: Development Management; 7: Active Travel – Walking and 8: Active Travel – Cycling and the NPPF para. 102, 108, 110). In this context the proposed highway works would improve the accessibility and safety for pedestrians and cyclists travelling between Maple Cross and Rickmansworth (including to and from the Reach Free School) and therefore onto and from the wider highway network.

a. Planning Obligations – Travel Plan

TRDC has adopted the Community Infrastructure Levy (CIL) and therefore contributions towards local transport schemes as outlined in the South West Herts Growth & Transport Plan would be sought via CIL in appropriate.

A Framework TP has been submitted as part of the application and is considered to be generally acceptable at this stage of the application/ development. Nevertheless the following amendments would be required to be submitted in an amended FTP prior to occupation:

- Local Policy Context should include LTP4 strategy.
- A statement of senior commitment is required within the FTP stating that developers/businesses are committed to implementing the travel plan.
- Freight and delivery measures should be included with the TP if appropriate.
- If the employment figures are low, it is recommended to consider car park management as an oversupply of parking spaces may encourage car use.
- Staff surveys should be collected annually.
- Multi modal surveys should be carried out every other year (in years 1, 3 and 5 of travel plan monitoring).
- It should be noted in the FTP that annual monitoring reports should/ will be shared with HCC at least 3 months after completion.

Following consideration of the size and nature of the development, developer contributions of £6000 (£1,200 per annum for a five year period and index linked RPI from March 2014) are sought via a Section 106 Agreement towards supporting the implementation, processing and monitoring of the FTP including any engagement that may be needed. For further information please see the following link

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> OR by emailing travelplan@hertfordshire.gov.uk

The request for a financial contribution via a planning obligation under section 106 (Town and Country Planning Act 1990) for a travel plan meets the 3 tests as outlined in regulation 122(2) of The Community Infrastructure Levy Regulations 2010 as follows:

- a) it is necessary to make the development acceptable in planning terms because travel plans are a necessary tool in ensuring that sustainable travel modes are encouraged, promoted and regulated to be in accordance with the NPPF and LTP4. NPPF states that “all developments that will generate significant amounts of movement should be required to provide a Travel Plan”. The securing of a travel plan via a planning obligation allows for a greater level of detail to be agreed than could reasonably be achieved by a planning condition particularly in relation to the implementation and monitoring of the plan.
- b) it is directly related to the development because the travel plan would provide a long-term management strategy for the site and its proposed use as an employment site. The travel plan would support the need to secure specific objectives, targets and commitments (including details of survey methods, funding and any required third party engagement) and be required to address the transport impacts generated by: employees commuting to and from the site; visitor movements and freight/delivery movements.
- c) it is fairly and reasonably related in scale and kind to the development because the development proposals meet the thresholds for requiring a full travel plan and its associated level of financial contribution as laid out in Hertfordshire County Council’s Travel Plan Guidance (TPG, 2020), which is a supporting document to LTP4. A planning obligation is “the only mechanism to secure Travel Plan Evaluation and Support Contributions, that allow for the Travel Plan to be supported by the County Council for a minimum period of 5 years” TPG, 2020.

The monitoring and enforcement of travel plans is not a statutory function of HCC and therefore it is justified to request a reasonable level of contribution to support this. Section 93 of the Local Government Act 2003 gives the power to local authorities to charge for discretionary services. These are services that an authority has the power for, but not the duty to, provide.

8. Construction Logistics Management Plan

The general details submitted in the plan are considered to be acceptable by HCC as HA. Nevertheless the applicant would be required to submit a full Construction Management Plan with more specific information (as detailed in the enclosed recommended condition). The details would need to be approved in writing by the planning and highway authority prior to the commencement of any works on site.

9. Conclusion

In the context of the NPPF and LTP4 and following assessment of the submitted TA and TN as detailed in the above points, there would not be an unacceptable highway safety reason nor a severe road network reason to justify the recommendation of refusal of the proposals from a highways or transport perspective by HCC as HA. Nevertheless the acceptability of the proposals would be subject to the full technical approval and completion of the necessary off-site highway work and inclusion of the above recommended highway conditions, 106 obligations and highway informatives.

4.2.2 Highways England: [No objection subject to conditions]

Referring to the notification of a planning application dated 10 March 2021 referenced above, in the vicinity of the M25 that forms part of the Strategic Road Network, notice is hereby given that Highways England’s formal recommendation is that we:

- a) ~~offer no objection;~~

- b) recommend that conditions should be attached to any planning permission that may be granted (see Annex A – Highways England recommended Planning Conditions);
- ~~c) recommend that planning permission not be granted for a specified period (see Annex A – further assessment required);~~
- ~~d) recommend that the application be refused (see Annex A – Reasons for recommending Refusal).~~

Highways Act Section 175B is not relevant to this application.1

This represents Highways England’s formal recommendation and is copied to the Department for Transport as per the terms of our Licence.

Should you disagree with this recommendation you should consult the Secretary of State for Transport, as per the Town and Country Planning (Development Affecting Trunk Roads) Direction 2018, via transportplanning@dft.gov.uk.

Annex A Highways England recommended Planning Conditions

HIGHWAYS ENGLAND (“we”) has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the Strategic Road Network (SRN). The SRN is a critical national asset and as such we work to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity. This response represents our formal recommendations with regard to 21/0573/FUL and has been prepared by the Area 5 Spatial Planning Team.

1. No development shall take place until a detailed Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority in consultation with Highways England. This document should include details such as working hours, the number of vehicles expected on a daily basis, the expected frequency of vehicles during construction, the size and weight of these vehicles and the proposed routing of these vehicles on the local road and SRN. If the detailed Construction Management Plan demonstrates that there is the potential for a severe impact on the SRN, further assessments may be required.

Reason: To mitigate any adverse impact from the development on the M25. To ensure that the M25 continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety.

4.2.3 Environment Agency: [No objection subject to conditions]

4.2.3.1 Initial comment 08.04.2021: [Objection – insufficient information]

Thank you for consulting us on the above application on 10 March 2021.

As part of this consultation we have reviewed the following document:

- Maple Cross Contaminated Land Assessment and DQRA, prepared by H Fraser

Objection: Insufficient information to determine risks to groundwater

Based on the information submitted to date, we object to this application and recommend planning permission is refused.

The applicant has failed to provide assurance that the risks of pollution to controlled waters are acceptable, or can be appropriately managed.

Reasons

The proposed development presents a high risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is:

- Located within a Source Protection Zone 1
- Located atop a Secondary Aquifer (River Terrace Deposits) in hydraulic continuity with the underlying Principal Aquifer (Chalk)
- Located in close proximity (within 500m) to an Affinity Water potable groundwater abstraction

As the planning application is not supported by an appropriate full risk assessment, it does not meet the requirements set out in paragraphs 170 and 178 of the National Planning Policy Framework and Policy DM8 of the Three Rivers Local Plan: Development Management Policies (2013).

In addition, the Thames river basin management plan requires the restoration and enhancement of water bodies to prevent deterioration and promote recovery of water bodies. The proposal could cause deterioration of a water quality element to a lower status class of adjacent surface waterbodies and prevent the recovery of a drinking water protected area in the Mid-Chilterns Chalk groundwater body.

Overcoming our objection

We note that the submitted Contaminated Land Assessment and DQRA, dated 2 March 2021, is a summary version.

In order to fully assess the risks to controlled waters we require the full version of this report.

The applicant should provide the full version of the Maple Cross Contaminated Land Assessment and DQRA report. This should also include all modelling input files used in the controlled waters risk assessment detailed in Section 7 of this report.

Informative

Flood Risk Activity Permit

The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culvert (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission.

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03702 422 549 or by emailing enquiries@environment-agency.gov.uk. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

Advice to LPA

Water Resources

Increased water efficiency for all new developments potentially enables more growth with the same water resources. Developers can highlight positive corporate social responsibility messages and the use of technology to help sell their homes. For the homeowner lower water usage also reduces water and energy bills.

We endorse the use of water efficiency measures especially in new developments. Use of technology that ensures efficient use of natural resources could support the environmental benefits of future proposals and could help attract investment to the area. Therefore, water efficient technology, fixtures and fittings should be considered as part of new developments.

We recommend that all new non-residential development of 1000sqm gross floor area or more should meet the BREEAM 'excellent' standards for water consumption.

We also recommend you contact your local planning authority for more information.

Final comments

Thank you for contacting us regarding the above application. Our comments are based on our available records and the information submitted to us. Please quote our reference number in any future correspondence. Please provide us with a copy of the decision notice for our records. This would be greatly appreciated.

If you are minded to approve the application contrary to our objection, I would be grateful if you could re-notify us to explain why, and to give us the opportunity to make further representations.

4.2.3.2 Further comments 12.05.2021: [Objection]

Thank you for the additional information and I apologise for the delay in responding.

We have now reviewed the groundwater DQRA and Contaminated Land report but due to the absence of the Maple Lodge Nature Reserve as a receptor we are currently unable to remove this objection.

Upon further review we also wish to object due to the risk to a priority habitat which we have a role in protecting, in this case maple Lodge. I apologise for us having not stated this in our earlier response. This is outlined in more detail below.

Objection 1

Having reviewed the additional information we wish to maintain our objection on insufficient information to determine risks to groundwater, as the planning application fails to identify the Maple Lodge Nature Reserve, a Groundwater Dependent Terrestrial Ecosystem (GWDTE), as a groundwater receptor.

Reason

The proposed development presents a high risk of contamination could be mobilised during construction to pollute controlled waters. Controlled waters have particular sensitivity in this location because the proposed development site is:

- Located within a Source Protection Zone 1
- Located atop a Secondary Aquifer (River Terrace Deposits) in hydraulic continuity with the underlying Principal Aquifer (Chalk)
- Located in close proximity (within 500m) to an Affinity Water potable groundwater abstraction
- Located within a Water Framework Directive groundwater body with 'poor' classification (Mid-Chilterns Chalk)

As the conceptual site model presented in the Maple Cross Contaminated Land Assessment and DQRA has failed to identify and consider risks to the Maple Lodge Nature Reserve receptor, the planning application does not meet the requirements set out in paragraphs 170 and 178 of the National Planning Policy Framework and Policy DM8 of the Three Rivers Local Plan.

Furthermore the Thames River Basin Management Plan requires the restoration and enhancement of water bodies to prevent deterioration and promote recovery of water bodies. The proposal could cause deterioration of a water quality element to a lower status class of adjacent surface waterbodies and prevent the recovery of a drinking water protected area in the Mid-Chilterns Chalk groundwater body.

Overcoming our objection

It may be possible to overcome our objection by undertaking further risk assessment to ensure there will be no adverse impact to the Maple Lodge Nature Reserve GWDTE as a result of the proposed development. This should include:

- An updated conceptual site model which identifies the Maple Lodge Nature Reserve as a groundwater receptor and assesses all potential risks to the receptor arising from the proposed development.
- An assessment of site-specific contaminants against Freshwater Environmental Quality Standards (EQS) to ensure compliance with these criteria and provide confidence that there is no unacceptable risk to the Maple Lodge Nature Reserve as a result of the proposed development.

Objection 2

We object to the piling activity proposed as part of this planning application due to its likely effect on the wet woodland and reedbed priority habitat present at Maple Lodge Nature Reserve. This habitat is listed as being of 'principal' importance under s41 of the Natural Environment and Rural Communities (NERC) Act 2006. Insufficient information has been provided to assess the risks posed by this activity and no details of mitigation or compensation measures have been submitted to address any identified risks. We therefore recommend that planning permission is refused.

Reasons

England's Biodiversity strategy identifies those priority habitats which are also listed as being of 'principal' importance under section 41 of the NERC Act 2006. This Act states that local planning authorities must consider these habitats in their decision-making, because of their duty to conserve Biodiversity (section 40)

In this instance, the proposed development may have a detrimental effect on the priority habitat that we have a role in protecting. The application does not include adequate information about the measures proposed to assess and address the risk to ensure protection of the Maple Lodge Nature Reserve and its associated S41 habitats in this location. In particular the application fails to identify any risks posed to the water quality or quantity of groundwater that is essential to sustain the aquifer fed naturally fluctuating waterbodies (ponds and lakes), reedbed and wet woodland habitats within Maple Lodge Nature Reserve.

This objection is supported by paragraphs 170 and 175 of the National Planning Policy Framework (NPPF) which recognise that the planning system should conserve and enhance the environment by minimising impacts on and providing net gains for biodiversity. If significant harm resulting from a development cannot be avoided, adequately mitigated, or as a last resort compensated for, planning permission should be refused. Opportunities to incorporate biodiversity in and around developments should be encouraged.

Overcoming our objection

It may be possible to overcome our objection by submitting:

- A detailed risk assessment of both the short and long term risks to Maple Lodge Nature Reserve, considering both groundwater flows (water quantity) and the potential effect of turbidity (water quality) to these habitats of principal importance, as a result of the development.
- detailed drawings of the location and construction of the proposed development (including timing of works, methods and materials to be used)
- details of how the Maple Lodge Nature Reserve is to be protected during construction works
- Where impacts are identified, details of mitigation or compensation for any loss of habitat

The design, construction, mitigation and compensation measures should be based on a survey which is carried out at an appropriate time of year by a suitably experienced surveyor using recognised survey methodology.

Final comments

Thank you for contacting us regarding the above application. Our comments are based on our available records and the information submitted to us. Please quote our reference number in any future correspondence. Please provide us with a copy of the decision notice for our records. This would be greatly appreciated.

If you are minded to approve the application contrary to our objection, I would be grateful if you could re-notify us to explain why, and to give us the opportunity to make further representations.

4.2.3.3 Further comments 12.05.2021: [No objection subject to conditions]

The applicant has proposed additional assessment to evaluate the risks that the development poses to the Maple Lodge Nature Reserve Groundwater Dependent Terrestrial Ecosystem via the following documents;

- Email correspondence (Tier Ref: T1999/PJB/EJJ dated 19th May 2021).
- Hydrogeological Impact Assessment & GQRA of Maple Lodge nature reserve (Ref 30422R3 dated 07/06/2021)

As such we are now able to withdraw our objection, and recommend that the following conditions are attached to any grant of planning permission. Without these conditions we feel that the development would pose an unacceptable risk to groundwater and we would object.

Condition 1

No development shall take place until a scheme for the provision and management of compensatory habitat creation has been submitted to, and agreed in writing by, the local planning authority and implemented as approved. Thereafter, the development shall be implemented in accordance with the approved scheme.

Reasons: Development that encroaches on the marshy grassland (B5) habitat associated with the Maple Lodge Farm Ditch (main river) may severely affect its ecological value. The National Planning Policy Framework (paragraph 175) states that if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Advice

The scheme as it is currently submitted would result in the net loss of marshy grassland and has the potential to fragment the landscape for species that use this habitat. The ecology report identifies standing water amongst the scattered trees at the eastern and southern boundaries of the site; wet woodland is a habitat of principle importance as

identified by S41, NERC (2006). Development must not result in fragmentation or isolation of wildlife habitats and should seek opportunities for habitat connectivity within the wider landscape.

The applicant should use the latest DEFRA Biodiversity Net Gain Metric to assess the value of current habitats on site and appropriately design the scheme. The metric should be used to assess all habitats on site, including the Maple Lodge Farm Ditch and the adjoining marshy grassland. A management plan for these habitats should be included with the designs. A minimum 8m buffer zone and any newly created habitat should be managed to develop a natural character, with planting options that may include native trees and shrubs, but planned as such to not cause shading issues or bank instability over time. Grass areas should be left unmown or mown later in the season to enhance their floristic and habitat value. Fencing and structures should be kept minimal and set back beyond the buffer zone.

Fostering the development of a continuous and structurally diverse buffer zone along the watercourse will ensure this 'wildlife corridor' provides a wider and therefore more robust and sustainable range of linked habitats.

This condition will ensure the protection of wildlife and supporting habitat and secure opportunities for enhancing the site's nature conservation value in line with national planning policy. The NPPF (2018) now identifies that developments should be achieving net gain, in line with the 25 Year Environment Plan. A biodiversity net gain assessment will ensure the loss of habitat at this site is compensated for and provide connectivity within a fragmented landscape whilst complying with these policies.

Condition 2 – Groundwater Levels

No development should take place until a monitoring and maintenance plan in respect of groundwater levels across the site and the Maple lodge nature reserve including a timetable of monitoring and submission of reports to the Local Planning Authority, shall be submitted to and approved in writing by the Local Planning Authority.

Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to and approved in writing by the Local Planning Authority. Any necessary contingency measures shall be carried out in accordance with the details in the approved reports.

Reasons: This condition will ensure that the development does not cause undue detriment to groundwater levels upon which the Maple Lodge nature reserve relies in line with paragraph 170 of the National Planning Policy Framework.

Condition 3 – Land Affected By Contamination

No development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall be submitted to and approved, in writing, by the local planning authority:

1. A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

1. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

2. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

3. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and

identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: The proposed development presents a high risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is:

- Located within a Source Protection Zone 1
- Located atop a Secondary Aquifer (River Terrace Deposits) in hydraulic continuity with the underlying Principal Aquifer (Chalk)
- Located in close proximity (within 500m) to an Affinity Water potable groundwater abstraction
- Located within a Water Framework Directive groundwater body with 'poor' classification (Mid-Chilterns Chalk)

This condition will ensure that the development does not contribute to, or is not put at unacceptable risk from/adversely affected by levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

Condition 4 – Verification Report

No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reasons: To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 170 of the National Planning Policy Framework. To prevent further deterioration of a water quality element to a lower status class of adjacent surface waterbodies and prevent the recovery of a drinking water protected area in the Mid-Chilterns Chalk groundwater body.

Condition 5 - Long Term Monitoring and Maintenance Plan for Groundwater

No development should take place until a long-term monitoring and maintenance plan in respect of contamination including a timetable of monitoring and submission of reports to the Local Planning Authority, shall be submitted to and approved in writing by the Local Planning Authority. Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to and approved in writing by the Local Planning Authority. Any necessary contingency measures shall be carried out in accordance with the details in the approved reports. On completion of the monitoring specified in the plan a final report demonstrating that all long-term remediation works have been carried out and confirming that remedial targets have been achieved shall be submitted to and approved in writing by the Local Planning Authority.

Reasons: To ensure that the site does not pose any further risk to human health or the water environment by managing any ongoing contamination issues and completing all necessary long-term remediation measures. This is in line with paragraph 170 of the National Planning Policy Framework. To prevent further deterioration of a water quality element to a lower status class of adjacent surface waterbodies and prevent the recovery of a drinking water protected area in the Mid-Chilterns Chalk groundwater body.

Condition 6 – Unidentified Contamination

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reasons: No investigation can completely characterise a site. This condition ensures that the development does not contribute to, is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with paragraph 170 of the National Planning Policy Framework. To prevent further deterioration of a water quality element to a lower status class of adjacent surface waterbodies and prevent the recovery of a drinking water protected area in the Mid-Chilterns Chalk groundwater body.

Condition 7 – Borehole Management

A scheme for managing any borehole installed for the investigation of soils, groundwater or geotechnical purposes shall be submitted to and approved in writing by the local planning authority. The scheme shall provide details of how redundant boreholes are to be decommissioned and how any boreholes that need to be retained, post-development, for monitoring purposes will be secured, protected and inspected. The scheme as approved shall be implemented prior to the occupation of any part of the permitted development.

Reasons: To ensure that redundant boreholes are safe and secure, and do not cause groundwater pollution or loss of water supplies in line with paragraph 170 of the National Planning Policy Framework and Position Statement N Groundwater resources of 'The Environment Agency's approach to groundwater protection'. Link to archived EA guidance: https://webarchive.nationalarchives.gov.uk/20140328154120/http://cdn.environment-agency.gov.uk/LIT_6478_8cbe6f.pdf

To prevent further deterioration of a water quality element to a lower status class of adjacent surface waterbodies and prevent the recovery of a drinking water protected area in the Mid-Chilterns Chalk groundwater body.

Condition 8 – Piling / Foundation Works Risk Assessment with Respect to Groundwater Resources

Piling, deep foundations and other intrusive groundworks using penetrative measures shall not be carried out other than with the written consent of the local planning authority. The development shall be carried out in accordance with the approved details.

Reasons: To ensure that any proposed piling, deep foundations and other intrusive groundworks do not harm groundwater resources in line with paragraph 170 of the National Planning Policy Framework and Position Statement N. Groundwater Resources of the 'The Environment Agency's approach to groundwater protection'.

To prevent further deterioration of a water quality element to a lower status class of adjacent surface waterbodies and prevent the recovery of a drinking water protected area in the Mid-Chilterns Chalk groundwater body.

Condition 9 – Infiltration of Surface Water onto the Ground

No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the local planning authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details.

Reasons: To ensure that the development does not contribute to, is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants. This is in line with paragraph 170 of the National Planning Policy Framework. To prevent further deterioration of a water quality element to a lower status

class of adjacent surface waterbodies and prevent the recovery of a drinking water protected area in the Mid-Chilterns Chalk groundwater body.

Advice

Additional risk assessment

The applicant has proposed the following further works in relation to the Maple Lodge Nature Reserve:

1. A controlled waters risk assessment conducted with the nature reserve identified as a groundwater receptor of potential contamination arising from the site, and a risk assessment undertaken to determine if there is a significant risk of pollution arising from the development. To comprise a description of potential contamination sources, a description of the receptor, identification of pathways between them, and a description of whether the development will have any impact on potential contaminant transport from the site to the receptor.

2. A semi-quantitative assessment of long and short term impacts to water quantity and quality drawing on the detailed and robust site investigation, monitoring information, conceptualisation and Detailed Quantitative Risk Assessment works already carried out to date and submitted. To include semi-quantitative assessment of groundwater and surface water flows between the site and the nature reserve, and an assessment of potential impacts arising from turbidity.

3. Detailed drawings of the location and the construction of the proposed development to be provided alongside a Piling Method Statement and Risk Assessment which includes details of timing of works, methods and materials to be adopted.

We would expect the outcomes of proposals 1 & 2 to be included in any future consultation on our Condition 3 (Land affected by Contamination) and the outcome of proposal 3 to be included in any future consultation on our Condition 8 (Piling / Foundation Works Risk Assessment with Respect to Groundwater Resources).

Advice

We recommend that developers should:

- Follow the risk management framework provided in Land Contamination: Risk Management (formerly CLR11), when dealing with land affected by contamination.
- Refer to the Environment Agency Guiding principles for land contamination for the type of information that we require in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, such as human health.
- Consider using the National Quality Mark Scheme for Land Contamination Management which involves the use of competent persons to ensure that land contamination risks are appropriately managed. The Planning Practice Guidance defines a "Competent Person (to prepare site investigation information): A person with a recognised relevant qualification, sufficient experience in dealing with the type(s) of pollution or land instability, and membership of a relevant professional organisation." (<http://planningguidance.planningportal.gov.uk/blog/policy/achieving-sustainable-development/annex-2-glossary>)
- Refer to the contaminated land pages on GOV.UK for more information.

We expect the site investigations to be carried out in accordance with best practice guidance for site investigations on land affected by land contamination. E.g. British Standards when investigating potentially contaminated sites and groundwater, and reference with these documents:

- BS5930:2015 Code of practice for site investigations;
- BS 10175:2011 A1:2013 Code of practice for investigation of potentially contaminated sites;

- BS ISO 5667-22:2010 Water quality. Sampling. Guidance on the design and installation of groundwater monitoring points;
- BS ISO 5667-11:2009 Water quality. Sampling. Guidance on sampling of groundwaters (A minimum of 3 groundwater monitoring boreholes are required to establish the groundwater levels, flow patterns but more may be required to establish the conceptual site model and groundwater quality. See RTM 2006 and MNA guidance for further details).
- BS ISO 18512:2007 Soil Quality. Guidance on long-term and short-term storage of soil samples
- BS EN ISO 5667:3- 2018. Water quality. Sampling. Preservation and handling of water samples
- Use MCERTS accredited methods for testing contaminated soils at the site.
- Guidance on the design and installation of groundwater quality monitoring points Environment Agency 2006 Science Report SC020093 NB. The screen should be located such that at least part of the screen remains within the saturated zone during the period of monitoring, given the likely annual fluctuation in the water table. In layered aquifer systems, the response zone should be of an appropriate length to prevent connection between different aquifer layers within the system.

A Detailed Quantitative Risk Assessment (DQRA) for controlled waters using the results of the site investigations with consideration of the hydrogeology of the site and the degree of any existing groundwater and surface water pollution should be carried out.

The following should be considered:

- Use MCERTS accredited methods for testing contaminated soils at the site
- The DQRA report should be prepared by a “Competent person” (e.g. a suitably qualified hydrogeologist). The DQRA should be based on site-specific data, however in the absence of any applicable on-site data, a range of values should be used to calculate the sensitivity of the input parameter on the outcome of the risk assessment.
- Where groundwater has been impacted by contamination on site, the default compliance point for both Principal and Secondary aquifers is 50m. Further guidance is available at <https://www.gov.uk/guidance/land-contamination-groundwater-compliance-points-quantitative-risk-assessments>

Following the DQRA, a Remediation Options Appraisal to determine the Remediation Strategy in accordance with the Land Contamination: Risk Management guidance.

Any remediation strategy must be carried out by a competent person, in line with paragraph 178 of the National Planning Policy Framework. The National Planning Policy Framework defines a “Competent Person (to prepare site investigation): A person with a recognised relevant qualification, sufficient experience in dealing with the type(s) of pollution or land instability, and membership of a relevant professional organisation”.

Where SUDs are proposed - Infiltration SUDs should not be located in unsuitable and unstable ground conditions such as land affected by contamination or solution features. Where infiltration SuDS are to be used for surface run-off from roads, car parking and public or amenity areas, they should have a suitable series of treatment steps to prevent the pollution of groundwater. For the immediate drainage catchment areas used for handling and storage of chemicals and fuel, handling and storage of waste and lorry, bus and coach parking or turning areas, infiltration SuDS are not permitted without an environmental permit. Further advice is available in the updated CIRIA SUDs manual http://www.ciria.org/Resources/Free_publications/SuDS_manual_C753.aspx

Waste off-site

Contaminated soil that is, or must be disposed of, is waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes:

- Duty of Care Regulations 1991
- Hazardous Waste (England and Wales) Regulations 2005
- Environmental Permitting (England and Wales) Regulations 2010

The Waste (England and Wales) Regulations 2011

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Refer to the waste management page on GOV.uk for more information.

Material Re-use on-site

The CL:AIRE Definition of Waste: Development Industry Code of Practice (Version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice:

excavated materials that are recovered via a treatment operation can be re-used on-site provided they are treated to a standard such that they fit for purpose and unlikely to cause pollution

treated materials can be transferred between sites as part of a hub and cluster project

some naturally occurring clean material can be transferred directly between sites

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on-site operations are clear. If in doubt the Environment Agency should be contacted for advice at an early stage to avoid any delays. We recommend that developers should refer to:

The position statement on the Definition of Waste: Development Industry Code of Practice

The waste management page on GOV.uk

Informative

Flood Risk Activity Permit

The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

on or within 8 metres of a main river (16 metres if tidal)

on or within 8 metres of a flood defence structure or culvert (16 metres if tidal)

on or within 16 metres of a sea defence

involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert

in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission.

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03702 422 549 or by emailing enquiries@environment-agency.gov.uk. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

Final comments

Thank you for contacting us regarding the above application. Our comments are based on our available records and the information submitted to us. Please quote our reference number in any future correspondence. Please provide us with a copy of the decision notice for our records.

4.2.4 HCC Lead Local Flood Authority: [No objection subject to conditions]

Thank you for consulting us on the above application for Comprehensive redevelopment to provide 2 no. warehouse Class E(giii)/B2/B8 units comprising a total of 16,115 sqm

including 1,882 sqm ancillary E(gi) office space, access, landscaping and associated works at Development Site, Maple Lodge, Maple Lodge Close.

It is acknowledged that as LLFA we previously provided comments on application reference 19/1179/FUL and the associated appeal. It is acknowledged that the LLFA provided detailed responses to application reference 19/1179/FUL, on submission of additional information for the appeal the applicant subsequently overcame the LLFAs objections, and the LLFA recommended drainage conditions at the appeal, for the applicant to clarify any outstanding technical matters by way of condition.

The applicant has provided the following information in support of the application:

- A Flood Risk Assessment and Drainage Strategy for Maple Cross, Rickmansworth, Ref. T/17/1999/FRA, dated 25 February 2021, Issue 1.6, prepared by Tier Consult.
- MicroDrainage Calculations, dated 25/02/2021, prepared by Tier Consult.
- General Arrangement Drawing showing proposed foul and surface water drainage layout Sheet 1, Project No. T_17_1999, Drawing No. 55-01, Rev. P17, dated 25.02.2021, prepared by Tier Consult.

The drainage strategy is based on permeable paving, geocellular attenuation and restricted discharge to the QBAR greenfield runoff rate of 6.5l/s, with a pumped discharge into Maple Lodge Ditch, which is a Main River.

As this is a greenfield site, the new development should be minimising underground storage. The proposal for geo-cellular tanks on a greenfield site is justified by the evidence on the presence of groundwater on site and ensuring that sufficient storage is able to be provided to restrict to the QBAR rate. The applicant will need to fully line SuDS features on site to mitigate against potential groundwater ingress and ensure engineering design against any possible lifting.

With regards to management and treatment of surface water, it is noted how petrol interceptors are proposed. Mechanical methods of treatment require rigorous maintenance regimes, and it is preferred that more on surface solutions are provided. We are pleased to see the use of permeable paving for the parking areas. It is acknowledged that due to the use of HGVs on site, mechanical methods of treatment are likely to be needed. It is recommended to be clarified by way of condition, that the applicant investigates additional provision of above ground management and treatment of surface water. Within the detailed design the applicant will need to explore more appropriate management and treatment of surface water such as the exploration of inclusion of above ground SuDS features such as filter strips e.g. in the north of the site for the linear drainage channel, as well as other locations including exploration of minimising the use of road gullies and if more appropriate on surface SuDS features could be provided.

With regards to the half drain down times of the drainage system, the applicant has detailed within the FRA itself how half drain down times during the 1 in 100 year + climate change event is 11 minutes. However, from a review of the MicroDrainage calculations, it is stated how Half Drain Time has not been calculated as the structure is too full. However, some specific half drain times are provided within the results for the nodes themselves. If half drain down times are unable to be achieved within 24 hours, the applicant will need to ensure that there is adequate storage on site to cater for a 1 in 30-year storm immediately following a 1 in 100 year + climate change event. We would recommend that this is clarified by way of condition.

As riparian owner, the applicant will need to ensure that the Maple Lodge Ditch is in a suitable condition and will need to undertake appropriate maintenance.

The applicant will need to liaise with the Environment Agency regarding any permits required for connection to the main river.

We have reviewed the information submitted in support of this application. In order to secure the final detail of the drainage scheme, and in light of the site-specific concerns previously highlighted on application reference 19/1179/FUL through our consultation responses, we would therefore recommend the following conditions should planning permission be granted:

Condition 1

The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment and Drainage Strategy for Maple Cross Rickmansworth, Issue 1.4, dated 22 August 2019, Ref: T/17/1999/FRA, prepared by Tier Consult Ltd and the General Arrangement Drawing showing proposed foul and surface water drainage layout Sheet 1, Project No. T_17_1999, Drawing No. 55-01, Rev. P17, dated 25.02.2021, prepared by Tier Consult. The scheme shall include the following mitigation measures:

1. Provide attenuation to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + climate change event.
www.hertfordshire.gov.uk 3
2. Restrict surface water discharge into Maplodge Ditch (via pump) to the QBAR Greenfield run-off rate (6.5l/s).
3. Implement drainage strategy based on lined permeable paving, lined cellular attenuation and discharge via surface water pump into the nearest watercourse, Maplodge Ditch, which is Main River.

Reason: To prevent flooding by ensuring the satisfactory storage of and disposal of surface water from the site.

Condition 2

No development shall take place until the final design of the drainage scheme is completed and sent to the LPA for approval. The surface water drainage system will be based on the Flood Risk Assessment and Drainage Strategy for Maple Cross Rickmansworth, Issue 1.4, dated 22 August 2019, Ref: T/17/1999/FRA, prepared by Tier Consult Ltd and the General Arrangement Drawing showing proposed foul and surface water drainage layout Sheet 1, Project No. T_17_1999, Drawing No. 55-01, Rev. P17, dated 25.02.2021, prepared by Tier Consult. The scheme shall also include:

1. Detailed engineered drawings of the proposed SuDS features including their location, size, volume, depth and any inlet and outlet features including any connecting pipe runs.
2. All corresponding detailed calculations/modelling to ensure the scheme caters for all rainfall events up to and including the 1 in 100 year + climate change event.
3. Details of half drain down times of the surface water attenuation.
4. Clarification on the volumes of water to be stored within each SuDS attenuation feature / permeable paving sub-base etc.
5. Detailed engineering drawings, calculations and evidence to secure and safeguard the SuDS features from groundwater.
6. Detailed engineering drawings and evidence of the proposed surface water pump including details of safeguarding and a management and maintenance plan.
7. Detailed management and maintenance plan for the Maplodge Ditch Main River and a timetable for implementing maintenance and the removal of any necessary blockages.
8. Exploration of above ground SuDS, to include the provision of filter strips / filter trenches to support effective and sustainable management and treatment of surface water.
9. Silt traps for the protection of any tanked elements.

10. Demonstrate appropriate SuDS management and treatment and inclusion of above ground features such as permeable paving etc. and reducing the requirement for any underground storage. To include details of products and maintenance.

Reason: To prevent flooding by ensuring the satisfactory storage of and disposal of surface water from the site.

Condition 3

Upon completion of the drainage works for the site and in accordance with the timing / phasing arrangement, a management and maintenance plan for the SuDS features and drainage network must be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

1. Provision of a complete set of as built drawings for site drainage.
2. Maintenance and operational activities.
3. Arrangements for adoption and any other measures to secure the operation of the scheme throughout its lifetime.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

Informative to the LPA

We recommend the LPA obtains a maintenance plan that explains and follows the manufacturer's recommendations for maintenance or follows the guidelines explained in the SuDS Manual by Ciria. A maintenance plan should also include an inspection timetable with long term action plans to be carried out to ensure effective operation and to prevent failure. For further guidance on the maintenance of SuDS components, please refer to the SuDS Manual by Ciria.

4.2.5 Herts Ecology: [Advisory comments]

4.2.5.1 Initial comments 13.04.2021: [Advisory comments]

1. I responded previously to a similar application. Based on the supporting information presented within the ecological report by Greengage which also referenced previous surveys (not provided), the lack of any conservation designation for the site, and on previous data available from HERC , I concluded that the value of the grasslands on site, although assessed in the ecological report as being of little value, was at least in-part semi-natural with a moderate diversity of species including a number associated with marshy areas. However, I did not consider that the information available to me at the time was sufficient to justify a refusal on the grounds of ecology.

2.1 However, new information was presented at the subsequent Appeal Hearing from the local conservation group in the form of a description of a walk-over survey of the site and supporting photographs. This raised the possibility of the site having a greater botanical value than found in the surveys conducted by Greengage or in their interpretation of the previous surveys referenced in their report.

2.2 A new ecological report by Greengage has been submitted with this current application. The walk-over survey was carried out in November, a sub optimal time for botanical surveys making the botanical assessment made at the time of limited value. It therefore does not wholly satisfy the PEA standards as claimed (3.1). However, a similar conclusion was found to that previously drawn in respect of the quality of the grassland, namely that it did not meet Priority Habitat status. Whilst this view may also have been based upon previous survey results, given the poor survey time this survey does not provide any meaningful update or

contribution to assessing the site, and a recommendation was made to undertake an updated botanical (NVC) survey of the site to confirm the position.

2.3 The new information provided at the Hearing has not, to my knowledge, been submitted to the LPA to inform any objection to this application. However, given the recommendation in the ecology report, I advise it would be helpful to undertake a further NVC survey in order to assess the current value of the grassland. This should be conducted within the optimum survey season. If this new survey and assessment indicates that the ecological loss to the site is greater than previously considered, it is not unreasonable that this should generate greater offsetting compensation.

2.4 Use of the current version of the NE Biodiversity Metric would enable this to be fully measurable, as recognised by the Inspector. Since our original comments, use of the updated Biodiversity Metric – published in July 2019 - has become more frequent where major development is proposed. Its use as part of the mandatory BNG proposal is needed to enable measured assessments of net gain to be determined, as outlined in the January 2020 Environment Bill. Nevertheless, whilst the expectations of the government have now become clearer, the Bill has not yet been enacted and the use of the metric or Biodiversity Net Gain is still not currently a mandatory requirement of planning law, also recognised by the Inspector at the Hearing.

2.5 Should the LPA wish a decision on this application to be further informed by the proposed survey and re-assessment of the grassland, then the application should not be determined until the surveys have been completed and the results and assessment provided for the LPA's consideration. If measurable net gain is to be achieved in the context of this new application, this will need to be informed by the use of a metric. However, if the LPA is minded to determine the application without this additional information, then in order to fully inform any changes to compensation requirements, I advise the survey should then be secured by condition and any modifications to the currently proposed compensation made accordingly.

3. In terms of other matters relating to protected species I am not aware of any new information that would alter the assessment that they can be suitably safeguarded by following the mitigation measures recommended in the latest Greengage report.

4.1 In respect of indirect impacts, the Maple Lodge Nature Reserve to the south is important as a wetland reserve and any significant impact on water supply into the reserve by the development would negatively impact on its ecology. It is clearly already vulnerable, with naturally shallow waterbodies and recent periods of low water if not drying out. This supply is likely to be influenced to a degree by surface water runoff (largely addressed by the amended drainage scheme into the adjacent stream to the west) but more importantly is considered to be dependant mainly on groundwater flow, as raised before and during the Hearing. Concerns relating to the impact of piling were included amongst the reasons for refusal of the previous application (Reason 4) and such concerns do need to be addressed.

4.2 At Appeal the Inspector considered concerns relating to dewatering and contamination of the water supply (paragraphs 88 and 89) and also concluded that *the appeal scheme would be unlikely to have a significant effect on water levels at the lakes, other than over a short period of time when the interceptor and attenuation tank are installed. The measures suggested by the appellant would ensure that even during this limited period there should not be a significant effect on the lakes as a consequence of the proposal* (paragraph 88).

4.3 The application site will still receive the same amount of surface water and groundwater as it always did – notwithstanding vagaries of climate change or other groundwater impacts further afield. However, it is the long-term behaviour of the groundwater through and around the site in respect of the proposals which should be sufficiently understood, to demonstrate that the groundwater flow reaching the reserve is not reduced or otherwise unacceptably

affected by the proposals. This is a hydrological matter for which I am not qualified to comment authoritatively but has been considered in the Maple Cross Contaminated Land Assessment and DQRA – Summary report dated 02/03/2021. Consequently, the LPA needs to be satisfied that its conclusions and those reached by the Inspector adequately address these concerns and are not limited to the short-term impacts of dewatering and tank installation.

4.2.5.2 Further comments 26.07.2021: [Advisory comments]

1. Further to our comments on the above, we have received a further species list (as requested) from the Consultant Ecologists Greengage. This was based upon an NVC survey in June of this year undertaken by Greengage which provided a rather superficial NVC description of the site with no supporting information such as any quadrat species data which would also reflect frequency of occurrence. When asked whether there were *any species lists to support the NVC suggestions*, we were sent a single list of species recorded from the site. Whilst this does provide an update to the understanding of the site during the optimum survey period, as an evidence-base needed to generate an NVC description it is remarkably limited. However, this data may yet exist, whilst Greengage may have considerable experience in making accurate NVC assessments from what appears to be a simple list of species. It was therefore considered that the NVC should be taken on its own merits, as provided to Herts Ecology. They are attached to this letter.

2. However, Herts Ecology had also taken the opportunity to visit the site to inform our own independent assessment of the existing grassland. The results of this are also attached to this letter and have been sent to Greengage. This has enabled HE to update its own understanding of the site, upon which to advise TRDC accordingly.

3. In very broad terms, the surveys have similar results. The single most acidic area was very localised and limited in extent; much of the remaining grassland was characterised by greater or lesser abundance of false oat grass, where in places a more species-rich community was present. It would appear to be largely natural grassland on natural soils, other than the north-east section which has previously been dumped on and disturbed. This did not support any established grassland at the time of the survey. The hydrology influences the presence of a moderately sized damp area now mainly dominated by a single sedge species but otherwise also species-poor. In summary the site is a mosaic of grassland communities, frequently rather coarse and species poor but with scattered better patches with very locally abundant indicator species, reflecting underlying differences in hydrology, soil depth and superficial gravel deposits.

4. Whilst the HE survey does not purport to be an NVC survey, it is capable of being used to assess the site against Local Wildlife Site criteria and the likely UK Habitats Classification. Clearly the threshold for LWS indicator species is reached for both neutral and mixed grasslands, requiring 8 and 12 species respectively. However, a large proportion are only rare to occasional and it is therefore considered the site would be of borderline quality. That said, better management would undoubtedly improve the botanical composition. Consequently, the site does support a large grassland of at least moderate intrinsic interest, with clear potential for LWS status. However, we do not consider that the abundance of many indicator species and general coarse grass character, meets the status expected of a Priority Grassland habitat. This is also consistent with the view taken over 20 years ago, when LWS criteria had not been established.

5. At the Inquiry in 2020, it was accepted that Biodiversity Net Gain proposals had been made and were acceptable to the LPA. These were not based upon use of the Biodiversity Metric as BNG was (and remains) not a requirement of planning, and no updated DEFRA metric had been published at the time of the original comments on this application. Since then, in July 2019 and July 2021, Natural England have updated the Biodiversity Metric twice and now Version 3 is available. It was recognised by the Inspector - a year later - that

use of such a metric would have provided a quantitative assessment of the site and its impacts. At the Inquiry this was also acknowledged by Herts Ecology, given the published Metric V2 update and the weight clearly given to its use and BNG by Govt in the Environment Bill. If providing comments again in 2020, HE stated they would advise using the NE metric to assess BNG impacts and requirements. However, the Inspector did not request this was undertaken to inform the appeal decision.

6. Provision of a Biodiversity Metric is not a requirement of planning law; NE state this will not become law until autumn 2023 when the TCPA is amended. However, we consider that for a site of this size, nature and impacts, it is now reasonable for the LPA to consider assessing the current application proposals using a Biodiversity Metric, consistent with the comments made at the Inquiry.

7. Consequently, HE have completed the Biodiversity Metric V2 to provide a view on this. In terms of quality we have considered that two thirds of the grassland (the most disturbed and species-poor sections) should be scored as 'Modified grassland' to reflect their lower and disturbed quality, but around one third and the sedge bed as 'Other neutral grassland' to reflect the higher quality areas and more distinctive habitats. The results of this metric are attached.

8. Based on the above and the existing habitat map, the attached NE V2 metric shows the following:

- The existing site scores 20.40 Biodiversity Units (BU)
- The BU lost due to development = 16.98 BU
- Retained onsite BU = 3.42
- The proposed landscape plan shows BU gained on site = 7.12 BU
- This leaves an on-site score of 10.54 BU.
- This results in a net loss of 9.86 BU, or a net loss of 48.35%.

9. To achieve a measurable net gain in biodiversity of at least 10% as stated in the Environment Bill, this will require achieving a net total of 22.44BU, which would need an offsite contribution of 11.90 BU. At £12,000 per BU (the average DEFRA consultation figure HE have advised LPAs apply in Herts) this would amount to a cost of £142.8k.

10. This represent a significant increase in BNG monies compared to the previously agreed sum, based not on a metric but a potential conservation project to restore an adjacent LWS. This option is no longer available. However, whilst there is still no legal requirement to complete a metric, it is not possible to measure net gain objectively as proposed by Govt. without using one; the existing site value, impacts and gains are now only measurable and calculated by the scores generated by use of a metric. Consequently, the LPA will need to consider how to determine what sum may now be appropriate in the circumstances given the position reached at the Inquiry, as against the determination of a new application to which a metric has been applied. The applicant will be expected to have a view on this, as well as a view on the way the metric has been completed, but I am satisfied it represent a reasonable approach to assessing the existing value of the site and BNG requirements based upon the information now available.

11. In addition to BNG, we have been informed that a rare Forester moth, not recorded in Hertfordshire since 1947 and now considered to be extinct, has been recorded from the site. Photographic evidence has been provided and it has been confirmed by the County Moth Recorder, who states it is unlikely to have migrated to there. However, there is no evidence of breeding, although the foodplant – Common and Sheep's sorrel – are frequent / one patch respectively within the site. It used to occur in the west of the county on clay soils, although there is no suggestion it is limited to river valleys. Habitats used as described by Butterfly Conservation include damp neutral grassland (as here) to chalk downland, heathland, sand dunes and woodland clearings – i.e. a very wide range. Common sorrel -

an indicator of old grassland where it survives moderate change - is relatively common throughout most of Hertfordshire.

12. However, the Forester is also listed in Section 41 of the Natural Environment and Rural Communities Act (NERC) 2006, which identifies it as a Species of Principle Importance in England for the purpose of conserving biodiversity. It therefore needs to be taken into consideration by the LPA when performing any of its functions, in order to fulfil its Biodiversity Duty under S40 of that Act to 'have regard' to the conservation of biodiversity in England.

13. The presence of this moth now means that:

Local Planning Authorities will use it [the S41 list] to identify the species and habitats that require specific consideration in dealing with planning and development control, recognising that under PPS [now NPPF] the aim of planning decisions should be to avoid harm to all biodiversity [NB NPPF states minimising impacts on and providing net gains for biodiversity]. (Ref DEFRA explanatory note on S41.)

Paragraph 180 NPPF states: *When determining planning applications, local planning authorities should apply the following principles:*

a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

14. The Forester moth was also a UK Biodiversity Action Plan Priority Species, added to the UK BAP list in 2007, when it was reported as declining, but it was not subject to any Species Action Plan.

15. However, in determining this application, the LPA must now be satisfied that this species can be adequately dealt with. This will require a specific proposal to be provided by the applicant prior to determination, sufficient to demonstrate how this species and its assumed breeding habitat can be reasonably and effectively compensated. Currently no such proposals exist due to the recent record, but this does not affect the LPA's duty under S40 to ensure it is adequately considered. If this is not provided to the satisfaction of the LPA, it cannot adequately discharge its duty under the NERC Act, and the application should be refused on the basis of insufficient information on ecology.

16. Consequently, the current situation ecologically which the LPA needs to address relates to the extent to which determination of this new application needs to consider any greater weight and mechanism now expected of BNG, and its duty under NERC in respect of the S41 species.

17. We suggest that in any event the compensation for loss of the habitat should be increased, which will also contribute to the need to address the S41 moth species now known to be present within the site. Opportunities for this should be found locally if possible, to secure any population of the moth with its foodplants and sufficient habitat resource to maintain a viable population.

18. The LPA must now be satisfied that these issues can be satisfactorily addressed to enable an approval of this application, consistent with NPPF and TRDC Policy.

4.2.5.3 Further comments 14.09.2021: [Advisory comments]

1. Further to our previous comments on the above, we have received a proposal from Greengage regarding the potential for additional compensation in respect of the Forester moth. An ecological review for such an approach was provided although we have also

considered this in respect of the merits of this approach ecologically and in planning terms. We have also taken the opportunity to review the approach to BNG at this site in the context of the moth and the previous advice provided. This is discussed below.

2. Biodiversity Net Gain considerations at Maple Lodge.

2.1 Background to Biodiversity Net Gain (BNG) calculation, July 2019

BNG was originally considered at Maple Cross on the basis of compensating and enhancing for what was considered to be a low value, relatively species-poor grassland, most of which will be lost to development. The site was a long-standing site allocation for which no new information had been provided until the application. At that time, time BNG remained an objective of Government Policy but was not – and currently is not - a legal planning requirement. Govt's Biodiversity Metric V2 (Natural England July 2019 [DEFRA V1 2012]), The Environment Bill (Oct 2019) or the Queen's Speech (19th Dec 2019) had not been published, all of which confirmed the Govt's expectations regarding BNG.

However, BNG had been promoted in Local Plans and planning applications where it was considered appropriate. At Maple Lodge compensation and enhancement offsite was potentially achievable on a Local Wildlife Site known to be adjacent to the development site. This had originally been identified on the basis of its neutral and marshy grassland interest, but since degraded following cessation in horse grazing. The site was now heavily invaded by scrub which was developing into woodland. To achieve a level of BNG locally, the aim would have been to restore this original habitat, thereby conserving a locally valuable flood-plain grassland adjacent to the river Colne. The basis for determining what contribution might be needed to achieve this is outlined as follows:

2.2 Cost calculation basis

1. Management costs for the grassland were sourced from the higher level stewardship Handbook, Fourth Edition, January 2013:

Species-rich, semi-natural grassland

HK6 Maintenance of species-rich, semi-natural grassland £200 ha

HK7 Restoration of species-rich, semi-natural grassland £200 ha

For the site specified we assumed it would involve an initial restoration of the grassland followed by its continued maintenance

2. The £200 cost was increased to £215 / hectare to account for inflation in costs since 2013.

3. Using this rate, the cost over 25 years was calculated including a modest annual 1% increase to account for inflation.

4. In addition, a one-off cost to cover habitat creation as taken from the Coventry, Solihull and Warwickshire Pilot Offsetting (CSWAPO) cost metric 2014, this was increased to £1612/ hectare to account for inflation (It is not known how this figure was originally derived).

5. At the time it was recommended this should be applied to an area of 2.26 hectares, two thirds of the size of that being lost at Maple Lodge + 10% to represent a net gain of that resource.

6. The total cost amounted to £17,725, although this may have underestimated the cost of scrub clearance if undertaken in one operation.

This approach did not follow any form of Biodiversity Metric, which calculates the existing habitat on site in terms of Biodiversity Units, as well as the impact and compensation and

enhancement measures. The previous Herts Ecology approach would have identified a lower monetary value than an approach using the metric with its defined habitat unit costs, particularly given it focused only on the conservation measures considered to benefit an existing local site. However, at the time it was considered that if they could be secured, the potential benefits generated from restoring an otherwise degraded but formerly valuable Local Wildlife Site would compensate locally for the loss of a poor grassland site which did not sufficiently justify LWS status. This was considered to be reasonable and proportionate planning advice at the time given what was known of the nature of the existing site, in pursuance of a BNG approach which was, and is not yet, mandatory.

2.3 Appeal, June 2020.

Following the refusal of the original 2019 application, an appeal by way of a Hearing was held in June 2020. At the appeal new photographic evidence was submitted which appeared to show higher quality grassland was present on the site than previously considered. This was viewed by HMWT as the grassland meeting Priority Habitat status, based upon species identified in the photographs.

Furthermore, in the interim period between the HE response to the original application and the appeal, as outlined above, the Government published its updated metric and the Environment Bill, giving greater weight to the need for developments to demonstrate a measured BNG of at least 10%. To acknowledge this, at the appeal, Hertfordshire Ecology stated that if a similar application was now made, we would advise it was reasonable for the local authority to expect that a 10% net gain be calculated using the NE metric V2.

This was also reflected the Inspector's views that the benefits arising from the proposal are not [currently] measurable and that it may be beneficial to use a metric such as that produced by DEFRA [NE]. However, the use of a metric is not mandatory. However, the Inspector did not request a metric should be applied to enable further consideration of BNG, and the appeal was dismissed on other grounds.

Since the Appeal Inquiry, in July 2021 NE published V3 of the metric, adding further weight to the expected use of a metric to inform BNG.

2.4 New Application, 2021

Consequently, when a new but similar application was submitted in 2021, Hertfordshire Ecology undertook a site survey to update its own understanding of the site given the local concerns and assessed the proposals using V2 of the NE Metric, to determine what contributions such an approach may generate.

2.5 Method used for the NE V2 Metric Calculation

1. Following the site survey by HE in June 2021, habitats were classified according to the UK habitats descriptions as used within the metric.
2. The classification into UK habitat types requires a degree of interpretation regarding the weight given to the descriptive elements and the measurable elements for each habitat definition. Hertfordshire Ecology used a cautionary approach where there was ambiguity and ascribed habitats to the type with lowest unit value score in the metric.
3. The site visit had demonstrated that the grassland was largely characterised by areas of relatively species-poor grassland but included smaller areas with greater species interest scattered within the site. However, the grassland was not considered to meet Priority Habitat status as identified under the UK Habitats Classification due to the overall species-richness and composition.

4. In order to reflect this variation, the approximate size of these different grassland habitats areas was entered into the metric accordingly as modified grassland (which includes species-poor neutral grassland) and other neutral grassland (which includes species-rich neutral grassland). It was not considered that the grassland met priority habitat status given the relative species-richness and overall character of the site.

5. The landscape plan that formed part of the application was used to estimate the areas of retained, enhanced and new habitat resulting from the existing proposal.

6. Based on the above:

- The existing site scores 20.40 Biodiversity Units (BU)
- The BU lost due to development = 16.98 BU
- Retained onsite BU = 3.42
- The proposed landscape plan shows BU gained on site = 7.12 BU
- This leaves an on-site score of 10.54 BU.
- This results in a net loss of 9.86 BU, or a net loss of 48.35%.

7. A 10% biodiversity net gain was based upon a requirement to deliver 22.44 BU. This leaves a requirement to find 11.9 BU offsite.

8. A rate of £12000 / biodiversity unit was used to calculate cost. This is a mid-way value between the £10k-£15k figure used in the government Net gain Consultation December 2018, a range accepted by Govt in their response, until or unless it was revised.

9. The resulting total contribution based on Herts Ecology's use of the NE V2 metric is £142,800.

This is a substantially greater sum than originally proposed. This is because the original BNG assessment did not apply the metric or its assumptions regarding habitat quality, the identification of BU or specific BU costs. The LPA would now need to consider whether or how it addresses this issue in determining the BNG requirements using a biodiversity metric, and the weight it should attach to this approach given the comments made by the Inspector in the appeal decision.

3. Forester moth.

3.1 Conservation status

The ecological interest present on the site was recently further informed by the recording of the Forester moth in July 2021. This is a rare moth, a UK BAP species and S41 Priority Species. Due to a marked decline 1980 – 2005 considered to be due to agricultural intensification, it was added to the UK BAP list – originally created 1995-99 - in 2007 (JNCC). However, no action plan was produced for this or any other species added in 2007, and no such plan was ever proposed given changes to the BAP process at the time, which eventually ceased to be actively supported by Government nationally and locally.

The Forester has never been common in Hertfordshire and given the last record was 1947, was considered extinct in the county (Ref. Herts Moth Group 2021). However, it was recorded on 12 July 2021 at Maple Lodge and on 16 and 19 July at Chorleywood Common, also in the SW of the county (HMG 2021). In Middx it was recorded at Bushey Park (west London) on 20 June 2020 and Trent Park (north London) on 16 July 2021, so perhaps it is beginning to re-establish itself.

3.2 Ecological requirements

Habitats associated with it as described in its own BAP review were lowland calcareous grassland and lowland meadows.

The moth's larval foodplants are Common Sorrel (*Rumex acetosa*) and Sheep's Sorrel (*Rumex acetosella*). The former is not a rare plant in Hertfordshire whilst the latter is more restricted to semi-natural acid grasslands. The newly emerged larva feed within the upper and underside surface of the leaves mining distinctive 'leaf tunnels' as they feed. Later by mid-summer, they begin to feed externally on the lower leaves of the larval foodplant until the following May. The larvae pupate in a cocoon near the ground amongst grassland vegetation. Adults feed on a range of nectar producing flowers available at any one time, including vetches, clovers, black knapweed etc.

3.3 Conservation potential

Conservation work nationally has been variously successful; it was lost from Warwickshire despite measures taken to conserve it, but the Forestry Commission (08/07/2011) reported over 1,200 adults following creation of a 2.5 ha wildflower meadow grassland from former agricultural land at Long Newton near Middlesbrough. The Upper Thames moth group reports (2019) Bucks sites with over 40 individuals, 16 individuals on a previously known site and 19 on a new site. These sites were on old ridge and furrow meadows on the clay and records more than doubled previous sighting numbers.

This suggests that the species is potentially capable of having better years and may indicate why it has been recorded at Maple Cross and Chorleywood Common in 2021. Whilst the Bucks sightings were associated with old well-established grasslands, the FC experience also suggests that new habitat can be created which is capable of being colonised by the species. This suggests that appropriate compensation measures may be successful in providing new suitable habitat resources.

3.4 Legal requirements

As a S41 NERC Act species “of principal importance for the purpose of conserving biodiversity” covered under section 41 (England) of the NERC Act (2006) it therefore needs to be taken into consideration by a public body when performing any of its functions with a view to conserving biodiversity.

Consequently, in considering an application on land supporting the moth, TRDC must seek to secure its conservation. The possibility that the site has been used for breeding by the Forester cannot be ruled out given the presence of its foodplant and current rather rank nature of the sward. However, more sightings over a longer period would have strengthened this view. Nevertheless, it would seem that there are examples which demonstrate that habitat compensation could work if a suitable grassland species composition and management regime could be secured elsewhere locally. This could overcome the constraint the species may otherwise represent if it could not be retained on-site, which is unlikely if the proposals were approved. It would also ensure that TRDC has complied with its NERC Act obligations relating to its Biodiversity Duty and S41 species responsibilities.

For this to happen, a suitably sized species-rich grassland supporting common sorrel and sheep's sorrel if the ground is acidic, as well as other flowering herbs, would need to be created locally. Hay cutting and or grazing should seek to retain a short length of grass sufficient to enable overwintering of the caterpillar or pupa. Given the moth is currently recorded on a grassland of just over 2 ha, a grassland of similar size and improved composition would seem be appropriate to accommodate sufficient habitat, larval foodplants and nectar sources.

3.4 Conservation proposals by Greengage and financial contribution to compensate for the Forester moth

Greengage proposed (20/08/2021) a potential conservation approach specifically to consider the Forester moth. This is presented with further background information on the ecology of the moth and proposed mitigation and management. Without appropriate management of the existing site, the habitat conditions needed by the moth are unlikely to be maintained. This supported the original BNG proposal which it was proposed would provide a level of suitable compensation habitat for the moth.

Since this letter to TRDC, and following further discussions, Greengage proposed (26/08/2021) an additional contribution based upon the original HE July 2019 BNG calculation approach outlined above, which was provided to Greengage. This calculation is based on the area of the Maple Cross site that is currently grass cover and what an additional s106 contribution could be, looking at this being applied independently to enable compensation for the Forester moth to be delivered.

Greengage stated the application site is 3.4ha, of which approximately 2ha is grass cover. If the stewardship costings that were used for the previous contribution figure of £17,725 (for 2.26ha) are applied for this area, the additional s106 contribution would amount to £16,685, resulting in a total contribution of £34,410. Greengage consider that this follows a methodology that is appropriate for a contribution to the creation and management over a 25-year period of a species rich grassland that would provide the suitable habitat conditions for the Forester moth.

Herts Ecology have no reason to object to this assumption in itself, which follows the original habitat restoration and enhancement approach and is designed to address the species interest recorded at the site. It would obviously provide more habitat compensation and thus more opportunity for the Forester to colonise a potentially suitable offsite grassland site, and in this respect is welcomed.

Whether this sum total should now be considered reasonable or sufficient given the disparity with metric costings, is another matter.

4. Review of financial contributions.

The issue of delivering BNG on this site is not disputed; the need to consider the Forester moth is also not questioned – and is in fact an obligation of the LPA. However, BNG continues to emerge and over the timescale of the applications has been further endorsed by Govt guidance and intention. This has also changed the weight that could be given to delivering BNG and how, to the extent that use of the metric would now be needed to demonstrate that measurable net gain can be achieved. This, in turn, has implications concerning the financial contributions that would be sufficient to achieve this.

Consequently, there would seem to be a number of options:

1. Maintain the existing original contribution, as originally calculated to create a suitable area of compensation grassland which could also be potentially suitable for the Forester. This would be £17,725
2. To ensure that BNG and the Forester are properly considered independently using the previous approach (technically BNG doesn't directly assess species conservation requirements), increase the contribution along the same lines for an additional area for grassland. This would essentially double the area of compensation grassland. This would be £34,410
3. Apply the NEV2 metric calculation to determine BNG requirements. This is based upon new evidence of grassland value confirmed by HE survey and the increased emphasis placed upon using the metric to determine BNG, despite the current lack of planning requirement. This should, by default, provide for a larger grassland compensation, which

should also substantially benefit the moth's colonising and establishment potential. This would be £142,800.

4. A compromise between any one of these. Such a figure cannot be directly justified as it simply reflects the weight attached to a planning judgement which takes into consideration the different contributions currently assessed through different methodologies. However, whilst each of these could be justified on their own merits, the latest approach to BNG by using a metric would be more consistent with the current expectation of Govt should BNG be applied to this new proposal.

5. To reflect the changing circumstances, it is suggested a compromise between 2 (the agreed proposed figure) and 3 (the metric V2 figure) may be appropriate. This would amount to £54,195.

4.2.6 Development Plans: [No objection]

This application seeks approval for the construction of two warehouses (Class E(giii) B2/B8), comprising a total of 16,115m² B1c, including 1,882m² ancillary E(gi) Office floorspace. The application site is located in the Maple Cross/Maple Lodge site, an allocated employment area in the Site Allocations LDD (adopted 2014) (site E(d)). Policy SA2 of the Site Allocations LDD states that allocated employment sites will be safeguarded for business, industrial and storage or distribution uses. The provision of a B1a, B1c, B2 and B8 floorspace in this area of the employment site would increase the amount of employment floorspace on the site, thus safeguarding business, industrial, storage and distribution uses. Subsequently, the application complies with Policy SA2. Policy CP6(j) of the Core Strategy (adopted 2011) states that the sustainable growth of the Three Rivers economy will be supported by continuing to focus employment use in the key employment areas of the District, including the Maple Cross/Maple Lodge site. The proposal also complies with Policy CP6(j).

The South West Herts Economic Study (2018) indicates a need for 152,000sqm of B1c/B2 floorspace between 2018 and 2036 (8,600sqm per annum) and 329,500sqm of B8 (18,300sq m per annum) across the whole of South West Herts. Of these amounts, it is estimated that in Three Rivers, there should be a provision of 13,200sqm of B1c/B2 floorspace and 15,600sqm of B8 floorspace over the 2018-2036 period (or 700sqm of B1c/B2 floorspace and 900sqm of B8 floorspace per annum). This is estimated to require a land requirement of 3.3ha and 3.9ha respectively. The application proposes B2 and B8 uses to comprise the majority of the floorspace within the proposed development. The application site is an existing employment allocation which offers a suitable location to provide a proportion of the land required to meet these needs. It is therefore considered that the proposed development would strongly contribute to meeting the need for B2 and B8 floorspace set out in the South West Herts Economic Study (2018).

The proposed office floorspace is ancillary to these main uses (B2 and B8). The South West Herts Economic Study estimates that 37,600sqm of office floorspace should be provided in Three Rivers over the period of 2018-2036 (equating to 1,700sqm per annum). The proposed office floorspace (E(gi)) would contribute to meeting this need and would enable the efficient operation of the main uses (B2 and B8) and is therefore also supported.

Due to the site's formal allocation for employment uses and the future need to provide employment floorspace (as set out above), the site is considered suitable for the proposed uses and the development is supported.

4.2.7 Affinity Water: [No objection subject to conditions]

Thank you for notification of the above planning application.

As a reminder, the proposed development site is located within an Environment Agency defined groundwater Source Protection Zone 1 (SPZ1) corresponding to our Pumping Station (SPRW) which is for public water supply, comprising a number of Chalk abstraction boreholes, operated by Affinity Water Ltd. In addition, this proposed development is within close proximity of two other Affinity Water pumping stations with the potential to adversely impact water quality for public water supply.

We objected to the first application for this development (19/1179/FUL) and also provided representation at the associated Public Hearing to present the reasons behind our objection.

Following the rejection of the initial planning application, Affinity Water have provided the developer and their consultants with a significant amount of data to inform a DQRA and Piling RAMS that has influenced the construction and piling process, and implements mitigation measures and controls to reduce any risks to public water supply during construction and post construction. In addition, we have carried out an extensive ongoing engagement during the development of these documents and have been given the opportunity to review and comment on the drafts and final versions before this application was submitted.

We acknowledge the engagement and cooperation in this process from the developer and their consultants and the subsequent changes, amendments and adjustments that have been made to the application, to address the concerns we have highlighted in our response to the previous application.

However, the risk to public water supply still remains due to the proximity of the development to our pumping stations, although we recognise these risks can be managed, providing the agreed plans are thoroughly adhered to. We request that the following Conditions are included if development consent is to be given and we emphasise the importance of regular consultation and dialogue throughout the construction phase alongside the proposed monitoring programme, to ensure that risks to public water supply are effectively managed:

C12 Piling Method Statement

Any piling or other deep foundation construction methods must be undertaken in accordance with the terms of the approved Piling Risk Assessment and Piling Method Statement dated 2 March 2021, unless details (which shall include consultation with Affinity Water) are submitted to, and approved in writing by, the Local Planning Authority.

A copy of the Piling Risk Assessment and Piling Method Statement shall be included within the package of information that forms the construction documentation for the main/and piling contractors, and kept on-site, in a position accessible to all, until the post-piling monitoring period has been completed.

The Site Manager will be responsible for ensuring that the contents and intent of the Piling Risk Assessment and Piling Method Statement are known to all persons carrying out groundworks on that site.

Reason: The proposed works will be in close proximity to underground sewerage utility infrastructure and the source protection zone of one or more of Affinity Water's groundwater abstractions for Public Water Supply (PWS). Piling has the potential to impact on local underground sewerage utility infrastructure in addition to contaminant transport to the Chalk aquifer (including manganese), turbidity in the Chalk aquifer and potentially at the PWS abstractions, and on ground permeability, which may affect groundwater levels and flows. This condition is necessary to protect underground infrastructure and water supply in accordance with Policies CP1 and CP8 of the Core Strategy (adopted October 2011) and Policy DM8 of the Development Management Policies LDD (adopted July 2013).

C19 Decommission of investigative boreholes

A scheme for managing any borehole installed for the investigation of soils, groundwater or geotechnical purposes shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide details of how redundant boreholes are to be decommissioned and how any boreholes that need to be retained, post-development, for monitoring purposes will be secured, protected and inspected (and details of the consultation undertaken with Affinity Water). The scheme as approved shall be implemented prior to the occupation of any part of the permitted development.

Reason: To ensure that redundant boreholes are safe and secure, and do not cause groundwater pollution or loss of water supplies in accordance with Policies CP1 and CP8 of the Core Strategy (adopted October 2011) and Policy DM8 of the Development Management Policies LDD (adopted July 2013).

C31 Dewatering method statement

No dewatering shall take place. Should dewatering be necessary, no dewatering shall occur until a Dewatering Method Statement (detailing the dewatering method and predicted impact on groundwater flow and details of the consultation undertaken with Affinity Water) has been submitted to and approved in writing with the Local Authority. Any dewatering must be undertaken in accordance with the terms of the approved dewatering method statement.

Reason: The proposed work will be within the source protection zone of one or more of AffinityWater's groundwater abstractions for Public Water Supply (PWS) and within 500 m of the Clubhouse/Marsh Lakes within Maple Lodge Nature Reserve. This condition is necessary to protect water supply and the environment in accordance with Policies CP1 and CP8 of the Core Strategy (adopted October 2011) and Policy DM6 and DM8 of the Development Management Policies LDD (adopted July 2013).

Conditions to be displayed on site

A copy of all conditions addressing groundwater protection, foundation design and site drainage, and any other groundwork or surface water matters and details submitted during the discharge of conditions, and approved pursuant and subsequent to this consent, shall be displayed at the site office at all times.

The Site Manager will ensure that the contents and intent of each are known to any persons given responsibility for operational management or control of the site, or carrying out works on that site.

Reason: To ensure that any potential contamination or other activity likely to pose a risk to groundwater and public water supply, is recognised, monitored and managed by all contractors on site, in good time.

4.2.8 National Grid: No response received.

4.2.9 Landscape Officer: [No objection subject to conditions]

TREES

Recommend: Approval, subject to conditions

The submitted tree report indicates that a small number of poorer quality trees would be removed to facilitate the development. However, this is substantially less than was proposed in a previous application for the site. This previous application was dismissed at

appeal, however the Inspector made clear in the decision that the impact on trees was not a reason for dismissal and that the impact had been reduced during the planning process. The remedial landscape plans submitted for this application indicate that a substantial number of replacement trees would be planted, following development. If the application is approved, a tree protection method statement should be required to ensure retained trees are protected during development. A condition should also be applied that requires the applicant to fully implement and remedial landscaping scheme submitted as part of the application.

4.2.10 Thames Water: [No objection subject to conditions]

4.2.10.1 Initial comments 12.03.2021: [No objection subject to conditions]

Comments:

The proposed development is located within 15 metres of a strategic sewer. Thames Water requests the following condition to be added to any planning permission. "No piling shall take place until a PILING METHOD STATEMENT (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement." Reason: The proposed works will be in close proximity to underground sewerage utility infrastructure. Piling has the potential to significantly impact / cause failure of local underground sewerage utility infrastructure. Please read our guide 'working near our assets' to ensure your workings will be in line with the necessary processes you need to follow if you're considering working above or near our pipes or other structures. <https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-near-or-diverting-our-pipes>. Should you require further information please contact Thames Water. Email: developer.services@thameswater.co.uk Phone: 0800 009 3921 (Monday to Friday, 8am to 5pm) Write to: Thames Water Developer Services, Clearwater Court, Vastern Road, Reading, Berkshire RG1 8DB

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.

The planning application proposal sets out that FOUL WATER will NOT be discharged to the public network and as such Thames Water has no objection. Should the applicant subsequently seek a connection to discharge Foul Waters to the public network in the future, we would consider this to be a material change to the application details, which would require an amendment to the application and we would need to review our position.

The application indicates that SURFACE WATER will NOT be discharged to the public network and as such Thames Water has no objection, however approval should be sought from the Lead Local Flood Authority. Should the applicant subsequently seek a connection to discharge surface water into the public network in the future then we would consider this to be a material change to the proposal, which would require an amendment to the application at which point we would need to review our position.

Thames Water would recommend that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of petrol / oil interceptors could result in oil-polluted discharges entering local watercourses.

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.

Supplementary Comments

Please find below Thames Water properties comments on the above consultation. The comments are to accompany the attached plan.

DTS 68934 Maple Lodge, Maple Lodge Close, WD3 9SN



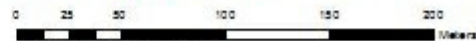
**Thames Water
Map**



Printed By : mhazeldi
 Print Date : 12/03/2021
 Map Centre On : 503717, 192854
 Centre Tile No. : TQ0392NE

Comments:

NO SCALE



Current Scale : 1:2,500

Disclaimer: Based on the Ordnance Survey Map with the sanction of the Controller of Her Majesty's Stationery Office License Number: 10000262

The position of any boundary or apparatus shown on this plan is given without obligation and warranty, and the accuracy cannot be guaranteed.

Service pipes are not shown but their presence should be ascertained. No liability of any kind whatsoever is accepted by Thames Water for any error or omission. The actual position of mains and services must be verified on site before any works are undertaken.

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There are easements and wayleaves running through the site. To the east south of the site sits Maple Cross Sewerage Pumping Station. On the Map a blue outlined box shows the assets, yellow dashed lines show the easements and wayleaves and the proposed development area is identified by a red outlined box. The company will seek assurances that it will not be affected by the proposed development.

The applicant should contact Thames Water to discuss their proposed development in more detail. All enquiries from developers in relation to proposed developments should be made to Thames Waters Developer Services team. Their contact details are as follows:
 Thames Water Developer Services, Reading Mail Room, Rose Kiln Court, Rose Kiln Lane, Reading, RG2 0BY, Tel: 0800 009 3921, Email: developer.services@thameswater.co.uk

4.2.10.2 Officer comment: In their initial comments above Thames Water noted that; “The planning application proposal sets out that FOUL WATER will NOT be discharged to the public network and as such Thames Water has no objection”. In view of the fact that the submitted Flood Risk Assessment states that; “The site will discharge foul water to the public foul sewer to the north of the site”, Thames Water were asked to review their comments. Their revised comments are included in full at 4.2.10.3.

4.2.10.3 Further comment 22.04.2021: [No objection subject to conditions]

Waste Comments

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. 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 FOUL WATER sewerage network infrastructure capacity, we would not have any objection to the above planning application, based on the information provided.

The proposed development is located within 15 metres of a strategic sewer. Thames Water requests the following condition to be added to any planning permission. “No piling shall take place until a PILING METHOD STATEMENT (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.” Reason: The proposed works will be in close proximity to underground sewerage utility infrastructure. Piling has the potential to significantly impact / cause failure of local underground sewerage utility infrastructure. Please read our guide ‘working near our assets’ to ensure your workings will be in line with the necessary processes you need to follow if you’re considering working above or near our pipes or other structures. <https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-near-or-diverting-our-pipes>. Should you require further information please contact Thames Water. Email: developer.services@thameswater.co.uk Phone: 0800 009 3921 (Monday to Friday, 8am to 5pm) Write to: Thames Water Developer Services, Clearwater Court, Vastern Road, Reading, Berkshire RG1 8DB

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.

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Thames Water would recommend that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of petrol / oil interceptors could result in oil-polluted discharges entering local watercourses.

Water Comments

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Supplementary Comments

There are easements and wayleaves running through the site. To the east south of the site sits Maple Cross Sewerage Pumping Station. On the Map a blue outlined box shows the assets, yellow dashed lines show the easements and wayleaves and the proposed development area is identified by a red outlined box. The company will seek assurances that it will not be affected by the proposed development.

The applicant should contact Thames Water to discuss their proposed development in more detail. All enquiries from developers in relation to proposed developments should be made to Thames Waters Developer Services team. Their contact details are as follows:

Thames Water Developer Services
Reading Mail Room
Rose Kiln Court
Rose Kiln Lane
Reading
RG2 0BY

Tel: 0800 009 3921

Email: developer.services@thameswater.co.uk

4.2.11 Environmental Health (Residential): [No objection subject to conditions]

4.2.11.1 Initial comments 22.05.2021: [No objection subject to conditions]

Having reviewed the submitted documents the noise assessment which has been included is robust. The methodology used is reasonable given the location and proposal. The monitoring/assessment locations are appropriate and logical to be able to make a fair assessment.

The noise criteria used and the assumptions made based on the information available appear to be reasonable and sensible.

I would agree with the recommendation to attach 2 conditions one in relation to the construction management plan and the second regarding any plant that is to be installed. I see no reason to deviate from the conditions suggested in the noise assessment document.

4.2.11.2 Officer comment: Following receipt of a Noise Report submitted by the Residents Association and additional information provided by the applicant in response to that, Environmental Health were asked to review/provide further comment.

4.2.11.3 Further comments 13.08.2021: [No objection subject to conditions]

I have reviewed the further documents submitted, the key discussion point is on the methodology and assumptions made particularly around whether a background assessment should be undertaken or absolute sound levels used.

There are arguments for both methods to be used and it depends on the relevant documents used. Whilst previous versions of BS4142 define some terms the current version does not and refers to other documents including WHO guidance and Planning guidance.

Assessing this from the point for the local authority I would argue that the primary focus of a noise assessment is to protect our residents and ensure that any potential impact on the environment is considered.

BS4142 should be taken as a whole in the context of its purpose, highlighting particular sections can result in that part being taken out of context.

Ultimately this proposal is for the development of industrial units in a currently predominantly residential area which is relatively quiet when compared to other parts of the district.

With regard to the consideration of the properties to the east of the site, whilst the reasoning submitted by the applicant is reasonable it would be prudent to demonstrate that by assessment prior to the site being brought into use.

I would recommend that the condition proposed by Cass Allen would give greater protection to the existing environment.

4.2.12 Environmental Health (Commercial): [No objection subject to conditions]

Air quality

I have reviewed the Air Quality Assessment prepared by BWB Consulting Ltd (Report ref. LNT2082-001).

A qualitative construction phase dust assessment has been undertaken in accordance with the IAQM Guidance on the assessment of dust from demolition and construction. Measures have been recommended for inclusion in a Dust Management Plan to minimise emissions during the construction phase. With the implementation of these mitigation measures the residual impacts of construction phase are considered to be 'not significant'.

The trip generation for the proposed development was screened in accordance with the two stage screening process described in the EPUK & IAQM Land-use Planning & Development Control: Planning for Air Quality guidance. The trip generation for the proposed development is predicted to be 901 trips as a 24 hour Annual Average Daily Traffic (AADT) flow, 129 of which would be HDVs. The proposed development trip generation exceeds the criteria set out in the EPUK & IAQM guidance, however, the greatest increase in traffic on roads where existing sensitive receptors are present (on the A412 Denham Way south of the site access road) is 173 trips, of which 25 are HDVs.

This increase is below the stage 2 criteria set out in the guidance (a change of LDV flows of more than 500 AADT outside an AQMA and a change of HDV flows of more than 100 AADT outside an AQMA). The impact on local air quality is considered to be insignificant. A detailed air quality assessment including dispersion modelling is not required.

I would recommend that a condition requiring a dust management plan be applied to any permission granted. The dust management plan should include the recommended mitigation measures as detailed in Table 4.4 and Table 4.5 of the Air Quality Assessment.

I would suggest informatives relating to the following:

- The use of vehicles that meet the most recent European emissions standards;
- Following relevant guidance such as the IAQM guidance.

Land contamination

I have reviewed the following documents:

Site Investigation and Geo-Environmental Assessment Report prepared by ESI Environmental Specialists (Report Ref. 62409D1), June 2014;
Supplementary Site Investigation – Maple Cross, Rickmansworth prepared by Tier Environmental Ltd (Report ref. TL1177SSI1.3), 9th February 2021;
Method Statement for Monitoring Well Decommissioning prepared by Tier Environmental Ltd (Report ref. TL1177MWDECOM.MS1.2), 23rd February 2021;
Maple Cross Contaminated Land Assessment and DQRA – Summary report prepared by H Fraser Consulting Ltd (Report ref. 30422R1), 2nd March 2021;
Piling Method Statement and Risk Assessment for Maple Cross, Hertfordshire prepared by Tier Environmental Ltd (Report ref. TL1177PMSRA1.2), 2nd March 2021.

The intrusive investigations have not identified any elevated concentrations of contaminants of concern in exceedance of the relevant generic assessment criteria. The investigations have identified the existence of a complete contaminant linkage with regards to asbestos fibres and fragments in the underlying soils. It is considered that the site presents a potentially unacceptable risk from asbestos to human health for a commercial/industrial land use.

Outline remedial measures have been discussed in the report. These include the following:

- Preparation of a Remediation Strategy;
- Removal and verification of areas containing heavily impacted asbestos soils for disposal as hazardous waste, verification of excavations to validate complete removal;
- Removal and segregation of areas containing impacted asbestos soils through hand-picking of visibly identifiable ACM fragments for disposal as both non-hazardous (bulk soils) and hazardous waste (reduced asbestos volume). Verification sampling of excavations to validate complete removal*;
- Removal and verification of any previously unidentified areas of contamination, where required;
- Backfill of resultant excavations with suitable material;
- Laboratory chemical testing and risk assessment of imported materials required for the for the clean cover system;
- Installation of a 300mm clean cover system at the site in the soft landscaping areas.

*I have been advised by the environmental consultants that the developer has chosen to undertake these works voluntarily.

Further details were provided in a previously submitted technical note. The physical barriers provided by the hardstanding of the development and the clean cover system are considered suitable measures to break the pathway between any remaining sources of contamination and sensitive receptors.

Based on this, the following contaminated land condition is recommended on this **and any subsequent applications** for the site.

1. Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

i) An options appraisal and remediation strategy, based on the Supplementary Site Investigation – Maple Cross, Rickmansworth prepared by Tier Environmental Ltd (Report ref. TL1177SSI1.3), with particular reference to the outline measures detailed in Section 11.9 of the report and Appendix R – Technical Note Asbestos At Maple Cross, giving full details of the remediation measures required and how they are to be undertaken.

ii) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (i) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

2. Following completion of measures identified in the approved remediation scheme and prior to the first use or occupation of the development, a verification report that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the Local Planning Authority for approval. The approved monitoring and maintenance programme shall be implemented.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

The above must be undertaken in accordance with the Environment Agency's 'Land contamination risk management (LCRM)' guidance, available online at <https://www.gov.uk/government/publications/land-contamination-risk-management-lcrm>.

3. Reporting of Unexpected Contamination: In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken, and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

INFORMATIVES:

Information for Developers and guidance documents can be found online at https://www.watford.gov.uk/info/20011/business_and_licensing/349/contaminated_land

4.2.13 Environmental Protection: [No objection]

Verbal advice – Note that private collection is intended, however, raise no objection to the location/size of refuse storage areas proposed.

4.2.14 London Borough of Hillingdon: [No objection]

No objection/comments.

4.2.15 TRDC Traffic Engineer: No response received.

4.2.16 Colne Valley Partnership: [Objection]

The Colne Valley Park CIC exists to maintain and enhance the Colne Valley as the first taste of countryside to the west of London for the benefit of more than three million people who live within 10 miles of the Park. The Park covers an area from Rickmansworth to Staines, across parts of Herts, London, Bucks, Berks and Surrey. The six objectives of the Park are:

1. **To maintain and enhance the landscape**, historic environment and waterscape of the Park in terms of their scenic and conservation value and their overall amenity.
2. **To safeguard the countryside** of the Park from inappropriate development. Where development is permissible it will encourage the highest possible standards of design.
3. **To conserve and enhance biodiversity** within the Park through the protection and management of its species, habitats and geological features
4. **To provide opportunities for countryside recreation** and ensure that facilities are accessible to all.
5. **To achieve a vibrant and sustainable rural economy**, including farming and forestry, underpinning the value of the countryside.
6. **To encourage community participation** including volunteering and environmental education. To promote the health and social well-being benefits that access to high quality green space brings.

The whole of application site 19/1179/FUL is located within the Colne Valley Regional Park.

The designation of the majority of the site as flood zone 1 may not have taken local circumstances into account: There are regular flooding problems along the loop road and the proposed development site.

We support the comments made by the Herts & Middlesex Wildlife Trust in their letter dated 26th March about evidence of biodiversity value of the site, need for survey at the optimal time of year and concerns about how biodiversity net gain has been measured.

The public path around Springwell Lake, a designated Site of Importance for Nature Conservation is popular with walkers, bird watchers and fishermen who enjoy the tranquil natural habitat **and the countryside/green setting** of this site which will be compromised by this development just 200m away that will result in visual, light and noise intrusion. Effects will also be felt at other nearby wildlife sites of Maple Lodge Marsh and Maple Lodge Nature Reserve. This is in contravention to two TRDC Local Plan Policies:

DM7 “b).....the Council will require proposals to make a positive contribution to the surrounding landscape. Proposals that would unacceptably harm the character of the landscape in terms of siting, scale, design or external appearance will be refused planning permission.....”

DM9.”...d) Planning permission will not be granted for development which:.....

- ii) Has an unacceptable adverse impact on countryside areas of tranquillity which are important for wildlife and countryside recreation....e) Development proposals which include external lighting should ensure that:....ii) There is no unacceptable adverse impact on neighbouring or nearby properties iii) There is no unacceptable adverse impact on the surrounding countryside....vi) There is no unacceptably adverse impact on wildlife vii) Proposals in the vicinity of habitats and habitat features important for wildlife ensure that the lighting scheme is sensitively designed to prevent negative impacts on use of these habitats and habitat features.”

We do not believe the cumulative impact of development is properly being addressed. In the Colne Valley Regional Park local residents are subject to many proposals in a small area, including High Speed 2, two Motorway Service Areas, Heathrow expansion, a huge screen hub, multiple housing developments/removals from the green belt in current and forthcoming local plans. Individually and collectively these will fundamentally change the character of the area with no proper joined up planning and insufficient mitigation from each development.

The Colne Valley Park CIC therefore **objects to this application**

If the council is minded to approve, or it is subsequently approved upon appeal, we strongly urge that conditions are imposed to ensure mitigation to deliver the objectives of the Colne Valley Regional Park for the benefit of local residents and wildlife in the area around the site including Maple Lodge Nature Reserve, Maple Lodge Marsh, Woodoaks Farm, Rickmansworth Lakes Circular Walk, Springwell Lake and the River Colne. The S106 from the previous development of a few thousand pounds for biodiversity and a travel plan are tiny when compared to the statistics of economic benefit quoted in section 9.3 of the planning statement. We point out that there are three pillars of sustainability and that Economic considerations should not trump Social or Environmental considerations. If approved, a development of this scale and supposed economic benefit must provide more for the benefit of the local community and local landscape that are forced to host it. In the event of the application being approved we invite the applicant to discuss suitable mitigation with us to be delivered through a s106 or other suitable agreement.

4.2.17 Heritage Officer: [No objection]

This application is for comprehensive redevelopment to provide 2 no. warehouse Class E(giii)/B2/B8 units comprising a total of 16,115 sqm including 1,882 sqm ancillary E(gi) office space, access, landscaping and associated works.

A previous application (19/1179/FUL) was refused and dismissed at appeal (APP/P1940/W/19/3243565).

The site is to the north of Maple Lodge, a Grade II listed farmhouse which largely dates from the nineteenth century, incorporating elements of an earlier, seventeenth century building (list entry number: 1173687). A separately Grade II listed barn, assumed to date from the seventeenth century, is located to the west of the farmhouse (list entry number: 1100856).

The first edition OS map shows that the farm was historically isolated, forming part of a larger network of farms and arable land within the rural Rickmansworth area. The submitted Heritage Statement demonstrates that the land historically associated with Maple Lodge Farm does not fall within the application site and the listed buildings lack a functional relationship with the site. It is also recognised that there is limited inter-visibility between the farmhouse and the application site due to the existing planting and hedgerow. Despite this, concerns were raised previously that the proposed development would still impact the settings of the listed buildings by introducing large scale buildings closer to the historic farmstead and further removing it from its historic context set within a relatively open landscape.

As the site is limited in its contribution to the setting and significance of the listed buildings, it was considered that any harm arising would be at the low end of 'less than substantial'.

It is recognised that the appeal was dismissed due to impacts on groundwater and risks to the public water supply and that the Inspector found no harm to the heritage assets stating: *I therefore do not agree that the proposal would further diminish the rural setting of Maple*

Lodge Farm or detract from the way in which the listed buildings are understood and experienced (para. 117).

As noted in comments on the previous scheme, there is no in principle objection to the sensitive development of the site. Whilst there were concerns previously regarding the scale of the development, it is accepted that the Inspector found no harm to the listed buildings and an objection is no longer raised.

4.2.18 HCC Growth & Infrastructure Unit: [No objection]

I refer to the application as mentioned above and am writing in respect of planning obligations sought by the County Council towards early years provision; primary and secondary education; library; youth; waste; and adult care services to minimise the impact of development on Hertfordshire County Council Services for the local community.

We will not be seeking financial contributions at this point. This is because the development is for ten units or less and has a maximum combined gross floorspace of no more than 1000sqm. However, you may receive separate comments from the Highways Unit.

Please note that this does not cover the provision of fire hydrants, and we may contact you separately regarding a specific and demonstrated need in respect of that provision.

4.2.19 HCC Waste & Minerals Team: [No objection subject to conditions]

I am writing in response to the above planning application insofar as it raises issues in connection with minerals or waste matters. Should the District Council be minded to permit this application, a number of detailed matters should be given careful consideration.

Minerals

In relation to minerals, the site falls entirely within the 'Sand and Gravel Belt' as identified in Hertfordshire County Council's Minerals Local Plan 2002 – 2016. The Sand and Gravel Belt', is a geological area that spans across the southern part of the county and contains the most concentrated deposits of sand and gravel throughout Hertfordshire. In addition the site falls entirely within the sand and gravel Mineral Safeguarding Area within the Proposed Submission Minerals Local Plan, January 2019. It should be noted that British Geological Survey (BGS) data also identifies superficial sand/gravel deposits in the area on which the application falls.

Adopted Minerals Local Plan Policy 5 (Minerals Policy 5: Mineral Sterilisation) encourages the opportunistic extraction of minerals for use on site prior to non-mineral development. Opportunistic extraction refers to cases where preparation of the site for built development may result in the extraction of suitable material that could be processed and used on site as part of the development. Policy 8: Mineral Safeguarding, of the Proposed Submission document relates to the full consideration of using raised sand and gravel material on site in construction projects to reduce the need to import material as opportunistic use.

The county council, as the Minerals Planning Authority, would like to encourage the opportunistic use of these deposits within the developments, should they be found when creating the foundations/footings. Opportunistic use of minerals will reduce the need to transport sand and gravel to the site and make sustainable use of these valuable finite resources.

Waste

Government policy seeks to ensure that all planning authorities take responsibility for waste management. This is reflected in the County Council's adopted waste planning documents.

In particular, the waste planning documents seek to promote the sustainable management of waste in the county and encourage Districts and Boroughs to have regard to the potential for minimising waste generated by development.

The Ministry of Housing, Communities and Local Government (MHCLG) sets out in the *National Planning Policy for Waste (October 2014)* the following:

'When determining planning applications for non-waste development, local planning authorities should, to the extent appropriate to their responsibilities, ensure that:

- the likely impact of proposed, non-waste related development on existing waste management facilities, and on sites and areas allocated for waste management, is acceptable and does not prejudice the implementation of the waste hierarchy and/or the efficient operation of such facilities;*
- new, non-waste development makes sufficient provision for waste management and promotes good design to secure the integration of waste management facilities with the rest of the development and, in less developed areas, with the local landscape. This includes providing adequate storage facilities at residential premises, for example by ensuring that there is sufficient and discrete provision for bins, to facilitate a high quality, comprehensive and frequent household collection service;*
- the handling of waste arising from the construction and operation of development maximises reuse/recovery opportunities, and minimises off-site disposal.'*

This includes encouraging re-use of unavoidable waste where possible and the use of recycled materials where appropriate to the construction. In particular, you are referred to the following policies of the adopted Hertfordshire County Council Waste Core Strategy and Development Management Policies Development Plan Document 2012 which forms part of the Development Plan. The policies that relate to this proposal are set out below:

Policy 1: Strategy for the Provision for Waste Management Facilities. This is in regards to the penultimate paragraph of the policy;

Policy 2: Waste Prevention and Reduction; &

Policy 12: Sustainable Design, Construction and Demolition.

In determining the planning application the District Council is urged to pay due regard to these policies and ensure their objectives are met. Many of the policy requirements can be met through the imposition of planning conditions.

Waste Policy 12: Sustainable Design, Construction and Demolition requires all relevant construction projects to be supported by a Site Waste Management Plan (SWMP). This aims to reduce the amount of waste produced on site and should contain information including types of waste removed from the site and where that waste is being taken to.

The SWMP or Circular Economy statement should be set out as early as possible so that decisions can be made relating to the management of waste arisings during demolition and construction so that building materials made from recycled and secondary sources can be used within the development. This will help in terms of estimating what types of containers/skips are required for the stages of the project and when segregation would be best implemented for various waste streams. It will also help in determining the costs of removing waste for a project. The total volumes of waste during enabling works (including demolition) and construction works should also be summarised.

SWMPs should be passed onto the Waste Planning Authority to collate the data. The county council as Waste Planning Authority would be happy to assess any SWMP that is submitted as part of this development either at this stage or as a requirement by condition, and provide comment to the Borough Council.

Safeguarded Waste Site

The proposed development site is located north of the Safeguarded Area SA143 STW Maple Lodge. It should be noted that Maple Lodge Sewage Treatment Works is a permanent existing operational waste site which is safeguarded under Waste Policy 5: Safeguarding of Sites, in the county council's Waste Core Strategy and Development Management Policies document, adopted November 2012 as they contribute to a strategic network of waste management provision within the county. Whilst the county council does not object to this proposed development, any further proposals should not prejudice the site's use a sewage treatment works.

The relationship between any proposed development alongside a safeguarded waste facility needs to be considered carefully to ensure that the operation of the existing waste facility is not jeopardised by a conflict between differing land uses.

Consideration should be given to the 'Agent of Change' principle (NPPF, paragraph 182) which states that planning decisions on new developments should ensure integration with existing business such that they do not have unreasonable restrictions placed upon them. The district council would need to satisfy itself that the design of the proposed 2no. warehouses has taken into account the need to mitigate any negative impacts (such as noise, dust and odour) arising from the proximity to the existing sewage treatment works facility.

4.2.20 Herts. Constabulary: [Advisory comments]

My comments are made from a crime prevention and security perspective only. Although security has been addressed for this site as detailed in the Design and Access statement (4.9, Page 25/32) I would ask that the site /warehouses are covered by CCTV.

4.2.21 Herts & Middlesex Wildlife Trust: [Objection]

4.2.21.1 Initial comments 15.04.2021: [Objection]

Botanical survey needs to be resubmitted with an NVC assessment, in light of new evidence. Biodiversity net gain has not been objectively measured by reference to the Defra biodiversity metric and therefore has not been proven.

Two developments have occurred since the previous application was refused at appeal, which materially affect this proposal.

1. The first of these is that evidence has come to light that there is more botanical interest on the site than indicated in the Greengage report. Photographs from the site recorded at the optimum time for botanical surveys (MLCS 16/06/2020) show that there is a strip of what appears to be priority grassland habitat running down the centre of the site. This has not been reflected in the ecological report, which records homogenous habitat, bringing its accuracy into question. Greengage have not actually conducted botanical surveys on the site at the correct time of year, either to support this application or the previous one. In their latest report, they acknowledge in 3.27 that botanical survey timings were sub optimal and recommend that a an NVC survey is conducted to provide a definitive assessment of the grassland in 5.2 and 5.15, yet this has not been undertaken.

An NVC survey is a botanical survey but to a higher degree of accuracy than the sub optimal (their words) botanical surveys that have been submitted to date. HMWT concur with the need for an NVC survey because there is obviously some discrepancy between their survey and what MLCS have observed on site. In light of the photographic evidence supplied by the MLCS, this survey must be completed and verified independently by TRDC, before a decision can be made on this site. The quality of the grassland fundamentally affects the

application, and the conclusions reached in the Inspectors report, so this must be undertaken before making a decision.

It should be noted that when the Greengage floral species list is added to the species seen in the photographs in the MCLS survey, the number of Herts Local Wildlife Sites grassland indicator species reaches 12. The number required to designate a site as a Local Wildlife Site is 8. This significantly elevates the ecological status of the site.

It should also be noted that although Greengage reference a 2014 NVC survey in their report, this has never been produced as evidence, and more pertinently is out of date.

2. Since the previous submission, two new documents have come to light that reinforce the need for a 'measurable' biodiversity net gain, by reference to the Defra Biodiversity Metric.

Firstly, at the appeal hearing, the requirements of the Three Rivers Validation Checklist (revised 2018) were not referred to. <https://www.threerivers.gov.uk/download?id=42730> This document is clear that in certain situations, the Defra biodiversity assessment metric must be used to assess ecological impacts. This is TRDC policy. It states:

11) Biodiversity Assessment:

The Natural Environment and Rural Communities Act 2006 places a duty on Local Authorities to have regard to the conservation of biodiversity in exercising their functions, and includes the planning process. This is also reflected in the NPPF and accompanying NPPG, highlighting the need for the planning system to minimise impacts on biodiversity and provide net gains in biodiversity where possible, based on adequate ecological information. Natural England's Standing Advice on Protected Species is important and the British Standards Institution has published a detailed Code of practice for planning and development, Ref BS 42020:2013. Biodiversity Offsetting is another means of assessing impacts and delivering enhancement opportunities and may be appropriate in certain situations, which includes the DEFRA biodiversity assessment metric.

Development Management therefore requires sufficient information to enable this process to operate successfully, which should be relevant, necessary and material to the proposals. Information provided by professional ecologists should be submitted with an application when it is likely to affect:

- *Internationally and nationally designated sites*
- *European and nationally protected species*
- *Non-statutory designated sites*
- *Priority habitats and species*
- *Non-priority habitats impacted by major development and*
- *Significant populations of national or local red list or notable species*

Work associated with ecological surveys, impact assessments and measures for avoidance, mitigation or compensation and enhancement should be proportionate to the predicted degree of risk to biodiversity and to the nature and scale of the proposed development. In order to fulfil the NPPF requirement for no net loss or net gain in biodiversity, the DEFRA biodiversity metric calculation should show a net positive score.

In this situation, there is more than enough justification for this mechanism to be used. Its inclusion in local policy means that it must be considered a mandatory requirement for assessing net gain in situations such as this one. In her report the inspector stated:

100. I agree with Mr Dodds that the benefits arising from the proposal are not measurable and that it may be beneficial to use a metric such as that produced by DEFRA. However, the use of a metric is not mandatory.

The inspector was not shown this validation checklist requirement and therefore drew her conclusion without sight of the document. Its contents refute the 'not mandatory' judgement of the statement above and must be revisited.

The Defra metric must now be used to quantify the existing value of the grassland so that it can be meaningfully, and more importantly, measurably, compensated, as required by NPPF. The application cannot be determined without this, in accordance with the TRDC validation checklist.

During the appeal, Hertfordshire Ecology represented TRDC. In the appeal they stated that were the application to be resubmitted they would request the use of the Defra metric but at the time of making their submission, they said;

99. Hertfordshire Ecology explained that while it generally supported the use of the DEFRA metric, at the time at which the application was assessed they were not confident of it, and therefore it was assessed based on their expert judgement.

In the intervening time Herts Ecology appear to have developed confidence in the Defra metric, and have advocated its use to other Hertfordshire local planning authorities, insisting on its use to determine biodiversity net gain and we would therefore expect this to be the same for this case in Three Rivers

e.g.

Dacorum 20/02519/MFA. Herts Ecology advise the LPA that;

'No formal proposals for demonstrating or delivering Biodiversity Net Gain (BNG) have been provided in the planning statement. Whilst this is currently not a mandatory requirement, the weight that should now be attached to this emerging Government policy is quite clear, as is the process to demonstrate that it can be achieved (a Biodiversity metric; NE v2 is recommended). For major developments of this nature and given the impact it will have, BNG should now be considered as a necessary expectation of any such planning proposal. This is consistent with other similar development proposals in and around Hemel Hempstead'

In accordance with the views of their own ecological advisors, TRDC must require a Defra biodiversity metric assessment to quantify the ecological impact of the proposal. This is required to measure the necessary mitigation and compensation in an objective way without the recourse to the entirely subjective 'expert judgement'. This application cannot be determined without this information because it materially affects the measurement of the impacts and the compensation required.

Secondly, on the 8th of March 2021, the Three Rivers Climate Emergency and Sustainability Strategy was approved by the Policy and Resources Committee. In this document it states:

Page 28:

"Biodiversity

Aim: To plan for net gains in biodiversity to address the ongoing Ecological Emergency, protect and enhance precious habitats and species, and utilise nature to build climate resilience

Page 29:

"Require all new development in TRDC to result in a 10% net-gain for biodiversity (preferably within the District) and avoid the fragmentation, damage and isolation of existing habitats."

The only way to measure a 10% net-gain in biodiversity is by reference to the Defra biodiversity metric. Therefore, in accordance with the stated Climate Emergency and Sustainability Strategy, a Defra metric assessment must be made of this application to determine if it reaches the 10% net gain level.

I should also draw to your attention the gov't own national planning guidance on the natural environment <https://www.gov.uk/guidance/natural-environment>

This states:

What is biodiversity net gain?

The National Planning Policy Framework encourages net gains for biodiversity to be sought through planning policies and decisions. Biodiversity net gain delivers measurable improvements for biodiversity by creating or enhancing habitats in association with development.

How can biodiversity net gain be achieved?

Care needs to be taken to ensure that any benefits promised will lead to genuine and demonstrable gains for biodiversity. Discussions with local wildlife organisations can help to identify appropriate solutions, and tools such as the Defra [biodiversity metric](#) can be used to assess whether a biodiversity net gain outcome is expected to be achieved.

Conclusion

When all these points are considered, it is clear that TRDC must request a better botanical survey from the applicant (as advised by their ecological advisors) that includes an NVC assessment. This must be used to accurately identify the presence or otherwise of priority grassland habitat, and be verified independently.

When this information has been approved, it must be used to populate a Defra biodiversity metric assessment of the site. This information should then be used to assess whether the site achieves a biodiversity net gain of 10%, and if not, to quantify (in habitat units) exactly how much compensation will be required to achieve a measurable biodiversity net gain.

Once this figure is known, a biodiversity offset must be offered to TRDC or an acceptable, defensible, fully costed financial agreement to deliver the shortfall number of habitat units in perpetuity (30 years). The grassland offset habitat must be better in quality than that which was lost, i.e. it must be a trade up in quality – as per the Biodiversity Offsetting guidelines.

4.2.21.2 Further comments 05.08.2021: [Objection]

1. Greengage NVC survey is not consistent with NVC survey methodology as set out in NVC users handbook, Rodwell, J., JNCC, 2006, indicator species evident and abundant in photographs not recorded in limited species list, no quadrat data supplied, no photographs supplied, botanical data therefore not sufficient.
2. Herts Ecology Defra metric assessment not correctly populated. Photos demonstrate more LWS indicator species present than recorded during assessment survey, thus elevating its status.
3. No strategy for ensuring conservation of priority species, Forester moth.
4. NPPF requirement for net gain not demonstrated.

Since the previous comments of HMWT on this application several pertinent submissions have been received by the LPA. An NVC survey submitted by Greengage, A site survey, botanical assessment and Defra metric assessment from Herts Ecology, revised comments from Herts Ecology incorporating new Greengage information, the discovery of the species

of principal importance or the purpose of conserving biodiversity in England, the Forester moth. These comments are intended to address these submissions for the LPA to consider.

1. Greengage submitted a species list and summary NVC assessment on the 7th July 2021. This survey contained no quadrat data, no relative abundance data, no maps, no photographs of the site or communities, and missed several important indicator species as seen in quadrat photos of the site provided by the Maple Cross Conservation Society, some of which were abundant. The correct methodology for conducting an NVC survey is described in NVC users handbook, Rodwell, J., JNCC, 2006. The survey has not provided evidence to suggest it is consistent with this methodology, i.e. quadrat data, relative abundance etc. The survey cannot be considered a reliable botanical survey or NVC assessment because it does not provide the evidence that sits behind its evaluation of the NVC communities present, and indeed which are refuted by the photographs.

In several of these photos, abundant Bird's-foot Trefoil (*Lotus corniculatus*) is recorded. It is recorded in conjunction with abundant Black Knapweed (*Centaurea nigra*) and Red Fescue (*Festuca rubra*) amongst other significant forbs and herbs. The significance of this is that if these species occur together (as they do) they indicate that elements of the grassland most closely resemble NVC community MG5, which is a priority habitat i.e. lowland meadow. This is also recognised in the botanical assessment made by Herts Ecology and their comments in the Defra metric spreadsheet which says in the A1 Site Habitat Baseline line 1;

Other Neutral Grassland was chosen as a medium value distinctiveness, to reflect the mix of small areas of lowland acid grassland (g1a) with characteristic species and the areas with a species mix more characteristic of lowland meadow (G3a) and a LWS.

HE go on in their site description to state that they do not think there is enough of this habitat to warrant categorisation as lowland meadow. I disagree with this assessment and will further discuss this later. But by this statement they acknowledge that this community is present.

The issue is, how could an assessment of NVC communities miss the abundant presence in a large swathe of the site (the most species rich swathe of the site) of an obvious and significant species in terms of defining the NVC community? Herts Ecology recorded it, so did Maple Lodge Conservation Society, indeed it can be seen from the road. The absence of this plant from the species list (and several others such as Tufted Vetch (*Vicia cracca*) seen in the photos and also a LWS indicator species) cast considerable doubt on the veracity of the botanical survey and NVC assessment. It should not be accepted without quadrat data, quadrat locations, maps and photographs.

2. Herts Ecology have helpfully attempted to populate a Defra metric to give some indication of the baseline value of the site. However, they have miss populated much of the habitat as 'modified grassland'. This significantly affects the baseline value of the grassland. The UK habs definition of modified grassland is:

G4 Modified grassland

Definition: Vegetation dominated by a few fast-growing grasses on fertile, neutral soils. It is frequently characterised by an abundance of Rye-grass and White Clover.

This is an agricultural mix in origin not a semi-natural one. Modified grassland is not what has been described in their site description. What is described in their site description is a False Oat-grass dominated sward. The majority of the site is described by them as:

Overall, a general abundance of Arrhenatherum elatius gives the impression of rough rather species-poor grassland. In several areas – particularly to the north and west,

Arrhenatherum does indeed become largely dominant giving rise to rank, species-poor communities.

This community fits with the UK Habs definition for other neutral grassland sub category c5.

G3c5 Arrhenatherum neutral grassland

Definition: Neutral grassland with False Oat-grass dominant

When the metric is adjusted to reflect this the baseline increases to 24.18 habitat units.

In the comments section of the metric for line 1 and an area of other neutral grassland HE state:

Other Neutral Grassland was chosen as a medium value distinctiveness, to reflect the mix of small areas of lowland acid grassland (g1a) with characteristic species and the areas with a species mix more characteristic of lowland meadow (G3a) and a LWS.

Lowland meadow is a priority habitat and should be recorded as such in the metric and properly accounted for. This further elevates the habitat unit score of the metric.

I understand that the HE population of the metric was designed to be helpful – and is to a degree, but it is a long way from being acceptable in terms of how it has been populated. Similarly, the valuation of the unit price for compensation is misleading. HE have based this score on national generic estimates. HMWT have created an offset cost calculator for different habitats and for Hertfordshire. The cost for compensating this habitat (other neutral grassland) is much more than 12k per habitat unit. It is much closer to 30k per unit to create and maintain for 30 years – but this would reduce if the offset area was greater. The point is that the figure offered by HE whilst well intentioned is not close to the actual figure required. This is much greater and should be established and legitimised before planning is decided because it fundamentally affects the financial viability of the scheme.

3. The discovery on site of the priority species Forester moth also fundamentally affects the decision. TRDC have a legal responsibility to conserve this species. It is also a requirement of the planning process.

This is the first record of Forester from Herts since 1976 at Albury Nowers. The Herts State of Nature Report consider it a Herts Species of Conservation Concern as they were thought to be extinct in the county – until now. They are currently listed on Section 41 of the 2006 NERC Act and the UK BAP 2007. This means that if this development were to go forward as proposed it would result in the extinction in Hertfordshire of a Species of Principle Importance for Biodiversity Conservation in England.

NPPF states:

174. To protect and enhance biodiversity and geodiversity, plans should:

b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.

175. When determining planning applications, local planning authorities should apply the following principles:

a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

The Three Rivers Local Plan states:

DM6: Development should result in no net loss of biodiversity value across the District as a whole.

a) Development that would affect a Site of Special Scientific Interest, Local Nature Reserve, Local Wildlife Site or protected species under UK or European law, or identified as being in need of conservation by the UK Biodiversity Action Plan or the Hertfordshire Biodiversity Action Plan , will not be permitted where there is an adverse impact on the ecological, geological or biodiversity interests of the site, unless it can be demonstrated that:

i) The need for the development would outweigh the need to safeguard the biodiversity of the site, and where alternative wildlife habitat provision can be made in order to maintain local biodiversity; and

ii) Adverse effects can be satisfactorily minimised through mitigation and compensation measures to maintain the level of biodiversity in the area.

Given that no actual physical mitigation or compensation has been put forward to safeguard against the local extinction of this Species of Principle Importance for Biodiversity Conservation in England, this development cannot be considered compatible with NPPF or the Three Rivers Local Plan. It is irrelevant whether the site has been allocated or not, NPPF and the Local Plan still apply. Three Rivers have an obligation not just to their district but to the county of Hertfordshire to conserve this species.

This is not just a planning duty but a legal duty. Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on public authorities to have regard for the conservation of biodiversity when delivering their functions. Leaving aside all the other issues with this application and the ecological information supporting it, if NPPF and the Local Plan are applied, and indeed NERC, this application must be refused.

Theoretically if compensation were feasible for this species it may be possible to design such a scheme. However, this is a species of such rarity and specific habitat requirements that it is highly unlikely to be possible. The Bucks county moth recorder commented thus:

'what is noticeable here in the Bucks/Oxon border area, where we still have quite a few small colonies, is that by far the majority are on ancient ridge-and-furrow meadows where the flora has remained undisturbed for centuries. I don't know what type of habitat the Maple Cross example was found in but I would have thought trying to recreate that kind of site as part of any mitigation for the species would be next to impossible.'

HMWT would be open to review any mitigation or compensation scheme but this must be verified and endorsed by acknowledged and independent entomological experts before being accepted. Without an approved scheme this application must be refused.

4. Net biodiversity gain. The NPPF requirement for biodiversity net gain is a requirement of both local and national planning decisions (as set out in my previous comments 15 April 2021). This applies to species and habitats and must be measurable. Since these comments, the following appeal ruling has come to light to demonstrate this: APP/M2270/W/18/3215766

Land at Common Road, Sissinghurst, Cranbrook, Kent TN17 2JR

This appeal contains the statement:

32. An empirical means of measuring whether the mitigation listed by the appellant would result in a net gain in biodiversity has not been submitted. Therefore, I cannot be certain the measures would result in a net gain, as required by Paragraph 170 of the National Planning Policy Framework.

This ruling is significant in 2 ways. Firstly, it reaffirms the need for a measurable assessment of ecological value i.e. the Defra metric, and secondly it clarifies that NPPF requires planning decisions to result in net gain. This planning application does not contain a measurable assessment of net gain and is therefore not compliant with national or local policy. It must be refused without this information.

4.2.21.3 Further comments 21.09.2021: [Objection]

1. No viable mitigation or compensation scheme has been proposed

Greengage have put forward measures to compensate for the loss of the forester moth from the site. HE in Section 3.3 of their response of 14.9.21 state that *'appropriate conservation measures may be successful in providing new suitable habitat resources.'*

However, the measures proposed are speculative and are not evidence based, and should not be considered as a legitimate compensation strategy for the species for a number of reasons.

The examples provided do not demonstrate that habitat compensation could work. There is actually only one stated example of a potentially viable compensation scheme, from a site near Middlesbrough of an unplanned and accidental colonisation of a site. This is not a model for conserving and enhancing this critical forester population in Hertfordshire – as required by NPPF and the Local Plan. This is one example from hundreds of miles away in a very different landscape. No information is provided on this scheme to inform whether it is a valid source of information. More information must be provided on this scheme before it can even be considered as a concept for compensation. The failed Warwickshire experience is a far more valid model and should be the default position.

To address this lack of research upon which to base such an important decision, I contacted the Butterfly Conservation Officer for the Coatham site which is referred to by HE as a valid example of a viable compensation scheme. He responded and agreed that I can include his comments in this letter to you:

'The site at Coatham came about by happy chance as opposed to a deliberate attempt to create habitat for the species. The site is Forestry Commission owned and was created about fifteen years ago. I'm guessing that the sorrel was present anyway – it's quite abundant in adjacent plantation rides – but maybe got a boost from ground preparation and it's now really abundant within the created meadow. The moth found its own way there but may well have been present nearby.'

As a side note, although this meadow creation has clearly been of benefit to forester moth, there are a great many sites here in the north that appear suitable but which are unoccupied – clearly there are aspects of the species' habitat requirements that are unknown – therefore there's no certainty that mitigatory habitat creation will prove successful. It's also probable that although the meadow holds the bulk of the population, it is in fact part of a much larger area of occupied habitat that extends for 100s of metres into neighbouring plantations which could be functioning as a reservoir in poorer years (such as 2021, when the highest daily count we recorded as part of our monitoring was three; in good years 50-100 would be more normal).

Basically, the minimum area of high quality habitat (even if we knew how to precisely define that term) might be high if the species is to survive the wide annual fluctuations it seems to experience.

There's a lot about this moth which we don't know so protection of the threatened site in Hertfordshire would be a far more reliable way to ensure its presence is retained than to try to replicate work undertaken at Coatham which might prove less successful on different soils etc.'

Dr. Dave Wainwright, Senior Conservation Manager Northern England, pers com, 21/09/2021

Dr Wainwright's comments underline that the conceptual compensation scheme as proposed is not viable and is not appropriate. Planting the caterpillar food plant and associate wildflower species in one location is highly unlikely to be successful. Common

Sorrel is already an extremely common plant in Hertfordshire. Sheep's Sorrel is very common in acidic areas of Hertfordshire. If forester conservation were as simple as sowing a meadow with lots of Sorrel or Sheep's Sorrel in it, forester would be a common and widespread species. It isn't.

In order to find out more about the example given of the population in Buckinghamshire I contacted the Bucks county moth recorder, who confirmed that that population in Buckinghamshire is associated with ancient hay meadows. He agreed that I can include his comments in this letter to you, as below:

' what is noticeable here in the Bucks/Oxon border area, where we still have quite a few small colonies, is that by far the majority are on ancient ridge-and-furrow meadows where the flora has remained undisturbed for centuries. I don't know what type of habitat the Maple Cross example was found in but I would have thought trying to recreate that kind of site as part of any mitigation for the species would be next to impossible.'

D. Wilton 03/08/2021 pers com.

It should also be noted that the presence of forester supports the HMWT position that elements of priority habitat are present on the site. Forester needs these habitats to survive, as evidenced by its Bucks distribution.

The LPA cannot consider what has been put forward as a competent compensation scheme that, as HE suggest,
'would also ensure that TRDC has complied with its NERC Act obligations relating to its Biodiversity Duty and S41 species responsibilities'

Both the county recorder for the neighbouring population and the recorder for the scheme they quote as providing a viable template, disagree with this judgement.

Therefore, the application cannot be approved because no viable mitigation or compensation has been proposed. The local plan is clear on this matter:

The Three Rivers Local Plan states:

DM6: Development should result in no net loss of biodiversity value across the District as a whole.

a) Development that would affect a Site of Special Scientific Interest, Local Nature Reserve, Local Wildlife Site or protected species under UK or European law, or identified as being in need of conservation by the UK Biodiversity Action Plan or the Hertfordshire Biodiversity Action Plan, will not be permitted where there is an adverse impact on the ecological, geological or biodiversity interests of the site, unless it can be demonstrated that:

i) The need for the development would outweigh the need to safeguard the biodiversity of the site, and where alternative wildlife habitat provision can be made in order to maintain local biodiversity; and

ii) Adverse effects can be satisfactorily minimised through mitigation and compensation measures to maintain the level of biodiversity in the area.

NPPF is also clear that the application must be refused:

175. When determining planning applications, local planning authorities should apply the following principles:

a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

The local extinction of a Section 41 priority species is a significant harm and therefore planning permission should be refused.

Greengage also make unsubstantiated and incorrect statements in their report which need to be addressed. They state:

'UK Butterfly Conservation indicate that the Forester moth is often found feeding on flowers such as those of Devil's-bit Scabious, Field Scabious and Marsh Thistle, which are not recorded at Maple Cross. However, whilst it is likely that it will feed on other flowering plants, the absence of those species favoured by adults potentially reduces the value of the habitat at the proposed development site.'

This is an extremely misleading statement. Forester moths do not favour these plants. They use them in their adult phase for nectar as they do lots of other flowering plants, but they are not a necessary part of their life cycle as the caterpillar food plant (Common Sorrel and Sheep's Sorrel) is. They are merely a component of the habitat they frequent, as referred to by the Bucks county recorder above. Indeed, the picture of the forester which has been provided as evidence for this application from the site shows the individual feeding on Yarrow, and pictures from the Chorleywood sightings show individuals on Ragwort and Harebell. They will nectar on a range of available and flowering species of plant when they are in their flight period. These may include Devil's-bit Scabious, Field Scabious and Marsh Thistle because these species are present in the habitat they depend on.

Greengage also state:

'It should also be noted that the site had previously been mown annually, and usually towards the end of the summer months. As such Common and Sheep's Sorrel would be cut and therefore not available for the Forester moth larvae to overwinter. It has only been in the last 18 months or so that the annual mow has not been carried out which could potentially allowed Forester moth larvae to overwinter'

This is not correct. Forester occurs almost exclusively in hay meadows in Bucks which are cut in July and then grazed – the traditional system. Foresters are adapted to cope with this management because they utilise the base of their larval food plants.

These Greengage statements shows a lack of understanding of the basic ecology of the species, which does not provide the LPA with the confidence that a mitigation or compensation strategy designed by them would be successful.

2. Biodiversity net gain assessment

We welcome that HE recognise the NE biodiversity metric as the means to calculate the financial sum required to deliver biodiversity net gain.

However, we consider that the ecological compensation reasoning provided by HE would by its own evidence fail to provide a biodiversity net gain.

HE have advised TRDC that the sum of £142,800 is the correct compensation figure to compensate for the damage to the site and secure a biodiversity net gain, as required by govt policy in NPPF. They have evidenced this by reference to the NE biodiversity metric and used generic govt unit cost estimates to justify the figure. Whilst we support the use of the metric, HMWT dispute the figures in the HE metric as set out in our previous submission, where we show that the assessment was not based upon the correct habitat assessment and categorisation.

The proposed 'compromise' approach set out in Section 4.4 and Section 4.5 is not appropriate.

HE states:

'A compromise between any one of these. Such a figure cannot be directly justified as it simply reflects the weight attached to a planning judgement which takes into consideration the different contributions currently assessed through different methodologies. However, whilst each of these could be justified on their own merits, the latest approach to BNG by using a metric would be more consistent with the current expectation of Govt should BNG be applied to this new proposal.

Biodiversity net gain is not a compromise option to be negotiated. It is a requirement of govt planning policy. Irrespective of the consideration of the forester moth, sufficient habitat must be provided to offset the impacts of development and deliver a biodiversity net gain. This is govt planning policy:

NPPF para 1.

1. The National Planning Policy Framework sets out the Government's planning policies for England and how these should be applied

174. Planning policies and decisions should contribute to and enhance the natural and local environment by:

d) minimising impacts on and providing net gains for biodiversity

Of the 'options' provided by HE, the only figure with legitimacy is the sum that is supported by a NE biodiversity metric and unit cost estimate (although HMWT have demonstrated that it needs correcting). The LPA has a NPPF planning obligation to achieve a biodiversity net gain. If it accepts a lower figure than is estimated by its ecological advisors as necessary to achieve that biodiversity net gain (for habitats), it has not fulfilled its planning function.

The final option suggested by HE states:

'5. To reflect the changing circumstances, it is suggested a compromise between 2 (the agreed proposed figure) and 3 (the metric V2 figure) may be appropriate. This would amount to £54,195.'

HE estimate that £142,800 is required to deliver a biodiversity net gain yet are willing to advise the LPA that £54,195 is acceptable. There is no basis provided for the calculation of this very specific figure and this underlines that the option would mean that the money provided will not be enough to deliver the required biodiversity net gain which HE have calculated using the metric.

The application cannot be approved on this basis or the LPA will be knowingly passing a planning application that does not accord with govt policy.

This application must be refused.

4.2.22 Maple Lodge Conservation Society: [Objection]

4.2.22.1 Initial comments 09.04.2021:

We are writing to register our objections to the application for Comprehensive redevelopment to provide 2 no. single storey warehouse Class E(giii) /B2/B8 units comprising a total of 16,115 sqm including 1,882 sqm ancillary E(gi) office space, access, landscaping and associated works at Development Site, Maple Lodge, Maple Lodge Close, Maple Cross.

A summary of our objections is contained in Section 3 on page 19.

1. General Context

A previous planning application (Ref: 19/1179/FUL) for this development was submitted in June 2019. Since that date the world has changed dramatically and the circumstances in which this application is submitted are very different indeed.

Humanity has had to face up to the twin threats of climate change and the continuing destruction of the natural world. These are global issues which have to be addressed locally. It is the responsibility of everyone to ensure that climate change and the environment are top of the agenda and given due weight when called upon to make decisions that affect either. Continuing with “business as usual” is no longer an option. This has been acknowledged by Three Rivers District Council (TRDC).

TRDC’s Climate Emergency and Sustainability Strategy states:

On page 10:

A Green Recovery from Covid-19:

The health and economic impact of Covid-19 has starkly demonstrated the future that awaits us if we do not act immediately to halt the destruction of the natural world on which we depend

And on page 11:

We can no longer ignore our interdependence with the environment and blindly return to destructive business-as-usual practices

So this planning application has to be considered under a very different set of circumstances from the one that was submitted previously. It cannot be “business as usual” and assessed as if nothing has happened.

It is especially important that climate change and the environment are given due weight. Central and local government policies mandate this.

Since the previous application was submitted new legislation and policies, which were not considered in the assessment of the application nor addressed at the appeal, now have to be taken into consideration.

So what has changed?

a) Climate change has become a material consideration in determining planning applications

On 10th July 2019, in the case of McLennan v Medway Council, Mr Justice Lane ruled that climate change is a material consideration in determining planning applications.

After analysing legislation on the need to plan for climate change mitigation, and national and local policy on climate change, Mr Justice Lane concluded that mitigation of climate change is a legitimate planning consideration.

So, in coming to its decision, the High Court took into account not only the relevant legislation relating to climate change mitigation, but also national and local policies on climate change.

b) TRDC has published its Climate Emergency and Sustainability Strategy

On 8th March 2021 the TRDC Climate Emergency and Sustainability Strategy was adopted by the Policy & Resources Committee and is scheduled to be adopted by the Council on the 18th May 2021.

Following the decision of the High Court, this emerging policy must now be taken into consideration in any planning decision.

This Strategy follows on from the Annual Council Meeting held on 21st May 2019 where TRDC agreed to:

1. Declare a climate emergency ...

4. Use all planning regulations and the Local Plan to cut carbon emissions and reduce the impact on the environment

c) A new Environment Bill is due to be published

The Government's new Environment Bill which, among other measures, will include the requirement to use the Defra metric to calculate Biodiversity Net Gain, is due to be published during the next parliamentary session.

All these considerations must now be included as part of assessing this current planning application.

2. Objections

We do not believe our environmental concerns were given sufficient weight in the assessment of the previous application, despite providing comprehensive data supporting our case. As environmental issues must now be given greater weight, the evidence we provided must now be re-visited as part of the determination of this application.

As was the case with the previous application, the applicant has given little or no consideration to the potential effects of the proposed development on Maple Lodge Nature Reserve and the surrounding environment.

So we are now submitting additional new evidence to support our case. This has been sub-divided under the following headings:

- 2.1 Groundwater
- 2.2 Surface Water
- 2.3 Biodiversity
- 2.4 Climate Change
- 2.5 Loss Of Amenity

2.1 Objection - Groundwater

In our previous submissions we raised serious concerns regarding the potential harmful effects of this proposed development on groundwater. This is because Maple Lodge Nature Reserve is a wetland reserve which is dependent upon the uninterrupted flow of uncontaminated groundwater. In our submissions dated 25th July 2019 and 22nd October 2019 we supplied the evidence to support this.

The Inspector noted this in her report:

86. ... Maple Lodge Conservation Society remain concerned that the proposal may impact on groundwater levels and thereby the water levels within the lakes

After submission of this planning application, we are even more concerned!

Maple Lodge Nature Reserve is a very important local wetland reserve which should be afforded the proper protection in any planning decisions. This can be achieved by observing, in particular, two pieces of legislation:

a) Section 41 of the Natural Environment and Rural Communities (NERC) Act

b) The Water Environment (Water Framework Directive) (England and Wales) Regulations

a) Section 41 of the Natural Environment and Rural Communities (NERC) Act

The reserve has two Section 41 habitats – reed beds and wet woodland – plus two lakes which support a number of Section 41 species. (This information was supplied in our submission dated 25th July 2019).

Section 41 of the NERC Act requires the Secretary of State to publish a list of habitats and species which are of principal importance for the conservation of biodiversity in England.

This list is to be used to guide decision-makers, such as local authorities, in fulfilling their duty under Section 40 of the NERC Act to have regard to the conservation of biodiversity in England when carrying out their responsibilities.

Therefore it is important that TRDC takes into account the habitat and species classifications present on the reserve and the fact that they are at risk from this proposed development.

b) The Water Environment (Water Framework Directive) (England and Wales) Regulations

This is often referred to simply as the Water Framework Directive (WFD). Local authorities have a statutory duty to deliver WFD objectives.

Also, as the Environment Agency's Guidance for Local Authorities - Engaging with the Water Framework Directive states on page15:

In legal terms, the WFD is a material consideration in the planning process

The WFD was not taken into consideration with the previous application even though we highlighted it in our submission dated 22nd October 2019. This is enshrined in UK Law, so it must be taken into consideration this time.

The WFD is the legislative framework which protects groundwater and surface water. It is underpinned by the "precautionary principle", which aims to preserve, protect and improve the quality of the environment, and the "polluter pays" principle, which aims to rectify environmental damage at source. Any works undertaken as part of a development that have the potential to deteriorate the status of a water body will need to be supported during the planning process with a WFD Compliance Assessment.

As has already been explained, Maple Lodge Nature Reserve is a wetland reserve which is dependent upon the uninterrupted flow of uncontaminated groundwater and, as such, it is offered protection by the WFD.

The reserve's nationally important Section 41 habitats (reed beds and wet woodland) and its two lakes constitute part of a Groundwater Dependent Terrestrial Ecosystem (GWDTE). GWDTEs are terrestrial ecosystems that are sustained by groundwater bodies and are directly dependent on the quantity (flow / level) or quality of groundwater bodies. They are specifically afforded protection by the WFD.

The WFD does this, not by protecting the wetland itself, but by protecting the groundwater on which the wetland depends. GWDTEs are a category of wetlands that, ecologically, are critically dependent upon groundwater; Maple Lodge Nature Reserve is just such a wetland. The hydrological linkage between groundwater and a wetland's ecosystem is absolutely crucial, and can easily be impacted by human activities that interfere with this linkage in any way.

Pollution, abstraction or diversion of groundwater can cause significant damage to fragile wetland ecosystems. The ecosystem at Maple Lodge Nature Reserve is extremely fragile and can be severely affected by contamination or the slightest change in water levels. This has been compounded in recent years by the effects of climate change, when we have experienced much wetter winters and much drier summers (see Appendix A – Water Levels Graph).

If human activities have the potential to disrupt or pollute the groundwater supply to a GWDTE, then a detailed assessment of the ecosystem must be undertaken and mitigation measures proposed. This is especially important in the case of Maple Lodge Nature Reserve because, were something to happen by design or accident, the effects could be catastrophic and irreversible.

Under the terms of the WFD, the applicant is required to carry out a WFD Compliance Assessment for the GWDTE that supports the reserve and its nationally important habitats.

In the case of groundwater, the purpose of a WFD Compliance Assessment is to determine whether there are any elements of the proposed development which could have a detrimental effect on its quantity or quality. If there are, then suitable mitigation must be proposed.

This has not been done.

The applicant has not considered the effects of human intervention on groundwater as part of the reserve's supporting ecosystem nor the potential impact. Also, the applicant has not proposed any mitigation measures in the event that their activities do have damaging effects.

In a situation such as this, where an assessment has not been done and the outcome is unknown or may cause harm then, in accordance with the WFD, the "precautionary principle" should be invoked. This means that planning permission should not be granted until it is established that there is no unacceptable impact on the environment.

The precautionary principle states that the burden of proof for the proposition that an action is not harmful falls on those instigating that action – in this case the applicant. Therefore, the applicant has to prove that his actions will not cause harm to the GWDTE and consequently Maple Lodge Nature Reserve.

Because the applicant has not undertaken a WFD Compliance Assessment, paragraph 177 of the NPPF also applies.

c) NPPF Paragraph 177

NPPF paragraph 177 states:

The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

The project is likely to have a significant effect on a site with nationally important habitats (Maple Lodge Nature Reserve) and a WFD Compliance Assessment has not been undertaken. The applicant has not shown that “the project will not adversely affect the integrity of the habitats site”, and so the presumption in favour of sustainable development does not apply.

The Maple Cross Contaminated Land Assessment and DQRA – Summary Report, produced on behalf of the applicant, provides additional evidence to support our case.

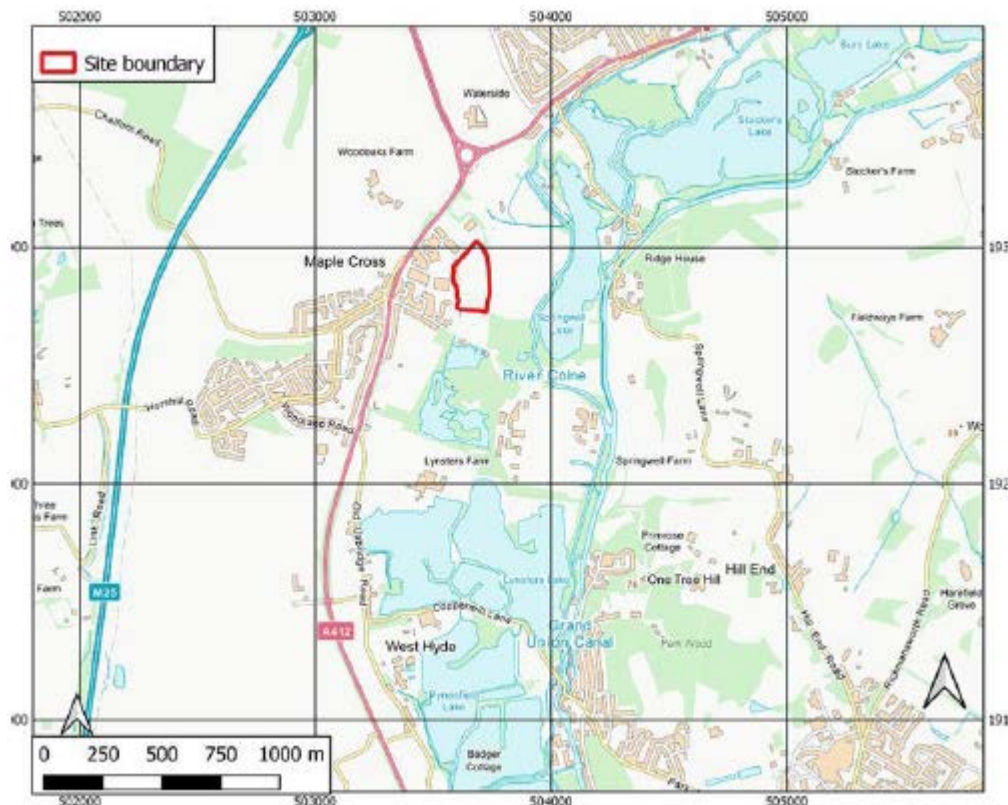
d) Maple Cross Contaminated Land Assessment and DQRA – Summary Report

The map on page 3 of the report (reproduced below) clearly shows the proximity of the proposed development site to Maple Lodge Nature Reserve.

The report notes at 5.2 that “groundwater flow in the Chalk aquifer is from the north and west towards to the east and south, with flow directions changing from eastwards to southwards across the site.”

At 5.4 the report notes that “groundwater flow in the RTD aquifer at the site is predominantly to the southwest”

As can be seen from the map, the development site is in the direct line of both flows towards Maple Lodge Nature Reserve. Therefore, any disruption or diversion of these groundwater flows could impact the reserve.



The report even cites instances when the flow will, in fact, be impeded.

10 Changes In Groundwater Flow Due To Piling:

Piling below the site may reduce the ground permeability, as a proportion of the ground will comprise concrete piles. This may in turn reduce groundwater flow through the piled zone. The lower permeability zone will cause groundwater to ‘back-up’ behind the piling zone, creating an increased gradient across piled zone, and also creating a gradient to divert groundwater around the piled structure. There is the potential that changing flows in and around the piled zone could slow down flow towards a PWS abstraction, or slow down flows to a lake.

The impact of the piling zone on groundwater flow is not expected to be significant, however, calculations have been undertaken to estimate the volume of groundwater flow that would be affected.

The proposed pile design is for 250mm piles to be set at 2.5m spacing. The piling method is displacement piling, which will result in the materials around the pile being forced aside. The aquifer materials are therefore compressed, resulting in a loss of porosity. The pile spacing and dimension result in 10% of the volume being taken up by concrete piles. The hydraulic conductivity of the compacted zone is estimated by assuming a reduction in porosity from 30% to 20%.

Whilst these may be seen as positive points in preventing the transmission of turbidity, they are negative points as far as the nature reserve’s water supply is concerned. The flow of water through the “compacted zone” will be reduced by a third.

12.2 Densification of the piling zone:

There will be a degree of densification of the piling zone, which has been predicted to have a negligible effect on groundwater flow to the PWS boreholes. Densification will provide protection against transport of turbidity within the piling zone, and it is therefore proposed to pile the down-gradient boundaries of the site to create a compacted zone which will mitigated against turbidity transport.

This will be yet another barrier to the flow of water towards the reserve.

So, whilst the potential impact on the supply of drinking water has been considered, the potential impact on Maple Lodge Nature Reserve has not.

As far as Marsh Lake is concerned, there is only a range of about 80cm between the lake being full and completely drying out, so the current situation is already very parlous (see Appendix A – Water Levels Graph).

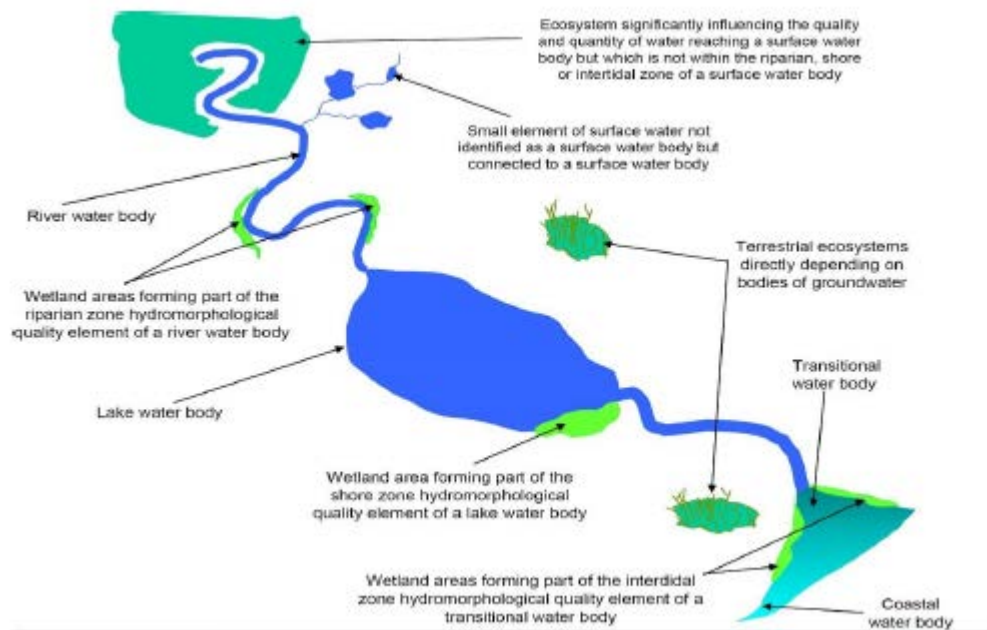
Climate change means both the reserve’s lakes are already showing ever greater volatility (see Appendix A – Water Levels Graph). The reserve’s nationally important habitats are very fragile and susceptible to any changes in the flow of water to the reserve. Any reduction in groundwater flow towards the reserve as a result of the applicant’s activities would have an immediate and significant effect.

Also, as we mentioned in our previous submissions, driving 3,310 piles into a chalk aquifer has unpredictable consequences. In this case, the piling will be through contaminated and unstable land, meaning the outcome is even more unpredictable.

In accordance with the WFD, the applicant must prove conclusively that the GWDTE will not be harmed or damaged as a result of the development’s activities. The applicant must also propose mitigation measures in the event of consequent harm or damage.

2.2 Objection – Surface Water

The following schematic, taken from the EU's Guidance Document no 12 - The role of wetlands in the Water Framework Directive, page 9, shows how the ecosystem supporting a wetland is interconnected.



In the same way, the surface water on and around the proposed development site is a constituent part of the GWDTE. This includes the marshy area in the south west corner of the site and any pools of standing water on the cricket field. It also includes Maple Lodge Ditch, the water that accumulates on the Thames Water access road and Maple Lodge Marsh.

These all form part of the ecosystem which supports the reserve and must be included in any WFD Compliance Assessment. As has already been stated, under the terms of the WFD, the applicant is required to carry out a WFD Compliance Assessment for the GWDTE that supports the reserve.

In the case of surface water, the purpose of the assessment is to determine whether there are any elements of the proposed development which could have a detrimental effect on its hydro-morphology, ecology or water quality. If there are, then suitable mitigation must be proposed.

This has not been done.

The applicant has not considered the effects of human intervention on the surface water, which forms part of the reserve's supporting ecosystem, nor the potential impact. Also, the applicant has not proposed any mitigation measures in the event that their activities do have damaging effects.

As has already been said, in a situation such as this, where an assessment has not been done and the outcome is unknown or may cause harm then, in accordance with the WFD, the "precautionary principle" should be invoked. This means that planning permission should not be granted until it is established that there is no unacceptable impact on the environment.

The precautionary principle states that the burden of proof for the proposition that an action is not harmful falls on those instigating that action – in this case the applicant. Therefore,

the applicant has to prove that his actions will not cause harm to the GWDTE and consequently Maple Lodge Nature Reserve.

Because the applicant has not undertaken a WFD Compliance Assessment, paragraph 177 of the NPPF also applies (see 2.1.c) and so the presumption in favour of sustainable development does not apply.

Reports produced on behalf of the applicant provide more evidence to support our case:

a) *Tier Flood Risk Assessment and Drainage Strategy*

b) *Greengage Preliminary Ecological Appraisal*

a) *Tier Flood Risk Assessment and Drainage Strategy*

None of the activities proposed in this document can go ahead until a WFD Compliance Assessment has been completed. They all constitute human interference with a GWDTE and therefore, under the WFD legislation, cannot be sanctioned until this has been done.

In particular, we would like to make comments regarding the accumulation of water on the Thames Water access road. The applicant has stated that any water accumulation on the access road is due to poor road design but has produced no evidence to support this claim.

Tier Flood Risk Assessment and Drainage Strategy page 5 states:

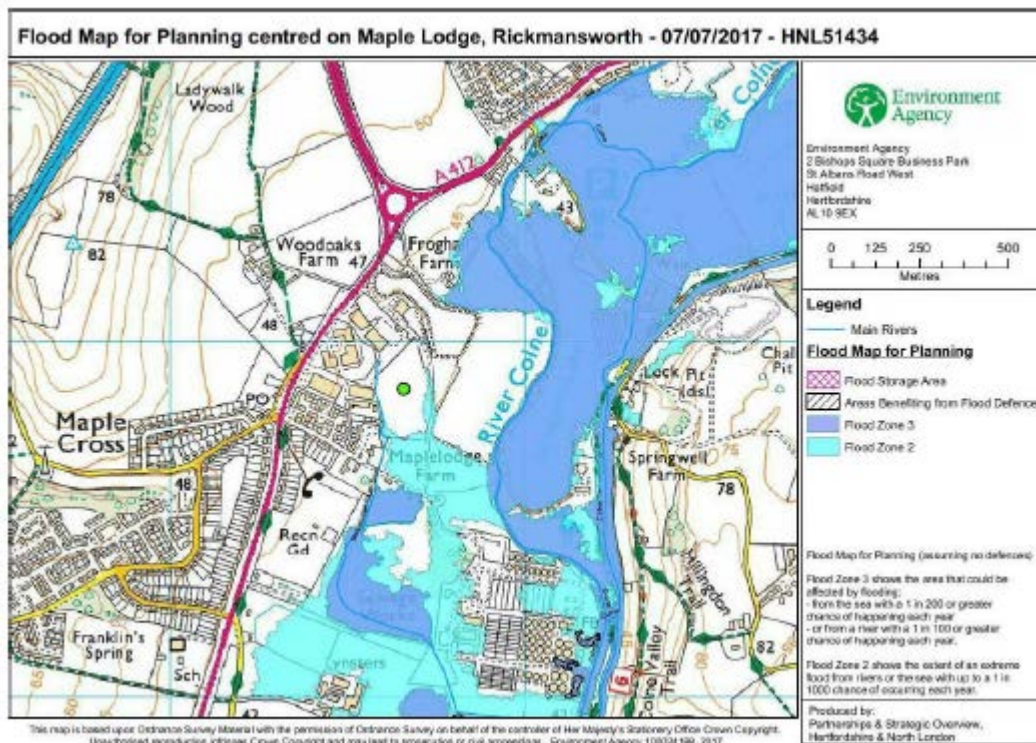
It is understood that the access road has flooded in the past as a result of poor road design which will be improved as part of the proposed development. To mitigate flooding the access road will be positively drained into the proposed drainage network.

However, historical evidence shows that there was a stream / ditch running where the access road now is (see old Victorian Ordnance Survey map below) from alongside the proposed development site and past Maplegrove Farm (which is now the cricket field).

So, it is highly likely that the increasingly wet winters brought on by climate change have resulted in this stream / ditch re-emerging as groundwater levels have risen.



Also, the fact that parts of the road are classified by the Environment Agency as Flood Zone 2 (see map below) would indicate that this is because of low-lying land and high groundwater levels.



This road was permanently flooded throughout the winter months of 2020/21 (see video link below), as it was in 2019/20 and as has regularly been the case in recent years. This matches the rise in water levels recorded by Affinity Water at Maple Lodge Nature Reserve (see Appendix A – Water Levels Graph).

Flooded access road video (filmed 1st February 2021):

<https://youtu.be/n6E7qOeJw4Y>

Therefore, all the available evidence points to this flooding being the result of low lying land and rising groundwater levels. This is likely to get even worse as the effects of climate change are felt in the coming years.

The increasing impact of climate change means that the Environment Agency map is now becoming out of date. The road is not flooding because of poor road design; it is flooding because it is on a flood plain which is doing its job, and with climate change it is likely that this will happen ever more regularly. With more frequent wet winters bringing heavier rainfall, the whole area will be increasingly and more regularly flooded.

If the intention is to divert all this water into a drainage system, then that would be human interference with the GWDTE and would need to be included in any WFD Compliance Assessment.

b) Greengage Preliminary Ecological Appraisal

The Greengage Preliminary Ecological Appraisal contains more evidence of how the proposed development site is part of the wetland ecosystem which supports Maple Lodge Nature Reserve.

At 4.23 it states:

Along the southern and eastern boundaries there are mature broadleaved trees ... There is extensive deadwood amongst these trees and they are frequently inundated. At the time of survey, standing water was present at ground level around the stems.

At 4.24 it states:

There is a patch of marshy groundwater within the southwest corner of the field, adjacent to the wet ditch.

These are constituent parts of the GWDTE upon which Maple Lodge Nature Reserve depends.

It is clear from the Environment Agency map (see above) that the proposed development site lies within a wider wetland ecosystem which supports lakes, streams, reed beds and marshlands and as such it is afforded protection by the Water Framework Directive.

2.3 Objection – Biodiversity

As far as the impact on biodiversity is concerned, we would make the following comments:

a) The applicant has not calculated Biodiversity Net Gain by reference to the Defra biodiversity metric

Biodiversity Net Gain has not been calculated objectively.

At the appeal hearing held for the previous planning application (Ref 19/1179/FUL) the representatives from TRDC's preferred ecological consultees, Herts Ecology, stated that, were they to be asked to respond again, they would use the Defra metric to calculate Biodiversity Net Gain.

This was reported in the Inspector's report as:

99. Hertfordshire Ecology explained that while it generally supported the use of the DEFRA metric, at the time at which the application was assessed they were not confident of it, and therefore it was assessed based on their expert judgement.

Since the appeal they would appear to have become confident in the use of the Defra metric, because they are advising other Hertfordshire local authorities to use it.

Indeed, in their comments to Dacorum Borough Council on planning application 20/02519/MFA (dated 20th November 2020) they say:

3. No formal proposals for demonstrating or delivering Biodiversity Net Gain (BNG) have been provided in the planning statement. Whilst this is currently not a mandatory requirement, the weight that should now be attached to this emerging Government policy is quite clear, as is the process to demonstrate that it can be achieved (a Biodiversity metric; NE v2 is recommended). For major developments of this nature and given the impact it will have, BNG should now be considered as a necessary expectation of any such planning proposal. This is consistent with other similar development proposals in and around Hemel Hempstead.

In a further section they say:

5.3. ... No biodiversity metric has been presented to demonstrate the extent of 'Biodiversity Units' this would need (and so cost) or where this could be achieved

So, they acknowledge that you cannot calculate Biodiversity Net Gain without the use of a metric.

And they conclude by saying:

12. ... Consequently, should this application be approved, as a Condition there must be a BNG proposal, supported by NE's Biodiversity Metric v2, to demonstrate the impact of the development on the site and how the necessary expectation of compensation and 10% enhancement, consistent with emerging BNG policy, can be achieved.

Also, in a letter to East Herts Council (dated 26th November 2020) Herts Ecology state:

The NPPF aims that development should deliver a biodiversity net gain. The 2020 Environment Bill gives extra weight to the importance of this outcome providing both a methodology, the NE Metric, and defining how much net gain should be achieved. Although not yet mandatory, in light of this emerging Government policy, I advise that it is reasonable for the LPA to expect that this application should demonstrate it can deliver a 10% net gain and that this should be secured by the planning process in perpetuity (for a period of 30 years).

They cannot now say that they have no confidence in the metric and that it is not required. Apart from the evidence submitted above, they would also be contradicting the commitment they made at the appeal.

b) TRDC Development Management Validation Checklist For Planning Applications

This document was not referenced at the appeal when the need to use the Defra metric to calculate Biodiversity Net Gain was being discussed.

This includes the following paragraphs:

11) *Biodiversity Assessment: The Natural Environment and Rural Communities Act 2006 places a duty on Local Authorities to have regard to the conservation of biodiversity in exercising their functions, and includes the planning process. This is also reflected in the NPPF and accompanying NPPG, highlighting the need for the planning system to minimise impacts on biodiversity and provide net gains in biodiversity where possible, based on adequate ecological information. Natural England's Standing Advice on Protected Species is important and the British Standards Institution has published a detailed Code of practice for planning and development, Ref BS 42020:2013. Biodiversity Offsetting is another means of assessing impacts and delivering enhancement opportunities and may be appropriate in certain situations, which includes the DEFRA biodiversity assessment metric ...*

Information provided by professional ecologists should be submitted with an application when it is likely to affect:

- *Internationally and nationally designated sites*
- *European and nationally protected species*
- *Non-statutory designated sites*
- *Priority habitats and species*
- *Non-priority habitats impacted by major development and*
- *Significant populations of national or local red list or notable species*

Maple Lodge Nature Reserve, Maple Lodge Marsh and the proposed development site contain priority habitats and species (see our previous submissions dated 25th July 2019 and 22nd October 2019 plus the MLCS Survey submitted to the appeal). Also, non-priority habitats will be impacted by this proposed major development.

Work associated with ecological surveys, impact assessments and measures for avoidance, mitigation or compensation and enhancement should be proportionate to the predicted degree of risk to biodiversity and to the nature and scale of the proposed

development. In order to fulfil the NPPF requirement for no net loss or net gain in biodiversity, the DEFRA biodiversity metric calculation should show a net positive score.

So use of the Defra metric is part of TRDC policy. This should have been made clear at the appeal. Because it wasn't made clear, the Inspector made the following comments without being aware of its existence:

100. I agree with Mr Dodds that the benefits arising from the proposal are not measurable and that it may be beneficial to use a metric such as that produced by DEFRA. However, the use of a metric is not mandatory.

Now that we know that use of the Defra metric is included in TRDC policy for this type of planning application, it cannot be argued that it is not mandatory.

In accordance with TRDC policy, a Defra biodiversity metric assessment must be produced to quantify the ecological impact of this application.

c) TRDC Climate Emergency And Sustainability Strategy

On 8th March 2021, the Three Rivers Climate Emergency and Sustainability Strategy was approved by the Policy and Resources Committee. It is scheduled to be adopted by the full Council on 18th May 2021.

In this document it states:

Page 29:

"Require all new development in TRDC to result in a 10% net-gain for biodiversity (preferably within the District) and avoid the fragmentation, damage and isolation of existing habitats."

The only way to measure a 10% net-gain in biodiversity is by reference to the Defra biodiversity metric. Therefore, in accordance with the stated Climate Emergency and Sustainability Strategy, a Defra metric assessment must be produced for this application.

2.4 Objection – Climate Change

As has already been noted, as a result of the High Court ruling in July 2019, climate change mitigation is now a material consideration when making planning decisions. In coming to its decision, the High Court took into account not only the relevant legislation relating to climate change mitigation, but also national and local policies on climate change.

a) TRDC Climate Emergency and Sustainability Strategy

Based on the High Court ruling, TRDC's emerging policy on climate change now has to be taken into account when assessing this application.

On page 11 it states:

We can no longer ignore our interdependence with the environment and blindly return to destructive business-as-usual practices ... The Council is committed to supporting a Green Recovery in Three Rivers and will ensure that the actions we implement as part of our response to the climate and ecological crises will simultaneously deliver sustainable development.

On page 12 it includes a quote from Antonio Guterres, UN Secretary General, State of the Planet speech:

Making peace with nature is the defining task of the 21st century. It must be the top, top priority for everyone, everywhere.

Everyone means everyone – including local authorities and their planning officers. So climate change and environmental issues must be top priority and given appropriate weight when determining this application.

On page 28 it states:

Biodiversity

Aim: To plan for net gains in biodiversity to address the ongoing Ecological Emergency, protect and enhance precious habitats and species, and utilise nature to build climate resilience.

It mentions that *“Hertfordshire’s unimproved grassland and wetland habitats are in retreat, threatening 19% of species in the County with extinction”*. This is particularly relevant in this case as the proposed development site contains unimproved grassland and the development threatens a wetland.

One of the six stated objectives on biodiversity is:

Require all new development in TRDC to result in a 10% net-gain for biodiversity (preferably within the District) and avoid the fragmentation, damage and isolation of existing habitats.

We have already shown how the submitted application does not result in a measurable 10% net gain for biodiversity, but it also fragments and damages existing habitats, especially the GWDTE described in Section 2.1. In addition it fragments and damages part of TRDC’s Green Infrastructure Corridor and one of Hertfordshire’s Key Biodiversity Areas.

Therefore, this application does not meet one of the key objectives in TRDC’s Climate Emergency and Sustainability Strategy.

b) The importance of wetlands

Maple Lodge Nature Reserve, which is threatened by this proposed development, is a valuable but fragile wetland reserve, dependent upon a GWDTE which supports two Section 41 habitats and numerous Section 41 species.

Wetlands are an important resource in fighting climate change and must be afforded every protection possible.

Page 28 of TRDC’s Climate Emergency and Sustainability Strategy notes that *“research shows that forests, wetlands and grasslands can deliver at least 30% of the emissions reductions needed by 2030 to prevent climate catastrophe.”*

WWT’s Director of Conservation, Dr James Robinson explains this on their website:

Most of the world’s carbon is held in wetlands, yet these precious habitats are declining at an alarming rate. Over a third of wetlands have disappeared since 1970. The vital services, like climate change mitigation, provided by healthy wetlands far outweigh those of terrestrial ecosystems and we ignore their loss at our peril.

Wetlands act as a natural buffer against the most extreme events, soaking up heavy rainfall and ameliorating water flows to protect against the most extreme floods, as well as storing and releasing water slowly in drier times to protect against the most severe impacts of droughts.

The other side of this argument is that a loss of a wetland will contribute to global warming, when all the carbon stored within it is released. Healthy, well-vegetated wetlands are among the most effective sinks for carbon on the planet.

TRDC's Climate Emergency and Sustainability Strategy notes on page 14 "Withey Beds – one of few remaining wetland habitats in Hertfordshire" Maple Lodge Nature Reserve is another – and that is how important it is.

As stated in the EU Guidance Document no 12 - The role of wetlands in the Water Framework Directive, page 3:

Wetlands perform regularly, and to a high capacity, a range of processes that in combination result in the delivery of significant benefits for human welfare, wildlife and for the maintenance of environmental quality

2.5 Objection – Loss Of Amenity

a) Site Location

The proposed development site is located in the middle of a nature-rich environment, an amenity that is used by many local residents and visitors, who enjoy spending time in green and tranquil surroundings.

This is something the applicant rarely mentions, preferring to focus on the degradation of the surrounding area which has been wrought by the tenants of Impact Property Development. Also, since the last application, the applicant has allowed the development site itself to be damaged, caused by heavy vehicles driving across it. This is supported by photographic evidence included in the Greengage Preliminary Ecological Appraisal and is reproduced below.

The evidence submitted so far indicates that the ecological classification of this site could be elevated to that of a Local Wildlife Site. So the applicant has already failed to meet one of the objectives of TRDC's Climate Emergency and Sustainability Strategy which states:

Require all new development in TRDC to result in a 10% net-gain for biodiversity (preferably within the District) and avoid the fragmentation, damage and isolation of existing habitats



Within 250 metres of the proposed development site there are four nature-rich locations:

- Maple Lodge Nature Reserve
- Maple Lodge Marsh
- Springwell Lake and Reed Bed (a Site of Importance for Nature Conservation)
- Woodoaks Farm

This proposed 24/7 operation would have a seriously deleterious effect on people's enjoyment of these places.

b) NPPF Paragraph 180

The site location combined with the negative effects of the proposed development (traffic, air, noise and light pollution) mean that it does not comply with the requirements of the NPPF.

NPPF Paragraph 180 states:

Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;

b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and

c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

Objections received from hundreds of residents make it clear that the tranquil areas around the development site are "prized for their recreational and amenity value".

Therefore, this planning application does not comply with NPPF paragraph 180.

It also does not comply with TRDC Management Policy DM9:

d) ... Planning permission will not be granted for development which:

ii) Has an unacceptable adverse impact on countryside areas of tranquillity which are important for wildlife and countryside recreation

Colne Valley Regional Park, in their response, also state "*we do not believe the cumulative impact of development is properly being addressed.*"

3. Summary Of Objections

To summarise, our main objections are as follows:

- circumstances have changed significantly since the previous application; now climate change and the environment must be given more weight as a result of new policies and legislation

- the applicant has not proved that their activities will not cause harm to an ecosystem which is afforded protection by the Water Framework Directive (WFD) and therefore the precautionary principle applies and planning permission must not be granted

- the applicant has not carried out a WFD Compliance Assessment to prove that the development will not adversely affect the integrity of nationally important habitats and therefore the presumption in favour of sustainable development does not apply

- biodiversity net gain has not been measured objectively and therefore has not been proved
- the development will damage and fragment existing habitats and therefore does not comply with TRDC's Climate Emergency and Sustainability Strategy
- the cumulative effects of traffic, air, noise and light pollution will not protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason and therefore this is contrary to the requirements of the NPPF and TRDC Policy.

4. Planning Balance

Apart from ourselves, objections to this proposed development have included responses from the following local environmental groups:

- Chiltern Society
- Colne Valley Regional Park
- Colne Valley Fisheries Consultative
- Friends Of Stockers Lake
- Herts and Middlesex Wildlife Trust
- Soil Association
- Springwell Residents and Conservation Association
- Woodoaks Farm

No environmental group has supported the application.

Also, there has been overwhelming opposition from local residents, with not a single comment in favour among the hundreds that have been received. This calls into question any claim that there is a local demand for the "hypothetical jobs" promised by this application and that employees would be walking to work.

Large warehouses such as the ones proposed are becoming increasingly automated, so the number of estimated jobs is questionable and, as there appears to be no local demand, these jobs would have to be filled by people from outside the immediate area, bringing increased traffic and pollution into Maple Cross.

The proposed development would bring little or no benefit to the residents of Maple Cross. On the contrary, it would bring traffic, air, noise and light pollution to the area 24 hours a day, 7 days a week. It would also bring increased danger to children walking to school. In fact, were this to go ahead, parents have said they would take their children to school by car, as that would be safer than allowing their children to face goods vehicles which would be crossing in front of them, on average, every 45 seconds! This would, of course, add further to the volume of traffic.

All of these points have been raised by residents in their objection letters to the Council. The Council must now listen to the residents' arguments and give them due weight in determining this application.

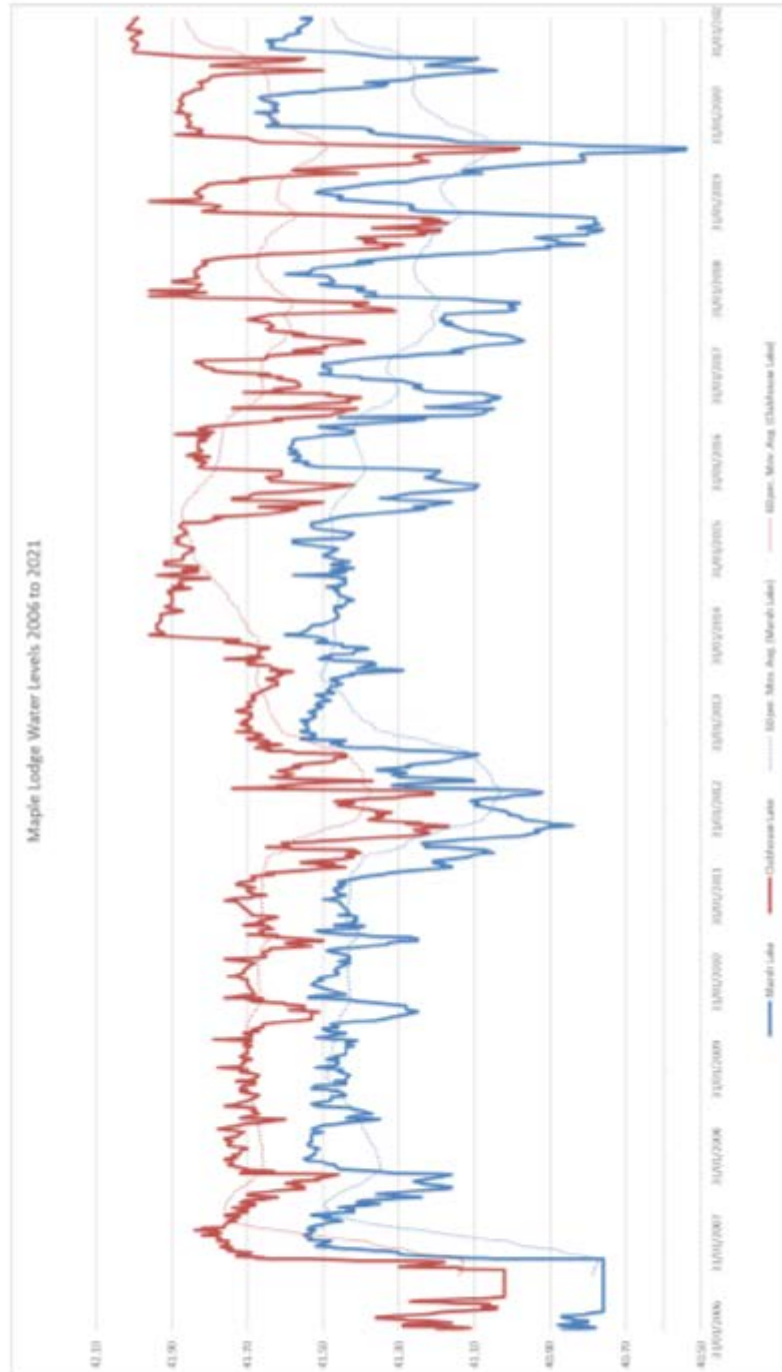
There are three strands to the NPPF's assessment of sustainability – environmental, social and economic. This development would bring proven damage and harm to the local environment and to the lives of local residents.

So, it would appear clear in this case that the very real negative environmental and social effects outweigh any theoretical economic benefits from a speculative development promising hypothetical jobs.

TRDC must comprehensively refuse this application.

Appendix A – Water Levels Graph

Appendix A – Water Levels Graph



4.2.22.2 Further comments 18.04.2021:

We would like to provide further evidence to support our case, which was set out in our submission dated 9th April 2021.

We are forwarding photographs taken on the development site this week. These show trenches, recently excavated by the applicant's contractors alongside the tree line on the eastern side of the site, filling with water even though there has been no significant rain for a number of weeks.

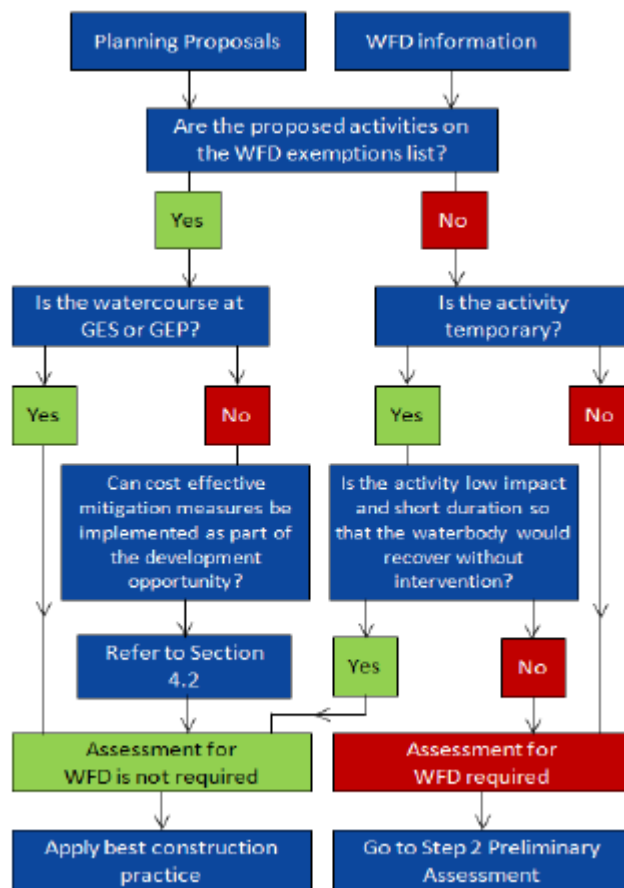
These excavations coincide with the line of the stream, which was shown on the map contained in our submission, and that is the reason why they contain water. This stream, which effectively runs just below the surface and has given rise to this high level of groundwater, is part of the wider ecosystem which supports Maple Lodge Nature Reserve as a wetland, as we described in our previous submission.

[Photographs provided]

This third photograph clearly shows how the groundwater is close to the surface, but this is not surprising as this site functions as part of a flood plain.

As explained in our previous submission, because this groundwater supports a groundwater-dependent wetland reserve (Maple Lodge Nature Reserve), it is afforded protection under the Water Framework Directive (WFD) and should not be subject to human interference without a WFD Assessment being undertaken.

The need for such an assessment is explained by the following flowchart reproduced from page 39 of the Hertfordshire Water Framework Directive Guidance document:



So, in this case the answers are:

Are the proposed activities on the WFD exemptions list? – No
 (See Hertfordshire Water Framework Directive Guidance, Table 9-3, page 42)

Is the activity temporary? – No

Therefore a WFD Assessment is required.

This has not been done and therefore this application must be refused.

As part of a WFD Assessment it would be necessary to assess the likely impact on the nationally important, Section 41 priority habitats and species at Maple Lodge Nature Reserve.

Clearly, this has not been done and therefore the presumption in favour of sustainable development does not apply. This is in accordance with NPPF paragraph 177 which states:

177. The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

Finally, the Hertfordshire Framework Directive Guidance, page 21, states:

LPAs - must consider the requirements of the WFD when determining planning applications for development. As a statutory consultee in the planning process, the Environment Agency as the Competent Authority will raise objections if they feel that the objectives of the WFD have the potential to be compromised by development proposals; however, the LPA has overall responsibility to ensure that permission is not granted to development which could compromise the WFD objectives.

A WFD Assessment has not been undertaken and, since this development would compromise the WFD objectives, TRDC must ensure that permission is not granted

4.2.22.3 Further comments 26.04.2021:

An email from Maple Lodge Conservation Society was received. In summary, this sets out that the Conservation Society have been advised by Members that use of the Defra Metric to calculate Biodiversity Net Gain will be a requirement of the new Local Plan and therefore must be regarded as emerging policy. Reference is also made to other applications in Hertfordshire where Herefordshire Ecology have recommended refusal on the basis that this Metric was not used.

4.2.22.4 Further comments 29.04.2021:

I am writing in response to the letter you received from Hertfordshire Ecology, dated 13th April 2021.

Our comments are as follows:

1. Hertfordshire Ecology Comments

We are pleased that Hertfordshire Ecology have recognised the threats to Maple Lodge Nature Reserve and the fragile nature of its nationally important habitats. We have repeatedly made this case which Hertfordshire Ecology have now acknowledged as follows:

4.1 In respect of indirect impacts, the Maple Lodge Nature Reserve to the south is important as a wetland reserve and any significant impact on water supply into the reserve by the development would negatively impact on its ecology. It is clearly already vulnerable, with naturally shallow waterbodies and recent periods of low water if not drying out. This supply

... is considered to be dependant mainly on groundwater flow, as raised before and during the Hearing.

And also:

4.3 ... it is the long-term behaviour of the groundwater through and around the site in respect of the proposals which should be sufficiently understood, to demonstrate that the groundwater flow reaching the reserve is not reduced or otherwise unacceptably affected by the proposals

This is what could be lost: [Picture provided]

2. Maple Cross Contaminated Land Assessment And DQRA Summary Report

Hertfordshire Ecology mention the Maple Cross Contaminated Land Assessment and DQRA Summary Report which has been produced by the applicant. However, this report does not address all the risks facing the nature reserve as a result of the applicant's activities. As far as the flow of groundwater is concerned, the focus of this report was limited to:

Understanding groundwater flow in Chalk from the site to three local PWS boreholes, and how the three PWS boreholes influence each other and the site

In fact, this report actually confirms a negative impact on the reserve and we repeat here some of the case we put forward in our submission dated 9th April 2021:

10 Changes In Groundwater Flow Due To Piling:

Piling below the site may reduce the ground permeability, as a proportion of the ground will comprise concrete piles. This may in turn reduce groundwater flow through the piled zone. The lower permeability zone will cause groundwater to 'back-up' behind the piling zone, creating an increased gradient across piled zone, and also creating a gradient to divert groundwater around the piled structure. There is the potential that changing flows in and around the piled zone could slow down flow towards a PWS abstraction, or slow down flows to a lake.

The impact of the piling zone on groundwater flow is not expected to be significant, however, calculations have been undertaken to estimate the volume of groundwater flow that would be affected.

The proposed pile design is for 250mm piles to be set at 2.5m spacing. The piling method is displacement piling, which will result in the materials around the pile being forced aside. The aquifer materials are therefore compressed, resulting in a loss of porosity. The pile spacing and dimension result in 10% of the volume being taken up by concrete piles. The hydraulic conductivity of the compacted zone is estimated by assuming a reduction in porosity from 30% to 20%.

Whilst these may be seen as positive points in preventing the transmission of turbidity, they are negative points as far as the nature reserve's water supply is concerned. The flow of water through the "compacted zone" will be reduced by a third.

12.2 Densification of the piling zone:

There will be a degree of densification of the piling zone, which has been predicted to have a negligible effect on groundwater flow to the PWS boreholes. Densification will provide protection against transport of turbidity within the piling zone, and it is therefore proposed to pile the down-gradient boundaries of the site to create a compacted zone which will mitigated against turbidity transport.

This will be yet another barrier to the flow of water towards the reserve.

So, the Maple Cross Contaminated Land Assessment and DQRA Summary Report does not address the risks facing the reserve and actually confirms that the applicant's activities will have a detrimental effect on the reserve, which is very sensitive to any changes in groundwater flow.

3. Maple Lodge Nature Reserve - Risk Assessment And NPPF

At no time, either with the previous application or this current one, has the applicant undertaken a risk assessment of the likely impact of their activities on Maple Lodge Nature Reserve, in particular the two Section 41 habitats (wet woodland and reed bed) and the numerous Section 41 species.

We have provided comprehensive information about this which the applicant has chosen to ignore. Therefore, NPPF paragraph 177 applies:

The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

The project is likely to have a significant effect on a site with nationally important habitats and an appropriate assessment has not been undertaken. The applicant has not shown that "the project will not adversely affect the integrity of the habitats site", and so the presumption in favour of sustainable development does not apply.

4. Water Framework Directive (WFD)

As explained in our previous submissions, Maple Lodge Nature Reserve and the ecosystem that supports it are afforded protection under the terms of the Water Framework Directive (WFD).

For the avoidance of any doubt, we will state the main points of our case relating to the WFD here.

4.1 Under UK Law, TRDC Has A Statutory Duty To Observe The Objectives Of The Water Framework Directive

This duty is not contingent on advice from other parties such as the Environment Agency or the Lead Local Flood Authority. It is an absolute statutory duty upon TRDC as a public body, as specified in WFD Regulation 33:

River basin management plans: duties on public bodies
The Secretary of State, the Welsh Ministers, the Agency, NRW and each public body must, in exercising their functions so far as affecting a river basin district, have regard to—
(a) the river basin management plan for that district as approved under Regulation 31, and
(b) any supplementary plan prepared under Regulation 32.

The river basin management plans are the mechanism through which the WFD objectives are delivered. The Thames River Basin Management Plan, which applies in this case, clearly spells out the responsibilities of local government in meeting the WFD objectives.

4.2 The Water Framework Directive Is A Material Consideration In Planning

The Environment Agency's Guidance for Local Authorities - Engaging with the Water Framework Directive states on page 15:

In legal terms, the WFD is a material consideration in the planning process.

4.3 A WFD Compliance Assessment Is Required

In order to meet the environmental objectives listed in WFD Regulation 13, a WFD Compliance Assessment is required.

This is because the WFD requires any proposed developments with the potential to impact the water environment to carry out a risk assessment to demonstrate that the proposed development will not result in deterioration of status or prevent the water body from meeting the WFD objectives.

In the judgement passed by the Court of Justice of the European Union (CJEU) for Case C-461/13 (Bund für Umwelt und Naturschutz Deutschland eV v Bundesrepublik Deutschland), known as the Bund case, it was established that decision makers must refuse consent to developments that would result in non-compliance with the WFD.

4.4 The Precautionary Principle Applies

The WFD is underpinned by the precautionary principle. It is also one of the key environmental principles included in the new Environment Bill.

In a situation such as this, where a WFD Compliance Assessment has not been done and the outcome is unknown or may cause harm then, in accordance with the WFD and the new Environment Bill, the “precautionary principle” should be invoked. This means that planning permission should not be granted until it is established that there is no unacceptable impact on the environment.

4.5 The WFD Compliance Assessment Cannot Be Conditioned

The precautionary principle also means that if the WFD Compliance Assessment were to show that the outcome of the applicant’s activities is unknown or would cause harm, then the development could not go ahead.

Therefore, the WFD Compliance Assessment cannot be attached as a condition to a planning permission.

To attach a condition for a WFD Compliance Assessment would be to attach a condition which could contradict the permission being granted. So, if the development not going ahead is a possible outcome (and the Maple Cross Contaminated Land Assessment and DQRA Summary Report has already shown that there will be negative impacts on the reserve), then planning permission should be refused.

4.6 TRDC Has A Duty To Protect Maple Lodge Nature Reserve

Maple Lodge Nature Reserve and its Section 41 habitats are covered by WFD Regulation 10 (2):

(b) an area or body of water for the time being designated or otherwise identified as requiring special protection under any EU instrument providing for the protection of surface water and groundwater or for the conservation of habitats or species directly depending on water, or any enactment implementing such an EU instrument, including, in particular—

(iv) areas designated for the protection of habitats or species where the maintenance or improvement of the status of water is an important factor in the protection of the habitats or species.

As has been explained above, TRDC has a statutory duty to observe the WFD objectives.

It therefore has a duty to protect the reserve. This duty is acknowledged in TRDC's Development Management Policies Local Development Document, paragraph 8.2:

Authorities are obliged to conserve and enhance wildlife and landscape under the Natural Environment and Rural Communities Act 2006, the Water Framework Directive and the Natural Environment White Paper.

4.7 The Burden Of Proof Lies With The Applicant

The precautionary principle states that the burden of proof for the proposition that an action is not harmful falls on those instigating that action – in this case the applicant. Therefore, the applicant has to prove that their actions will not cause harm to the ecosystem and consequently Maple Lodge Nature Reserve.

This is exactly the same ruling that applies to HS2, as documented in the HS2 Water Framework Directive compliance assessment review, page 14:

The legal Interpretation of this element of the ruling (the Bund case) is that it results in a 'precautionary principle' approach being required, whereby if there is a risk of deterioration from a scheme element, the burden of proof that it does not cause deterioration falls on HS2 as the promoter of the scheme

The applicant has not proved that their activities will not harm Maple Lodge Nature Reserve. In fact, they have actually confirmed that their activities will have a negative impact.

Also, the applicant has not proposed any mitigation measures in the event that their activities have damaging effects. This is a required output from any WFD Compliance Assessment.

So, the applicant has to propose mitigation measures for the scenario where, whether by accident or design, their activities result in the loss of Maple Lodge Nature Reserve's Section 41 habitats and species.

This has not been done.

4.8 Planning Permission Must Be Refused

The Hertfordshire Framework Directive Guidance, page 21, states:

LPA's - must consider the requirements of the WFD when determining planning applications for development. As a statutory consultee in the planning process, the Environment Agency as the Competent Authority will raise objections if they feel that the objectives of the WFD have the potential to be compromised by development proposals; however, the LPA has overall responsibility to ensure that permission is not granted to development which could compromise the WFD objectives

Clearly, this development could compromise the WFD objectives, as has already been proved by the evidence submitted by the applicant.

Also, because a WFD Compliance Assessment has not been undertaken, the proposed development does not comply with NPPF paragraph 170:

170. Planning policies and decisions should contribute to and enhance the natural and local environment by:

e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans;

It also does not comply with TRDC Policy DM6:

g) Watercourses

Any development adjacent to, over or in a watercourse needs to take into account consideration of the Water Framework Directive requirements and opportunities outlined in the Thames River Basin Management Plan.

Purely from the WFD perspective, TRDC must refuse this application because:

- it does not comply with the Water Framework Directive
- the precautionary principle applies
- it does not comply with NPPF paragraph 170
- it does not comply with TRDC Policy DM6

4.2.22.5 Further comments 17.05.2021:

I am writing in response to the letter you received from Hertfordshire LLFA, dated 21 April 2021.

In particular, I am seeking clarification on Hertfordshire LLFA's position regarding the flooding of the eastern side of the development site and the access road.

Tier Flood Risk Assessment and Drainage Strategy page 5 states:

It is understood that the access road has flooded in the past as a result of poor road design which will be improved as part of the proposed development.

As the eastern side of the development site floods as well as the access road, the cause is not "poor road design".

This flooding is caused because of high groundwater levels and a stream which runs along the eastern side of the site. That is why the road remains continuously flooded during the winter months, even after days / weeks without any rain. This is likely to get even worse with the effects of climate change.

In consideration of the previous application for this site (19/1179/FUL), this flooding was referred to as surface water.

In their letter dated 18 October 2019, Tier Consult stated:

The current proposal of draining the road into the site shall remedy this situation.

This was accepted by Hertfordshire LLFA in their letter dated 1 November 2019:

The applicant has stated how the road drainage will be part of the surface water drainage for the site. This point has therefore been addressed.

This was re-confirmed by Tier Consult in their letter dated 6 November 2019:

We believe the scheme will provide betterment to the area and will remove the flooding issue that occurs on the private road which is due to poor and inadequate design of the highway drainage. This is to be replaced and the surface water taken into our scheme.

And re-stated this time in the Tier Flood Risk Assessment and Drainage Strategy page 5:

To mitigate flooding the access road will be positively drained into the proposed drainage network.

So, please will you ask Hertfordshire LLFA for answers to the following questions:

1. Will the SuDS capacity which has been proposed for this development be sufficient to cope with water that is being drained directly from the high groundwater table?

2. As the development site is “next to and linked to nature conservation sites”, will Hertfordshire LLFA be requesting an environmental appraisal prior to consenting to any drainage scheme (in accordance with Hertfordshire County Council Guidance Notes for applying for Ordinary Watercourse Land Drainage Consent)?

3. As Maple Lodge Nature Reserve is a Groundwater Dependent Terrestrial Ecosystem (GWDTE), and human activities such as implementing drainage systems have the potential to disrupt or pollute the groundwater supply to a GWDTE, will Hertfordshire LLFA be requesting a WFD Compliance Assessment, in accordance with the Water Framework Directive?

(This would also be necessary in order to comply with TRDC Policy DM6:

g) Watercourses

Any development adjacent to, over or in a watercourse needs to take into account consideration of the Water Framework Directive requirements and opportunities outlined in the Thames River Basin Management Plan).

4.2.22.6 Further comments 16.08.2021:

We have noted the contents of the Hydrogeological Impact Assessment and GQRA, recently submitted by the applicant. This report does not provide satisfactory answers to any of the points we raised in our letter dated 29th April 2021, especially under Section 4 – Water Framework Directive.

We are therefore obliged to re-state our case with reference not only to the submitted report, but also to UK Law and the Planning Inspectorate’s guidance on these matters. This includes reiterating points we have made previously. We have sought legal advice before submitting this letter.

Our comments are as follows:

1. Water Framework Directive (WFD)

The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017, which implement Directive 2000/60/EC of the European Parliament and of the Council (the Water Framework Directive), continue to apply post-Brexit.

One of the overall objectives of the WFD is:

- to enhance the status and prevent further deterioration of surface water bodies, groundwater bodies and their ecosystems

In this instance, Clubhouse Lake and Marsh Lake are surface water bodies; the reserve’s two UK BAP Priority Habitats, reed bed and wet woodland, are Groundwater Dependent Terrestrial Ecosystems (GWDTE). They are protected by UK Law, namely WFD Regulation 10 (2):

(b) an area or body of water for the time being designated or otherwise identified as requiring special protection under any EU instrument providing for the protection of surface water and groundwater or for the conservation of habitats or species directly depending on water, or any enactment implementing such an EU instrument, including, in particular—

(iv) areas designated for the protection of habitats or species where the maintenance or improvement of the status of water is an important factor in the protection of the habitats or species.

2. TRDC Statutory Duty

TRDC has a statutory duty to observe the objectives of the WFD.

This duty is not contingent on advice from other parties such as the Environment Agency or the Lead Local Flood Authority. It is an absolute statutory duty upon TRDC as a public body, as specified in WFD Regulation 33:

River basin management plans: duties on public bodies

The Secretary of State, the Welsh Ministers, the Agency, NRW and each public body must, in exercising their functions so far as affecting a river basin district, have regard to—
(a) the river basin management plan for that district as approved under Regulation 31, and
(b) any supplementary plan prepared under Regulation 32.

The river basin management plans are the mechanism through which the WFD objectives are delivered. The Thames River Basin Management Plan, which applies in this case, clearly spells out the responsibilities of local government in meeting the WFD objectives.

TRDC must ensure that any decisions that are made meet the environmental objectives listed in WFD Regulation 13. To enable such a decision to be made requires the completion of a WFD Compliance Assessment.

This is because the WFD requires any proposed developments with the potential to impact the water environment to carry out a risk assessment to demonstrate that the proposed development will not result in deterioration of status or prevent the water body from meeting the WFD objectives.

In the judgement passed by the Court of Justice of the European Union (CJEU) for Case C-461/13 (Bund für Umwelt und Naturschutz Deutschland eV v Bundesrepublik Deutschland), known as the Bund case, it was established that decision makers must refuse consent to developments that would result in non-compliance with the WFD.

3. Planning Inspectorate Guidance

The Planning Inspectorate's Advice Note 18 – The Water Framework Directive gives very clear guidance on this matter.

First of all, it clarifies the responsibilities of public bodies under WFD Regulation 33:

'Having regard to' river basin management plans includes taking account of and considering the environmental objectives and summary of measures contained within the plan when exercising any functions and the effects of those functions on the objectives and measures within the plan

It also states:

... the Inspectorate supports the preparation and submission of separate WFD assessment reports by applicants, which clearly explain how the requirements of WFD have been met

The applicant's Hydrogeological Impact Assessment and GQRA report does not do this. In fact, the report contains just one passing reference to the WFD. It does not "clearly explain how the requirements of the WFD have been met".

The Hydrogeological Impact Assessment and GQRA report submitted by the applicant is not a WFD Compliance Assessment.

Therefore, TRDC is not in a position to confirm that this planning application meets the WFD objectives. On this particular point the legal guidance we have received is as follows:

Per Recital 11 of the WFD and without any evidence to demonstrate compliance, the precautionary and prevention principles apply. The WFD is underpinned by the precautionary and prevention principles of Article 191 of the Treaty on the Functioning of the European Union. It is also one of the key environmental principles enshrined in the new Environment Bill.

So, in this situation, where a WFD Compliance Assessment has not been completed and the outcome is unknown or may cause harm then, in accordance with the WFD the precautionary and prevention principles should be invoked and planning permission should not be granted.

4. Hydrogeological Impact Assessment and GQRA

4.1 This report is not a WFD Compliance Assessment

It does not refer to the WFD objectives at all. It does not state how or if the applicant will meet them. It is therefore unlikely that this report would withstand judicial examination. It is a "generic" quantitative risk analysis. This is not sufficient to meet WFD objectives.

On page 11 it states:

The lakes in the valley of the River Colne are not listed as water bodies in the Environment Agency catchment planning website; these are not thought to be monitored as Water Framework Directive water bodies.

Whether the lakes are listed or monitored is immaterial. No developments should cause the deterioration of the status of any watercourse or waterbody. All water bodies are covered by the Water Framework Directive. This is because they are all interconnected. In many cases it is the larger water bodies that have a defined WFD status and many smaller tributaries are not individually designated. However, all smaller water bodies eventually discharge into larger water bodies which eventually discharge into the sea. In this particular case water flows from Maple Lodge Nature Reserve via the outlet stream into the River Colne, which is a tributary of the River Thames.

The applicant has not carried out any of the practical surveys required in order to complete a WFD Compliance Assessment.

The Hydrogeological Impact Assessment and GQRA is a desk-based study which makes use of a conceptual model.

4.2 The report misrepresents Maple Lodge Nature Reserve

Information about Maple Lodge Nature Reserve is widely and publicly available via the Maple Lodge Conservation Society (MLCS) website and elsewhere. However, the applicant has chosen to present very limited and selective information about the reserve.

On page 3 the report quotes from the MLCS website:

Membership of the Society is open to anyone with an interest in conservation and natural history. Before joining the Society all prospective members must be given a guided tour of the reserve by a Committee Member or authorised guide. This can be arranged by contacting the Society.

After completing the tour the prospective member can join the Society by paying the annual subscription and completing the appropriate membership forms. This includes reading and agreeing to abide by the Rules of the Society.

However, it doesn't include other quotes from the website such as:

The Society organises open days and other events throughout the year when members of the public can visit the reserve.

Or:

Anyone who wishes to visit the reserve must make an appointment with the Society for a guided tour.

Or:

The Society welcomes visits from interested groups and individuals.

Access is managed for safety reasons, but anyone can visit the reserve. Indeed hundreds of people do just that and enjoy visits to the reserve every year. These include members and their guests, individual visitors, and groups including wildlife associations, U3A groups, schools, scout and guide associations and disability organisations.

It is a reserve that is treasured by the local community, as has been borne out by the number of objections to this planning application. As shown by the examples listed above, the following statement from page 26 of the report is an example of being economical with the truth:

The Maple Lodge nature reserve is not a registered Local Nature Reserve but a privately owned site with access to members only

Maple Lodge Nature Reserve is a designated Local Wildlife Site, a fact acknowledged by the applicant on page 10 of their own ecology report, but not mentioned in this report. So, one has to ask the question why, in this particular report, the applicant has chosen to misrepresent the reserve in this way? It certainly raises questions about the objectivity and reliability of this report.

4.3 The report is selective in its choice of evidence

As part of their assessment of conditions at Maple Lodge Nature Reserve, the applicant relies on a report produced by Mott McDonald on behalf of Affinity Water, which documents the results of surveys carried out 8,9 and 10 years ago.

This information is not up-to-date and the applicant has been selective in the choice of evidence presented. Several examples of this are given below.

i) Clubhouse Lake

The report quotes from the Mott McDonald report:

Clubhouse is a very shallow lake (c. 0.5 m) where prolonged low water level periods have naturally caused pools to dry and habitat use has succeeded as it would naturally to more marsh land with some terrestrial species such as willowherbs present in the lake margins. Water levels are thought to be influenced by fluctuations in the level in the River Colne, via flow in the RTD aquifer. Algae was characteristic of the lake in the survey periods, and macrophyte communities were sparse.

However, it does not quote other relevant passages from the Mott McDonald report such as:

Amongst other lakes, Clubhouse Lake ranges in the middle to higher ranks of abundance of macroinvertebrates. Diversity index calculations shows that Clubhouse Lake has one of the highest macroinvertebrate diversities in autumn and a relatively high diversity score in spring. Equitability is moderately high in both seasons indicating there is a good evenness in the families present.

And:

... there are fish present and species include common roach, common rudd and pike

Surveys of macroinvertebrates and fish should be included in any WFD Assessment. Neither have been done.

Also, the Mott McDonald surveys were undertaken during particularly dry years, when Clubhouse Lake levels were low. Since 2014 the average lake level has increased to c 1.0 m with it being as high as c 1.3 m in winter, with some areas of the lake even deeper.

ii) Marsh Lake

The report quotes from the Mott McDonald report:

Marsh Lake is a very shallow lake, mostly less than 0.2 m at the time of the survey. The shallow depth of the lake can contribute to the suspended solids concentration in the water column. The lake has been completely dry on occasions. Marsh Lake is likely to be fed by flow through the superficial deposits from the River Colne and upwelling from the Chalk aquifer as well as direct rainfall. Marsh Lake supported a species-poor community of macrophytes with only duckweed recorded in the open water. Marginal vegetation has been colonised by marsh and terrestrial vegetation such as the wet willow woodland.

When quoting "Marsh Lake supported a species-poor community of macrophytes with only duckweed recorded in the open water" the applicant has omitted the continuation of the sentence which says:

.... but with a richer shoreline community, spaced out between heavily shaded banks with dense vegetation.

The report also does not include the results of the shoreline surveys which include:

In 2012, nine macrophyte species were recorded; great willowherb, orange balsam, common duckweed, water mint, water forget-me-not, water figwort, bittersweet, branched bur-reed and blue water-speedwell

And:

In 2013, ten species were recorded, with water mint the most frequent. Similarly to Clubhouse Lake, the passages covering macroinvertebrates and fish have not been quoted which include:

Amongst other lakes, Marsh Lake is very similar to Clubhouse and ranks middle to high in abundance of macroinvertebrate families present compared to the other lakes in the study. The diversity index is much higher in spring than in autumn.

And:

... there are fish present, including common roach, common rudd and pike

Also, as with Clubhouse Lake, the surveys were undertaken during particularly dry years, when Marsh Lake levels were low. Since 2014 the average lake level has been between c 0.5 m and c 1.0 m, with some areas of the lake even deeper.

Furthermore, on page 7 the report states:

It can be inferred that the ground levels in the area of Marsh Lake and in the areas of solid ground have been artificially raised by landfilling, having previously been excavated for gravel extraction

Although there are certain areas of the reserve that have been used for landfilling, Marsh Lake itself remains as excavated; indeed the original sweeps of the excavation are clearly visible when the waters are low, as raised shingle banks in crescent shaped sweeps. There has been no landfilling there at all and it remains as an open lake.

Figure 2-7, historic landfill and sewage sludge beds, is inaccurate. It shows Marsh Lake as a landfill site. It never has been.

iii) Bird Species

The report quotes from page 165 of the Mott McDonald report:

The lakes support a reasonable number of birds species, using the lakes as resting or loafing site, as conditions are not ideal for resident flocks of birds. However, both lakes were undergoing natural succession from a water body to a terrestrial habitat. The 2014 report stated that 'if drying up continues as is probable with the natural low water levels at Maple Lodge Nature Reserve, the birds will become far more exposed to predation, and more marsh-type and terrestrial species will colonise, which may alter the bird community structure away from waterfowl and wetland birds.'

The reference to "natural succession from a water body to a terrestrial habitat" might be true, were it not for the fact that the reserve, like many other similar reserves in the UK, is a wetland managed to ensure that this does not happen. The report does not mention this blatantly obvious fact.

Nor does it comment on the HS2 funded reed bed project which we described in our previous submission dated 25th July 2019. This project improved the site as a wetland reserve by extending the reed bed, as shown below:

[photo provided in comment]

Most strikingly, the report does not quote any of the three important passages which appear on page 163 of the Mott McDonald report, headed "Bird community". These include the extracts quoted below.

Breeding Birds

... a total of twenty-six bird species were recorded across three years, fifteen of which are key bird species to Clubhouse and Marsh Lakes as they are key species to lowland open waters, according to the guidelines for selection of SSSI (Nature Conservancy Council, 1989); mute swan, gadwall, shoveler, teal, pochard, tufted duck, little grebe, great crested grebe, grey heron, water rail, common tern, kingfisher, sedge warbler, reed warbler and reed bunting. The kingfisher is also listed under Schedule 1 of the Wildlife and Countryside Act 1981 (as amended) and Annex 1 of the Birds Directive (see Section G.1.5.2 in Appendix G for graphs and overview of bird counts and diversity at Clubhouse Lake). Although not confirmed as breeding, the kingfishers were seen as a pair. The common tern is also a species under Annex 1 on the Birds Directive list.

And:

Wintering Birds

A total of eleven bird species were recorded across the three years in Maple Lodge Nature Reserve, eight of which are key species of lowland open waters according to the guidelines for selection of SSSI (Nature Conservancy Council, 1989); mute swan, gadwall, shoveler, teal, tufted duck, little grebe, grey heron and cetti's warbler. Cetti's warbler is also listed under Schedule 1 of the Wildlife and Countryside Act 1981.

And:

SSSI Criteria Assessment

Although not part of the SSSI, the same scoring system for selection of SSSIs using bird survey data was used for Maple Lodge Nature Reserve, in order for the non-SSSI lakes to be comparable to those in the SSSI during this study. The scoring system provides a threshold for lowland open waters (31) and the score for Maple Lodge Nature Reserve (Clubhouse and Marsh Lake) was always below the threshold with the exception of the 2011 breeding season when surveys were completed by the Maple Lodge Conservation Society and the score was 39.5 (See Table G.5, Appendix G)

The exclusion of all this information raises even more questions about the objectivity and reliability of the report, especially as the applicant's own ecology report says about the reserve:

It is an important site for birds with over 125 species recorded, several of which are at least County Red List species

So, the question has to be asked why, in this particular report, the applicant has chosen to misrepresent the reserve's habitats and species?

For an independent view we have included with this letter a brief assessment of the reserve made by the Conservation Manager of Herts & Middlesex Wildlife Trust in their submission to the Charity Commission in July 2013 (see Appendix B to this letter).

4.4 The report does not refer to any of the evidence supplied by Maple Lodge Conservation Society

The applicant has relied solely on information contained within the Mott McDonald report, which contains the summary results of surveys conducted 8, 9 and 10 years ago.

The report does not refer to any of the up-to-date evidence already supplied by MLCS in our submission dated 25th July 2019. We have provided comprehensive evidence on the UK BAP habitats and water-dependent UK BAP species present on site, but the applicant

makes no reference to these at all, even though these GWDTEs are key receptors and WFD protected areas.

Nor has the applicant referred to the wealth of species information which is publicly available via the MLCS Biodiversity Records website. This includes the annual species reports produced by MLCS over the last 38 years.

As a result, the habitat and species information contained within the report is not up-to-date and incomplete. The report must therefore be regarded as unreliable.

4.5 The applicant has not proved that their activities will not have an adverse effect on Maple Lodge Nature Reserve

The application of the precautionary principle states that the burden of proof for the proposition that an action is not harmful falls on those instigating that action – in this case the applicant. Therefore, the applicant has to prove that their actions will not cause harm to Maple Lodge Nature Reserve.

The applicant has not proved that their activities will not harm Maple Lodge Nature Reserve. In fact, they have actually confirmed for a second time that their activities will have an adverse impact on the reserve.

Firstly, on page 15, the applicant has confirmed that groundwater flows from the development site to both of the reserve's lakes:

Groundwater flow in the Chalk aquifer is predominantly to the southeast, however there is some indication that flows below the site are to the south. It has been conservatively assumed that flow is to the south and that flow from the site contributes to discharge from the Chalk aquifer into Clubhouse and Marsh Lakes

(This contradicts the statement made in Tier Consult's letter to the Environment Agency dated 19th May 2021 which states "groundwater does not flow directly from the site to the nature reserve").

Secondly, on page 17, the applicant has confirmed that the piling will have an adverse effect on the reserve:

The total reduction in flow through the piling zone is estimated as 45 m³/d or 4% of the total inflow to the lake

The findings of the report are based on a desk study and a conceptual model. The figures used for the conceptual model are not supported by actual readings.

For example, the report states on page 16:

The inputs to the lake system in the Maple Lodge nature reserve have been estimated as an average of 1079 m³/d, with 75% derived from the stream, 11% from direct rainfall and 14% from groundwater flow.

And:

Groundwater flowing through the chalk below the site which is conservatively estimated to discharge to the lakes. The proportion that flows through the piling zone is estimated as 31 m³/d or 3% of the total input to the lake.

No measurements have been taken to support these percentages. No actual data has been presented to confirm the volumes of water received by the reserve from respectively the

input stream, direct rainfall or groundwater flow. Nor have any measurements been taken for the output stream from the reserve.

On this particular issue Affinity Water's Water Resources Specialist has advised:

I can understand how the 1079m³/d has been calculated but since the major factor here is the stream inlet (calculated as 806m³/d from the total inflow of 1079m³/d) I would expect some direct river flow gauging in that stream to verify the theoretical calculations that carry quite a bit of uncertainty. Overall the 1079m³/d as a value does not seem odd but it would be good to have a direct measurement of the stream inflow close to Clubhouse Lake to verify. Equally, I would expect to see the outflow calculations too (including stream outflow), to make sure that the water balance is complete (i.e. water in equals water out plus lake storage).

In our submission dated 22nd October 2019 we supplied actual readings which showed that input to the reserve was predominantly from groundwater and not the stream (see Appendix A to this letter).

The first readings were taken when Marsh Lake was dry at 40.54; there were still pools of water in Clubhouse Lake. Before any significant input was received from the stream the level in Clubhouse Lake had risen by 0.46 metres and in Marsh Lake by 0.42 metres. This is just below 50% of the average lake levels. It is therefore highly unlikely that 75% of the input to the lakes is from the stream, as estimated by the applicant.

Also, the sluice from Clubhouse Lake into Marsh Lake does not start to flow until about 41.55 with all the boards out. In the readings we have supplied Clubhouse Lake was still below this at 41.44 by the time the stream started flowing, so all of the increase in Marsh Lake had to be from groundwater and rainfall.

This is supported by the Mott McDonald report which makes no mention of the stream when it states:

Water level evidence suggests that Marsh Lake is likely to be fed by flow through the superficial deposits from the River Colne and upwelling from the chalk aquifer as well as direct rainfall. However, it is likely that Marsh Lake receives a greater contribution from the chalk aquifer via upwelling through the superficial deposits.

This is significant because the reserve's GWDTEs and UK BAP habitats, wet woodland and reed bed, are sustained by Marsh Lake. In other words the reserve's priority habitats and species are dependent upon the flow of groundwater to Marsh Lake and not the stream as is claimed by the applicant.

Therefore, the applicant's initial estimates and all subsequent percentages derived from them are open to question and should not be used as a basis for any decisions.

4.6 The applicant's risk assessment is not robust

i) The applicant's risk assessment is qualified and subjective

When summarising the risks to the reserve none of the statements are definitive. This is to be expected because these conclusions are based on initial estimates rather than actual readings / measurements.

For example, on page 18 of the report it states:

The risks to the Maple Lodge nature reserve are considered to be negligible for the following reasons:

- The contribution of flow into the lakes from the piling zone is thought to be a very small proportion (<6%) of the total inflow into the lake
- The amount of flow diverted around the piling zone due to densification is a still smaller proportion (<3%) of the total inflow into the lake
- The groundwater diverted around the piling zone is not lost but will take a slightly longer route around the piling zone, and will likely regain a similar flow path
- The impact on groundwater and lake levels is considered to be negligible, particularly considering that the western boundary stream, Chalk aquifer, RTD aquifer and River Colne all make contributions to groundwater and lake levels at the reserve
- The natural variability of groundwater and lake levels is likely to be far higher than any change resulting from piling at the site, hence no impact is likely to be observed due to the development
- Any impact on groundwater levels is likely to be local to the site, owing to the high permeability of the surrounding hydrogeological regime

Also, all the percentages quoted above are open to question as explained in Section 4.5.

The Planning Inspectorate's guidance on this states:

The WFD assessment should assess the risk of impact to the water bodies, having regard to its specific elements and objectives. The assessment should identify if there is a risk of deterioration of any WFD element as a result of the Proposed Development and any conclusion reached should be supported by a robust evidence base.

Clearly, the applicant's conclusions are not "supported by a robust evidence base".

On this particular point the legal guidance we have received is as follows:

On the basis of the precautionary and prevention principles, TRDC may take pre-emptive action to protect the environment where there is scientific uncertainty or incomplete evidence as to the potential of the proposed project to adversely impact the water environment. The applicant has not provided certain evidence there will be no adverse impact on the reserve. Therefore, TRDC can and should refuse permission.

ii) The applicant's risk assessment does not include the potential severity of impact

The Risk Assessment on pages 23 and 24 of the report does not include the potential severity of impact for each of the potential risks. It merely lists potential impact and then makes a subjective assessment – e.g. negligible risk.

For example, in the case of the risk "GWTDE – reduced lake and groundwater levels impacting habitats", it doesn't state that the potential severity of impact could be catastrophic.

This is not in accordance with the risk assessment guidance supplied by the Environment Agency which states:

You need to take into account the sensitivity of the receptor, the timescale necessary for the assessment and the consequences of any impact within the risk assessment

- identify the consequences
- estimate the magnitude of the consequences ('impacts')
- estimate the probability of the consequences ('impacts')
- evaluate the significance of the risk

This has not been done.

4.7 The applicant has not proposed sufficient mitigation / compensation

None of the mitigation measures listed on page 25 of the report provide an answer to the over-riding question:

If, as a result of their activities, any of Maple Lodge Nature Reserve's UK BAP habitats or species are lost or harmed, what mitigation / compensation is being proposed by the applicant?

The applicant has not proposed any mitigation measures in the event that their activities have damaging effects. This is a required output from any WFD Compliance Assessment. Our legal guidance on this is as follows:

According to Recital 11, the WFD is underpinned by not only the precautionary and prevention principles but also the "polluter pays principle".

Therefore, the applicant must propose mitigation measures for the scenario where, whether by accident or design, their activities result in the loss of or harm to Maple Lodge Nature Reserve's Section 41 habitats and species.

The Planning Inspectorate guidance states:

Mitigation relied upon to demonstrate compliance ... must be appropriately defined and sufficiently secured

If specific mitigation is required in order to ensure no risk of deterioration of water bodies as a result of the project, this should be clearly identified in the WFD assessment

It will also be necessary for the assessment to clearly explain the type of mechanisms to be put in place in order to secure the delivery of such mitigation, including ... legally binding methods and timescales for delivery.

This has not been done.

In their letter to the Environment Agency, dated 19th May 2021, Tier Consult have suggested that this can be covered by a planning condition:

...we consider that the proposed work will be sufficient to demonstrate that any further concerns that you have can be dealt with by detailed mitigation design, as a condition of planning

This is not in accordance with Planning Inspectorate guidance. This guidance is in place because, by not following it, TRDC would be placing itself in a position where it could not confirm that the development would comply with the WFD objectives, which, as the local planning authority, it is legally bound to do.

It would also mean TRDC granting permission to an application which could subsequently be proved to be undeliverable.

Therefore, detailed mitigation design cannot be conditioned and "the type of mechanisms to be put in place in order to secure the delivery of such mitigation, including ... legally binding methods and timescales for delivery" must be clearly explained before planning permission is granted.

5. Environment Agency Condition

The Environment Agency has recommended the following condition:

Condition 2 – Groundwater Levels

No development should take place until a monitoring and maintenance plan in respect of groundwater levels across the site and the Maple lodge nature reserve including a timetable of monitoring and submission of reports to the Local Planning Authority, shall be submitted to and approved in writing by the Local Planning Authority.

Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to and approved in writing by the Local Planning Authority. Any necessary contingency measures shall be carried out in accordance with the details in the approved reports.

Reasons: This condition will ensure that the development does not cause undue detriment to groundwater levels upon which the Maple Lodge nature reserve relies in line with paragraph 170 of the National Planning Policy Framework.

Unfortunately, this condition will not “ensure that the development does not cause undue detriment to groundwater levels upon which the Maple Lodge nature reserve relies”.

If, as a result of their activities, the applicant diverts water away from the reserve, then it would cause irreversible harm. Monitoring the fact that it has happened will not prevent or reverse the situation. The damage will already have been done. Driving 3,310 piles into chalk, a notoriously unpredictable medium, means that this is a real possibility.

The purpose of conducting a WFD assessment is to determine whether there are any elements of a proposed development which could have a detrimental effect on the current quality of any waterbody. Any development must have no permanent, unmitigated effects which cause any deterioration in the current status of any surface-water or groundwater body.

In this case, not only has the applicant failed to prove that there will be no detrimental effect, detriment to groundwater flow is actually a predicted outcome! Both the Maple Cross Contaminated Land Assessment / DQRA Summary Report and the Hydrogeological Impact Assessment / GQRA Report have confirmed that there will be adverse impacts on the reserve.

Applying this condition will not resolve this issue.

If TRDC accepted the condition recommended by the Environment Agency, then the council would be failing in its statutory duty to observe the objectives of the WFD. The Bund case (see Section 2), established that decision makers must refuse consent to developments that would result in non-compliance with the WFD.

Agreeing to the condition suggested by the Environment Agency would result in non-compliance with the WFD and therefore this condition cannot be used by TRDC.

6. NPPF

NPPF paragraph 177 states:

The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

The applicant has not undertaken an appropriate assessment of the likely impact of their activities on Maple Lodge Nature Reserve, in particular the two Section 41 habitats (wet woodland and reed bed) and the numerous Section 41 species.

The applicant has not shown that the “project will not adversely affect the integrity of the habitats site”, and so the presumption in favour of sustainable development does not apply.

7. TRDC Development Management Policies

As has been explained above, TRDC has a statutory duty to observe the WFD objectives.

This is supported by TRDC Policy DM6:

g) Watercourses

Any development adjacent to, over or in a watercourse needs to take into account consideration of the Water Framework Directive requirements and opportunities outlined in the Thames River Basin Management Plan.

It therefore has a duty to protect the reserve. This duty is acknowledged in TRDC’s Development Management Policies Local Development Document, paragraph 8.2:

Authorities are obliged to conserve and enhance wildlife and landscape under the Natural Environment and Rural Communities Act 2006, the Water Framework Directive and the Natural Environment White Paper.

Also TRDC Policy DM6 states:

a) Development that would affect a Site of Special Scientific Interest, Local Nature Reserve, Local Wildlife Site or protected species under UK or European law, or identified as being in need of conservation by the UK Biodiversity Action Plan or the Hertfordshire Biodiversity Action Plan, will not be permitted where there is an adverse impact on the ecological, geological or biodiversity interests of the site, unless it can be demonstrated that:

i) The need for the development would outweigh the need to safeguard the biodiversity of the site, and where alternative wildlife habitat provision can be made in order to maintain local biodiversity; and

ii) Adverse effects can be satisfactorily minimised through mitigation and compensation measures to maintain the level of biodiversity in the area

In this case the need for a development does not “outweigh the need to safeguard the biodiversity” of Maple Lodge Nature Reserve and the adverse effects cannot “be satisfactorily minimised through mitigation and compensation measures”.

Therefore, in accordance with this policy, the development should not be permitted.

8. Concluding Remarks

The Hertfordshire Framework Directive Guidance, page 21, states:

LPAs - must consider the requirements of the WFD when determining planning applications for development. As a statutory consultee in the planning process, the Environment Agency as the Competent Authority will raise objections if they feel that the objectives of the WFD have the potential to be compromised by development proposals; however, the LPA has overall responsibility to ensure that permission is not granted to development which could compromise the WFD objectives

Clearly, this development would compromise the WFD objectives, as has been proved by the evidence submitted by the applicant now on two separate occasions.

In any case, TRDC does not have the information necessary to ensure that the proposed development will not compromise the WFD objectives. This is because the Hydrogeological Impact Report and GQRA submitted by the applicant:

- is not a WFD Compliance Assessment
- relies on data that is incomplete and not up-to-date
- is selective in its choice of evidence
- relies on a conceptual model that is not supported by robust data
- does not properly consider the severity of impacts
- does not include secured mitigation for the potential loss of or harm to Maple Lodge Nature Reserve's Section 41 habitats and species

In addition, the proposed development does not comply with NPPF paragraph 170:

170. Planning policies and decisions should contribute to and enhance the natural and local environment by:

e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans;

Therefore, TRDC must refuse this application because:

- it does not comply with the Water Framework Directive
- the precautionary and prevention principles apply
- it does not comply with NPPF paragraphs 170 and 177
- it does not comply with TRDC Policy DM6

[Appendices also provided]

4.2.22.7 Further comments 24.09.2021:

I am writing in response to the letter you received from Herts Ecology, dated 14th September 2021, which was the latest in a number of discussions / communications relating to the calculation of Biodiversity Net Gain and the use of the DEFRA metric.

From these we have concerns about the advice being given to TRDC by Herts Ecology.

Section 54 sub-section (4) of the Planning and Compulsory Purchase Act 2004 imposes a duty on a statutory consultee to give a "substantive response" to any consultation.

Article 22 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 defines a "substantive response" as:

- a) states that the consultee has no comment to make
- b) states that, on the basis of the information available, the consultee is content with the development proposed
- c) refers the consultor to current standing advice by the consultee on the subject of the consultation or
- d) provides advice to the consultor

In this case neither a) or b) apply and Herts Ecology has not, to our knowledge, referred to c) any current standing advice.

So what is d) the advice being provided by Herts Ecology to the consultant, TRDC?

Let us consider the sequence of events:

i) Appeal Decision

In the appeal decision for the previous planning application (19/1179/FUL) the Inspector reported Herts Ecology's position as follows:

99. Hertfordshire Ecology explained that while it generally supported the use of the DEFRA metric, at the time at which the application was assessed they were not confident of it, and therefore it was assessed based on their expert judgement. The financial contribution represents the cost of recreating a 2.26 hectare area of species rich grassland and maintaining it for 25 years. This represents 2/3 of the area of that lost at the appeal site plus 10% additional to represent a net gain.

As we were present at the appeal, we can also confirm that Herts Ecology stated that, were they to be asked to respond again, they would use the DEFRA metric to calculate Biodiversity Net Gain

In our letter dated 9th April 2021 we referred to two occasions subsequent to the appeal (Dacorum Borough Council – 20th November 2020; East Herts District Council – 26th November 2020) where Herts Ecology advised other Hertfordshire councils to use the DEFRA metric, indicating that they were now confident in using it.

Apart from the evidence we submitted previously, Herts Ecology would also be contradicting the commitment they made at the appeal were they not to use the DEFRA metric for this planning application.

ii) Herts Ecology Letter – 13th April 2021

As far as this planning application is concerned, in their letter dated 13th April 2021, Herts Ecology state:

2.4 Use of the current version of the NE Biodiversity Metric would enable this to be fully measurable, as recognised by the Inspector. Since our original comments, use of the updated Biodiversity Metric – published in July 2019 - has become more frequent where major development is proposed. Its use as part of the mandatory BNG proposal is needed to enable measured assessments of net gain to be determined, as outlined in the January 2020 Environment Bill. Nevertheless, whilst the expectations of the government have now become clearer, the Bill has not yet been enacted and the use of the metric or Biodiversity Net Gain is still not currently a mandatory requirement of planning law, also recognised by the Inspector at the Hearing.

So, Herts Ecology are acknowledging that use of the DEFRA metric “is needed to enable measured assessments of net gain to be determined”.

They mention that the use of the metric is still not currently a mandatory requirement of planning law, but this has not prevented Herts Ecology recommending its use to other councils within Hertfordshire, as evidenced above.

Also, more recently, within Three Rivers District itself, in the case of the planning application for Killingdown Farm (20/1881/FUL), Herts Ecology accepted the use of the DEFRA metric:

However sufficient offsetting has been proposed (mainly for species-rich grassland, replacement orchard planting, and planting new hedgerows) to compensate for this loss

and achieve measurable biodiversity net gain. This is demonstrated in the submitted Biodiversity Metric 2.0 spreadsheet and I have no reason to doubt this uplift can be delivered

As the Case Officer responsible for the Killingdown Farm planning application, you will be aware of this.

iii) Herts Ecology Letter – 14th September 2021

In this letter Herts Ecology confirm their statement at the appeal for planning application 19/1179/FUL:

Furthermore, in the interim period between the HE response to the original application and the appeal, as outlined above, the Government published its updated metric and the Environment Bill, giving greater weight to the need for developments to demonstrate a measured BNG of at least 10%. To acknowledge this, at the appeal, Hertfordshire Ecology stated that if a similar application was now made, we would advise it was reasonable for the local authority to expect that a 10% net gain be calculated using the NE metric V2.

They also confirm that the use of the DEFRA metric is needed to demonstrate measurable net gain:

However, BNG continues to emerge and over the timescale of the applications has been further endorsed by Govt guidance and intention. This has also changed the weight that could be given to delivering BNG and how, to the extent that use of the metric would now be needed to demonstrate that measurable net gain can be achieved

However, having clearly stated their position, Herts Ecology then present TRDC with 5 options, 4 of which are not in accord with their recommended advice to use the DEFRA metric to calculate Biodiversity Net Gain, as defined in their letter to TRDC dated 26th July 2021:

5 ...At the Inquiry this was also acknowledged by Herts Ecology, given the published Metric V2 update and the weight clearly given to its use and BNG by Govt in the Environment Bill. If providing comments again in 2020, HE stated they would advise using the NE metric to assess BNG impacts and requirements

6. Provision of a Biodiversity Metric is not a requirement of planning law; NE state this will not become law until autumn 2023 when the TCPA is amended. However, we consider that for a site of this size, nature and impacts, it is now reasonable for the LPA to consider assessing the current application proposals using a Biodiversity Metric, consistent with the comments made at the Inquiry.

7. Consequently, HE have completed the Biodiversity Metric V2 to provide a view on this. Therefore, of the following five options, only one (Option 3) is actually consistent with previous statements made by Herts Ecology:

1. Maintain the existing original contribution, as originally calculated to create a suitable area of compensation grassland which could also be potentially suitable for the Forester. This would be £17,725

2. To ensure that BNG and the Forester are properly considered independently using the previous approach (technically BNG doesn't directly assess species conservation requirements), increase the contribution along the same lines for an additional area for grassland. This would essentially double the area of compensation grassland. This would be £34,410

3. Apply the NEV2 metric calculation to determine BNG requirements. This is based upon new evidence of grassland value confirmed by HE survey and the increased emphasis placed upon using the metric to determine BNG, despite the current lack of planning requirement. This should, by default, provide for a larger grassland compensation, which should also substantially benefit the moth's colonising and establishment potential. This would be £142,800.

4. A compromise between any one of these. Such a figure cannot be directly justified as it simply reflects the weight attached to a planning judgement which takes into consideration the different contributions currently assessed through different methodologies. However, whilst each of these could be justified on their own merits, the latest approach to BNG by using a metric would be more consistent with the current expectation of Govt should BNG be applied to this new proposal.

5. To reflect the changing circumstances, it is suggested a compromise between 2 (the agreed proposed figure) and 3 (the metric V2 figure) may be appropriate. This would amount to £54,195.

Options 4 and 5 are contradictory. Having said in Option 4 that a compromise figure "cannot be directly justified as it simply reflects the weight attached to a planning judgement which takes into consideration the different contributions currently assessed through different methodologies", Herts Ecology then suggest precisely that in Option 5 – a compromise "taking into consideration the different contributions currently assessed through different methodologies"!

Also, in Option 5, how is £54,195 a compromise between £34,410 and £142,800? This figure is stated without any reasoned explanation.

We believe that the advice being given here is unclear and, at times, contradictory. As the advice given by a statutory consultee will be used to inform a local authority's decision, then it needs to be clear and well-reasoned. This was emphasised in a recent High Court ruling (Swainsthorpe Parish Council v Norfolk County Council) when the judge stated:

If the product of consultation has to be conscientiously taken into account and given great weight, it follows that it must be an intelligible response which is adequately reasoned, bearing in mind its purpose of providing advice to the decision maker, and informing its decision.

Only Herts Ecology's Option 3 would comply with this ruling.

So we agree with Herts & Middlesex Wildlife Trust who have stated in their letter dated 21st September 2021:

Of the 'options' provided by HE, the only figure with legitimacy is the sum that is supported by a NE biodiversity metric and unit cost estimate (although HMWT have demonstrated that it needs correcting).

4.2.23 Natural England: [No objection]

(Officer comment: Natural England were consulted on the application following the identification of the Forester Moth on site).

Thank you for your consultation on the above dated 22 July 2021 which was received by Natural England on 22 July 2021.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

SUMMARY OF NATURAL ENGLAND'S ADVICE

NO OBJECTION

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

Natural England's generic advice on other natural environment issues is set out at Annex A.

Sites of Special Scientific Interest

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites and has no objection to the proposed development.

Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the data.gov.uk website

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries regarding this letter, for new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

Annex - Generic advice on natural environment impacts and opportunities

Sites of Special Scientific Interest (SSSIs)

Local authorities have responsibilities for the conservation of SSSIs under s28G of the Wildlife & Countryside Act 1981 (as amended). The National Planning Policy Framework (paragraph 175c) states that development likely to have an adverse effect on SSSIs should not normally be permitted. Natural England's SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the Natural England Open Data Geoportal.

Biodiversity duty

Your authority has a duty to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat. Further information is available [here](#).

Protected Species

Natural England has produced standing advice¹ to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this

advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

Local sites and priority habitats and species

You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraphs 171 and 174 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geoconservation groups or recording societies.

Priority habitats and Species are of particular importance for nature conservation and included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. The list of priority habitats and species can be found [here](#)². Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found [here](#).

Ancient woodland, ancient and veteran trees

You should consider any impacts on ancient woodland and ancient and veteran trees in line with paragraph 175 of the NPPF. Natural England maintains the Ancient Woodland Inventory which can help identify ancient woodland. Natural England and the Forestry Commission have produced standing advice for planning authorities in relation to ancient woodland and ancient and veteran trees. It should be taken into account by planning authorities when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland, ancient and veteran trees where they form part of a SSSI or in exceptional circumstances.

Protected landscapes

For developments within or within the setting of a National Park or Area of Outstanding Natural Beauty (AONB), we advise you to apply national and local policies, together with local landscape expertise and information to determine the proposal. The National Planning Policy Framework (NPPF) (paragraph 172) provides the highest status of protection for the landscape and scenic beauty of National Parks and AONBs. It also sets out a 'major developments test' to determine whether major developments should be exceptionally be permitted within the designated landscape. We advise you to consult the relevant AONB Partnership or Conservation Board or relevant National Park landscape or other advisor who will have local knowledge and information to assist in the determination of the proposal. The statutory management plan and any local landscape character assessments may also provide valuable information.

Public bodies have a duty to have regard to the statutory purposes of designation in carrying out their functions (under (section 11 A(2) of the National Parks and Access to the Countryside Act 1949 (as amended) for National Parks and S85 of the Countryside and Rights of Way Act, 2000 for AONBs). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

Heritage Coasts are protected under paragraph 173 of the NPPF. Development should be consistent the special character of Heritage Coasts and the importance of its conservation.

Landscape

Paragraph 170 of the NPPF highlights the need to protect and enhance valued landscapes through the planning system. This application may present opportunities to protect and enhance locally valued landscapes, including any local landscape designations. You may want to consider whether any local landscape features or characteristics (such as ponds, woodland or dry stone walls) could be incorporated into the development in order to respect and enhance local landscape character and distinctiveness, in line with any local landscape character assessments. Where the impacts of development are likely to be significant, a Landscape & Visual Impact Assessment should be provided with the proposal to inform decision making. We refer you to the Landscape Institute Guidelines for Landscape and Visual Impact Assessment for further guidance.

Best and most versatile agricultural land and soils

Local planning authorities are responsible for ensuring that they have sufficient detailed agricultural land classification (ALC) information to apply NPPF policies (Paragraphs 170 and 171). This is the case regardless of whether the proposed development is sufficiently large to consult Natural England. Further information is contained in GOV.UK guidance. Agricultural Land Classification information is available on the Magic website on the Data.Gov.uk website. If you consider the proposal has significant implications for further loss of 'best and most versatile' agricultural land, we would be pleased to discuss the matter further.

Guidance on soil protection is available in the Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites, and we recommend its use in the design and construction of development, including any planning conditions. Should the development proceed, we advise that the developer uses an appropriately experienced soil specialist to advise on, and supervise soil handling, including identifying when soils are dry enough to be handled and how to make the best use of soils on site.

Access and Recreation

Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways should be considered. Links to other green networks and, where appropriate, urban fringe areas should also be explored to help promote the creation of wider green infrastructure. Relevant aspects of local authority green infrastructure strategies should be delivered where appropriate.

Rights of Way, Access land, Coastal access and National Trails

Paragraphs 98 and 170 of the NPPF highlights the important of public rights of way and access. Development should consider potential impacts on access land, common land, rights of way, coastal access routes and coastal margin in the vicinity of the development and the scope to mitigate any adverse impacts. Consideration should also be given to the potential impacts on any nearby National Trails, including the England Coast Path. The National Trails website www.nationaltrail.co.uk provides information including contact details for the National Trail Officer.

Environmental enhancement

Development provides opportunities to secure net gains for biodiversity and wider environmental gains, as outlined in the NPPF (paragraphs 8, 72, 102, 118, 170, 171, 174 and 175). We advise you to follow the mitigation hierarchy as set out in paragraph 175 of the NPPF and firstly consider what existing environmental features on and around the site can be retained or enhanced or what new features could be incorporated into the development proposal. Where onsite measures are not possible, you should consider off site measures. Opportunities for enhancement might include:

- Providing a new footpath through the new development to link into existing rights of way.
- Restoring a neglected hedgerow.
- Creating a new pond as an attractive feature on the site.

- Planting trees characteristic to the local area to make a positive contribution to the local landscape.
- Using native plants in landscaping schemes for better nectar and seed sources for bees and birds.
- Incorporating swift boxes or bat boxes into the design of new buildings.
- Designing lighting to encourage wildlife.
- Adding a green roof to new buildings.

You could also consider how the proposed development can contribute to the wider environment and help implement elements of any Landscape, Green Infrastructure or Biodiversity Strategy in place in your area. For example:

- Links to existing greenspace and/or opportunities to enhance and improve access.
 - Identifying opportunities for new greenspace and managing existing (and new) public spaces to be more wildlife friendly (e.g. by sowing wild flower strips)
 - Planting additional street trees.
 - Identifying any improvements to the existing public right of way network or using the opportunity of new development to extend the network to create missing links.
- Restoring neglected environmental features (e.g. coppicing a prominent hedge that is in poor condition or clearing away an eyesore).

4.3 Public/Neighbour Consultation

4.3.1 Number consulted: 145

4.3.2 No of responses received: 318 objections summarised at 4.3.5 below (including from Maple Cross & West Hyde Residents Association, see 4.3.6; Soil Association Land Trust, see 4.3.7; Springwell Residents and Conservation Association, see 4.3.8; North Harrow Waltonians Angling Society, see 4.3.9; The Chiltern Society, see 4.3.10; The Colne Valley Fisheries, see 4.3.11)

4.3.3 Joint letter from residents of Maple Lodge Close (inclusive of Maple Lodge Farm House) raising concerns with regards to the original comments from the Environmental Health Officer in relation to noise impacts.

4.3.4 Site Notice: Expired 07.04.2021 Press notice: Expired 11.04.2021

4.3.5 Summary of Responses:

NB. All comments received can be viewed in full online. The below represents a summary of the objections received. In considering an application regard can only be had to material planning considerations.

The effect of noise on residents is more complex than report suggests.

Dispute methodology and findings of noise report.

If permitted, residents will have to endure permanent and unremitting noise nuisance.

Noise pollution both from construction and end use.

24/7 operation 365 days a year.

TRDC has not challenged the need for 24/7 operation.

Modelling assumptions have not been challenged.

Impacts of noise creep not considered.

Environmental Health Officers comments are not clear regarding which conditions he refers to.

Light pollution.

Buried asbestos disturbance with consequential danger.

Land contamination.

Impact on air quality.

Every vehicle movement will raise local air pollution.

Air pollution is biggest threat.
Negative impact on human health, physical and mental.
Impact of omissions from diesel vans omitted.
Impact of pollution as a result of underestimated traffic increase.
There should be restrictions on what can be stored on site.
Fails to comply with World Health Organisation guidelines.
Reference to case where air pollution exposure was identified as cause of death.

Maple Lodge Nature Reserve (MLNR) is of national importance.
Proposal would have devastating impact on MLNR.
The action of channelling excess water away from application site will reduce flow of groundwater to MLNR, adversely affect the reserve, lakes and ecosystems that support it and causing devastating damage and contamination.
Detrimental impact on wildlife.
Impact of piling on water course.
Impact on Springwell Lake and Nature Reserve and other surrounding lakes.
Local chalk streams are of global importance.
No biodiversity net gain demonstrated.
Appropriate metric has not been used to calculate net gain.
Impacts of noise on wildlife.
Environmental impact on local farm.
Contrary to NERC Act so must be refused.
Site is habitat for rare Forester Moth which was thought to be extinct in Hertfordshire.
Discovery of Forester Moth carries with it legal obligation.
This is an important conservation area.
Development would lead to extinction of Forester Moth.

Ground water impact.
Surface water impact.
Would permanently damage drinking water, causing significant harm to health.
Risk to area supplying 3.2 million people with drinking water.
Contrary to Water Framework Directive so must be refused. Applicant needs to prove conclusively that they will not harm or damage the MLNR.
Consideration of interaction between HS2 and application site unaddressed – who would take the blame?
Impact of piling close to main sewer.
Supporting document 'Water and Drainage related issues 21/0573/FUL' submitted.
Access road frequently floods (picture provided).

Adverse effect on local people.
Maple Cross is a residential area and this is inappropriate.
There are a number of schools in the area that would be adversely affected.
Development will tower over neighbours in Longmore Close.
Will result in overshadowing and loss of light.
Loss of tree leaves in winter will make development more overbearing.
Negative impact on local businesses already struggling due to COVID.
Would be unable to work from home.
Would be unable to open windows.
Trees are deciduous so cannot be relied upon to provide screening at all times.
Additional trees could be retained to provide screening.
Recent COVID pandemic has highlighted the importance of outdoor nature areas and these should be protected.
Too close to residential properties.

Traffic pollution.
Existing area is gridlocked.
Discrepancies in data provided, including in relation to number of vehicle trips.

Roads cannot cope with additional traffic.
Vehicles and HGVs could not be stopped from using Maple Lodge Close.
Highways safety concerns, including in relation to concerns regarding safety of children who walk to local schools.
Hertfordshire Safer Routes to School not being considered.
Children walking to school could not avoid site.
Need to consider impact of HS2 and other development traffic.
If M25 is blocked this is the alternative route used.
1000+ extra trips a day would be catastrophic.
Impact of construction traffic.
Error in projections which do not include consideration of adjacent hotel.
Error in projections which do not include consideration of Thames Water site adjacent.
Interruption to HGVs transporting sewerage to/from adjacent site.
Reports fail to consider impact on Maple Lodge Close
Application fails to consider impact on pedestrians including school children.
Supporting document 'Traffic and its implications' submitted.
Local residents know what the roads/traffic is like and their views should not be ignored.

Climate Emergency declared.
Contrary to TRDC sustainability policies.
This is not a sustainable development and should not be approved.

Should be re-designated as Green Belt and protected.
Negative impact on adjacent Green Belt.
Eyesore/blight landscape.
Not appropriate development within the Colne Valley.
Would lead to destruction of Colne Valley.
There are brownfield sites which would be more appropriate for development.

No need for warehouses in Maple Cross.
Listen to local residents who do not want or need this development.
Economic arguments not clear cut.
Development poor fit with TRDC workforce.
Does not address likely COVID employment issues within TRDC.
Supporting document 'Economic Arguments – does this development deliver what the District needs?' submitted.
What is driving the application?
Would not provide employment for local people.
There is no local support for the development, the jobs are not wanted.
Employees would be traveling from outside area.
Salaries could not support TRDC cost of living.
Modern warehouses are automated so hardly any jobs will be created.
SW Herts are in need of allotments, this site might resolve that issue.

Development needs to be considered in relation to other developments such as HS2.
Application form and documents are misleading and inaccurate and should not have been accepted.
This is all about maximum profit for the developer with no consideration of residents.
Many objections raised at time of previous application were disregarded by the planning office and not dealt with appropriately.
TRDC failed to properly defend previous appeal.
There is no clear plan for Maple Cross.
Similar proposal was previously rejected.
Reference to redevelopment in description is misleading as site not previously developed.

4.3.6 Maple Cross & West Hyde Residents Association: [Objection]

4.3.6.1 OBJECTION:

Much has changed since the developers previous submission that resulted in being rejected solely on ground water, with many issues being overlooked by the Planning Inspector as residents did not have the financial ability to seek bona fide consultants reports. The topic of noise, as an example, was finally balanced in favour of the developers for this very reason. Our request to TRDC for independent reports on Noise, Air Quality and a Traffic count was rejected.

COVID-19 has made the Government recognise that we cannot continue as before and have set out how they will be 'building back better, supporting green jobs, and accelerating our path to net zero'. Conflicting with this the developers will build two unsustainable mechanised warehouses that support very few jobs and accelerate increases in pollution.

The United Nations Climate Change Conference will be held in the UK in November and the Environment Bill will be passed ahead of it. The Bill seeks to improve the natural environment and Local Authorities will be duty bound to reduce pollution levels - measure PM2.5 et al. TRDC have published their Climate Emergency and Sustainability Strategy 2021 – 2026 in response to their 2019 declaration. These strategies prove that we need sustainable green jobs that do not threaten the natural environment in the way that these prospective warehouses do.

Summary of Points raised in this Objection:

- 1) Maple Lodge Close: not addressed by applicant, new directive HCC**
- 2) Foul sewage: not addressed by applicant**
- 3) Traffic: Herts CC 6 5 trips/Applicant 1890 New evidence - unregulated pollution & groundbreaking ruling**
- 4) Flooding of Thames Water Access Road: not addressed by applicant**
- 5) Cumulative Effects: Woodoaks Farm, Springwell Lake**
- 6) Environmental Effects: not addressed by applicant**
- 7) Economic: developer has exaggerated these benefits**
- 8) Noise**

1) Maple Lodge Close:

Herts County Council Highways have imposed the following Condition:

1. No development shall commence until full details have been submitted to and approved in writing by the Local Planning Authority to illustrate the following:

a. Details and further information as to how vehicle access to the development site would be restricted from using Maple Lodge Close.

Reason: To ensure suitable, safe and satisfactory planning and development of the site in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018).

Note: Maple Lodge Close is a private road and not highway maintainable at public expense. Therefore HCC as Highway Authority would not be able to enforce any restrictions over the private access road. Nevertheless the Highway Authority would encourage and support restrictions for vehicles to the development site via this route through the whole construction period and use as the route is not considered to be acceptable to support the level and type of vehicles associated with the proposed use.

The developer previously stated they 'would instruct everyone that they were not to use Maple Lodge Close' this is an unrealistic answer. Either the developers or TRDC need to

negotiate a resolution with Thames Water since signage and verbal instruction will not prove to be effective – Thames Water vehicles are testament to this. Should this development be sanctioned all warehouse traffic (HGV's; LGV's; etc) must be prevented from using Maple Lodge Close for reasons of safety – narrow road/pavement.

2) Foul Sewage:

'The planning application proposal sets out that FOUL WATER will NOT be discharged to the public network and as such Thames Water has no objection. Should the applicant subsequently seek a connection to discharge Foul Waters to the public network in the future, we would consider this to be a material change to the application details, which would require an amendment to the application and we would need to review our position.'

This position needs to be reviewed as within the Tier report:

'The site will discharge foul water to the public foul sewer to the north of the site.'

Thus they do not have the required permission to discharge foul waters to the public network.

3) Traffic / Air Quality:

The Cole Jarman report is the sole document showing total vehicle numbers and travel times:



Schedule

19/0333/SCH1

Predicted Traffic Flows

Period (hours)	For Assessment ¹			
	Unit 1		Unit 2	
	HGVs	Light Vehicle	HGV	Light Vehicle
0000-0100	3	10	3	10
0100-0200	3	11	3	11
0200-0300	2	5	2	5
0300-0400	3	10	3	10
0400-0500	2	8	2	8
0500-0600	2	7	2	7
0600-0700	3	10	3	10
0700-0800	3	19	3	19
0800-0900	5	57	5	57
0900-1000	0	21	0	21
1000-1100	12	17	12	17
1100-1200	0	19	0	19
1200-1300	0	14	0	14
1300-1400	0	38	0	38
1400-1500	3	19	3	19
1500-1600	10	7	10	7
1600-1700	3	17	3	17
1700-1800	3	54	3	54
1800-1900	7	36	7	36
1900-2000	2	5	2	5
2000-2100	2	3	2	3
2100-2200	2	5	2	5
2200-2300	2	5	2	5
2300-2400	2	5	2	5

The number of vehicles accessing and leaving the site on an hourly basis has been provided by BWB Consulting for the proposed use of the scheme. The provided number has been halved and rounded up to provide figures for each unit. These are the figures shown above.

We questioned the developer via the Planning Dept. to ensure we were using the correct statistics and the response is as follows:

As set out at the bottom of page 17 of the Planning Noise Assessment, the numbers within the Predicted Traffic Flows table are 2 way movements (i.e. one entrance and one exit). Both the in and out activities are included within the noise calculations and so the predicted traffic flow numbers have been doubled.

The table below has been prepared to compare the assessment methodology against the resident's recommended methodology, in an attempt to explain that the noise assessment has taken into account double the numbers within the Predicted Traffic Flows table:

Scenario	Traffic Flow Numbers (HGVs to both units, 0000-0100)	"Movement" Composition	Total "in + out" activities in resulting noise calculations
Planning Noise Assessment	6 movements (combining in and out activities)	6 in activities 6 out activities	12
Resident Query	12 movements (considering in and out activities separately)	6 in activities 6 out activities	12

As you can see, the resulting total "in + out" figure is the same, it is just the traffic flow numbers have been presented differently.

For reference, the factors that are taken into account in the "in and out" activities are set out in Schedule SCH2 in the Cole Jarman Planning Noise Assessment (19/0333/R2-1). As set out above, the footnote to the table Schedule SCH1 notes that the figures are 2-way movements include in and out activity.

This confirms the following chart to be accurate resulting in a total of 1890 trips each and every day into and out of Maple Cross.

- TRAFFIC and TRIPS for the warehouse development/s.

Predicted Traffic Flows for 2 warehouses by hour of day based on vehicles and trips

Hourly segments	DAILY VEHICLE NUMBERS			DAILY VEHICLE TRIPS			WEEKLY VEHICLE NUMBERS			WEEKLY VEHICLE TRIPS			ANNUAL VEHICLE NUMBERS			ANNUAL VEHICLE TRIPS		
	HGVs visiting site	LDVs and LVs visiting site	TOTAL HGVs + LDVs + LVs	HGVs visiting site	LDVs and LVs visiting site	TOTAL HGVs + LDVs + LVs	HGVs visiting site	LDVs and LVs visiting site	TOTAL HGVs + LDVs + LVs	HGVs visiting site	LDVs and LVs visiting site	TOTAL HGVs + LDVs + LVs	HGVs visiting site	LDVs and LVs visiting site	TOTAL HGVs + LDVs + LVs	HGVs visiting site	LDVs and LVs visiting site	TOTAL HGVs + LDVs + LVs
midnight-1am	0	20	20	12	40	52	42	140	182	84	280	364	2184	7280	9484	4368	14560	18628
1am-2am	0	20	20	12	44	56	42	154	190	84	308	392	2184	6908	10160	4368	16016	20384
2am-3am	0	10	14	0	30	30	28	70	90	56	140	196	1456	3640	5096	2512	7280	10192
3am-4am	0	20	26	12	40	52	42	140	182	84	280	364	2184	7280	9484	4368	14560	18628
4am-5am	0	16	20	8	32	40	28	112	140	56	224	280	1456	5824	7280	2912	11548	14560
5am-6am	0	14	18	8	28	36	28	98	126	56	196	252	1456	5096	6552	2912	10192	13104
6am-7am	0	20	26	12	40	52	42	140	182	84	280	364	2184	7280	9484	4368	14560	18628
7am-8am	0	38	44	12	76	88	42	206	238	84	532	616	2184	13632	16016	4368	27664	32532
8am-9am	10	114	124	20	228	248	70	758	868	140	1596	1736	3640	41496	45136	7280	82962	90272
9am-10am	0	42	42	0	84	84	0	294	294	0	588	588	0	15288	15288	0	39576	39576
10am-11am	24	34	58	48	68	116	168	238	406	336	476	812	8736	12576	21112	17472	24752	42224
11am-midday	0	38	38	0	76	76	0	268	268	0	532	532	0	13832	13832	0	27664	27664
midday-1pm	0	28	28	0	56	56	0	196	196	0	392	392	0	10192	10192	0	20384	20384
1pm-2pm	0	76	76	0	152	152	0	532	532	0	1064	1064	0	27664	27664	0	55328	55328
2pm-3pm	0	38	44	12	76	88	42	206	238	84	532	616	2184	13632	16016	4368	27664	32532
3pm-4pm	20	14	34	40	38	78	40	140	168	280	476	476	7280	5096	12576	14560	15192	24752
4pm-5pm	0	34	40	12	68	80	42	238	280	84	476	560	2184	12576	14560	4368	24752	29120
5pm-6pm	0	108	114	12	216	228	42	758	798	84	1512	1596	2184	39512	41496	4368	78634	82962
6pm-7pm	7	72	79	14	146	160	48	504	552	84	1008	1106	2548	26328	28796	5096	52416	57512
7pm-8pm	0	10	14	0	20	28	28	70	98	56	140	196	1456	3640	5096	2512	7280	10192
8pm-9pm	0	6	10	0	12	20	28	42	70	56	84	140	1456	2184	3640	2512	4368	7280
9pm-10pm	0	10	14	0	20	28	28	70	98	56	140	196	1456	3640	5096	2512	7280	10192
10pm-11pm	0	10	14	0	20	28	28	70	98	56	140	196	1456	3640	5096	2512	7280	10192
11pm-midnight	0	10	14	0	20	28	28	70	98	56	140	196	1456	3640	5096	2512	7280	10192
Total x vehicle type	141	804	945	282	1608	1890	687	5428	6615	1974	11296	13230	51324	280806	343080	102048	4368	687960

These data have been derived by taking the Planning Noise Assessment Report 19/0333/R2 presented by Cole Jarman in the TRDC Planning website and summarising the data shown in the appendix on predicted traffic flows.

Herts CC Highways meantime posted the following online in response to a planning enquiry:

A supplemental comment in relation to the predicted trip generation / vehicle movements:

The proposals have been predicted as generating upto 695 daily two way trips, which is considered to be generous due to the methodology used to derive that figure. The methodology used is robust and has been verified in TRICs by myself and the actual figure would most likely be significantly less than this due to the use of the 85th percentile rather than the mean, which would provide a lower figure.

From investigation, I think the referred to 2000 trips has been derived by doubling the number of vehicle movements from schedule 19/0333/SCH1 of the submitted Planning Noise Assessment. The schedule refers to a total of 952 trips over a 24 hours period, a figure that should not be doubled as the total figure already takes into consideration each way (i.e. in and out of the site).

Nevertheless, the Transport Assessment (and the methods within) would be the normal and robust assessment under which the trip generation would be reviewed and assessed and this is where the predicted 695 figure is derived from. HCC as Highway Authority does not endorse, support or consider the 2000 figure as being appropriate, and is not borne out by the predictions in the Transport Assessment.

The developer has confirmed, in writing, that there will be 1890 trips per day but Herts CC have based all their calculations on a figure of 695 trips, a massive discrepancy. There are 16 doors to these warehouses and since they require a 24/7 operation it would be highly unlikely that the figure of 695 trips is accurate after examining other similar warehouses.

The following details have been omitted from Herts C.C. Highway's calculations in order to verify whether or not the warehouse traffic would cause a significant problem regarding the flow of traffic along the A412, cause an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Email response to our concerns were received from HCC – blue italics.

a) Whilst HS2's travel plan states that their vehicles will use the slip onto the M25, this has been found to be highly inaccurate as reported by residents who live and travel along the A412 and has impacted on the road causing further congestion. Complaints have been logged directly with HS2 – Align, similarly the mud on the road traced back to their site. Despite repeated assurances that they will stop their vehicles using the A412 it still happens. These vehicles have not been included in the transport assessment.

HCC's team is now in contact with HS2 to see what can be done about enforcement of Construction Route Plans.

b) The Crowne Plaza, Witney Place (18/1424/CLPD) hotel/conference centre/gym/restaurant has 375 parking bays. Access will be gained from the Thames Water Access Road. Both the gym and the restaurant will create multiple journeys throughout the day whilst the conference centre and the 207 hotel bedrooms are likely to result in journeys during peak times. Since the hotel did not provide a travel plan these vehicles have all been excluded from the transport assessment.

HCC has now requested a trip generation/vehicle number assessment to be carried out.

c) Vehicles going to the Thames Water Sewage Treatment Works have increased substantially since the last application was submitted (19/1179/FUL) and the increase in vehicle trips has risen from 16 to over 200 per day we are given to understand this is due to HS2. This excludes staff vehicles. These have also been excluded from Herts C.C. transport assessment.

HCC have now asked TRDC to investigate whether or not there has been a material change in the number of trips.

d) Retrospective planning permission has been sought by occupiers of the Maple Lodge site that currently hold 90 live operating licenses for HGV's and Trailers. Bulk Transfer are currently appealing against Notice to remove all their vehicles/trailers etc from the Green Belt. These also appear to be excluded from the transport assessment.

Some of the existing recorded trips on the private access road would most likely be included. The HA would not give permission for the retrospective planning permissions sought without a trip generation/vehicle number.

e) Hertford Place (54,000 sq ft) is inline for refurbishment according to the owners who state that it will house approx. 450 people. Since these premises are currently vacant Herts C.C. have also excluded them from the transport assessment.

f) The traffic lights at the Reach Free School cause severe congestion resulting in traffic backing up on the slip of the M25 and along the A412. This impact does not appear to have been given any consideration. Herts CC were unaware this set of traffic lights but due to our FOI have updated their system. During times of heavy congestion it also impacts on the Thames Water Access Road.

The submitted TA and the capacity of the surrounding highway junctions takes into consideration any trip generation inc. the Reach Free School.

g) Even in lockdown residents of our area have experienced frequent traffic congestion problems and query whether or not any assumptions have been made regarding eg the M25 overflow and when M25 traffic is diverted through Maple Cross.

The site is an allocated employment site in TRDC's Local Plan and the A412 is classified as a main distributor A road which forms part of the principle A road network. Therefore the number of additional trips from the application site onto the A road would not be considered to be severe in this context.

This is a speculative development with unknown tenants that may all need greater access to the A40.

h) According to BWB, Woodoaks Farm 'access can be retained informally within the junction on the basis that vehicle trips will be low, or formally signalised as a worst-case (on a demand led basis)'. This was written prior to lockdown and has not been updated for this new application. Woodoaks Farm has become an enormously popular destination for local residents and visitors alike. At weekends all their parking spaces and road has been jam packed with cars. So both the Farm's current and future business activities will necessitate signalisation. The current (2021) traffic numbers have not been taken into consideration.

We now await Herts CC's rejigged traffic numbers – using the traffic numbers as provided by BWB to Cole Jarman, together with updated vehicle trip numbers to include all that were omitted previously. We believe the residual cumulative impacts will be severe.

In Three Rivers 31% of emissions come from transport (take climate action.uk), should this development be sanctioned this figure will rise, how will TRDC reduce emissions in our area? We do not believe that the impact on our air quality has been properly assessed and BWB clarified that they do not have to raise an Air Quality Assessment as there will be less than 500 trips where drivers turn left from the Access Road:

'The change in traffic on the A412 Denham Way south of the site access road remains well below the Stage 2 criteria of 500 Light Duty Vehicles and/or 100 HDV's outside of an Air Quality Management Area. In accordance with IAQM and EPUK guidance, the impact on local air quality as a result of the increased trips associated with the proposed development was considered to be insignificant and the conclusions of the June 2019 air quality assessment remain valid.'

As this is a speculative development for unknown tenants neither Herts C.C. nor the developer can guarantee that more traffic will not take the route towards Denham and the A40 so an independent Air Quality monitoring assessment should have been conducted in order to safeguard residents.

Some vehicles will be Euro compliant but the bulk of the warehouse vehicles are expected to be vans according to the Dept of Transport 'nearly all are powered by diesel (96%). This means that the proportion of the country's van stock that is ultra low carbon emitting is small (0.3%)'. Whilst exhaust emissions are legislated against, pollution from tyre wear can be 1,000 times worse than a car's exhaust emissions as confirmed by the Air Quality Expert Group's Non Exhaust Emissions from Road Traffic report, commissioned by DEFRA: 'the best way to reduce emissions is to lower the overall volume of traffic. The Govt report has warned that damaging levels of pollution will still be released into the atmosphere even if electric cars become widespread. Brake and tyre wear contributes as much as 28% of total micro plastic pollution and these non exhaust emissions should be considered as potentially having a greater public health impact than the exhaust particles.' The heavier the vehicle, the greater the level of pollution that is generated, thus vans and HGVs contribute significantly more than cars.

It will be highly unlikely that TRDC will be able to meet their future air quality targets with this increase in traffic.

Whilst the Planning Inspector felt that the overall increase in vehicles are very low – 114 extra vans and 10 HGVs - when children walk to school. We draw your attention to the unlegislated pollution from these vehicles which could cause the tipping of the balance. If a brand new hatchback car with correctly inflated tyres produces 5.8 grams per kilometre, an old loaded van will create significantly more and there will be a further increase generated by HGV's. The legislation governing exhaust emissions = 4.5 milligrams per kilometre.

The Planning Inspector concluded that any additional emissions would be unlikely to have an impact on children walking to school and thought that the proposal would not have an adverse effect on air quality levels within the area. This decision was made prior to the landmark ruling that air pollution was a cause of death of the nine year old – Ella Adoo-Kissi-Debrah. WHO: children breathe more rapidly than adults and so absorb more pollutants, closer to the ground some pollutants reach peak concentrations when their bodies and brains are still developing. Toxic air pollution is a public health crisis, stunting children's brains and affecting their health in far more ways than we ever suspected, resulting in harm to their physical and mental development. Inaction and acceptance is no longer the way forward as TRDC's Climate Emergency and Sustainability Strategy outlines and is supported by many government policies.

4) Flooding

Tier Flood Risk Assessment and Drainage Strategy:

Pg 5: *'The access road has flooded in the past as a result of poor road design which will be improved as part of the proposed development. To mitigate flooding the access road will be positively drained into the proposed drainage network'*

The Thames Water Access Road was built over a stream/ditch, hence the flooding is not due to poor drainage, it is as a result of high ground water levels and increased rainfall due to Climate Change causing this stream/ditch to reappear. Climate Change will increase the flow and regularity of flooding and this must be acknowledged and addressed by the developers.

5) Cumulative

Para 15: Conserving and enhancing the natural environment, and states that:

"Planning policies and decisions should contribute to and enhance the natural and local environment by:

e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local

environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants ... and the cumulative impacts from individual sites in local areas.

Woodoaks Farm is a truly sustainable development and is now owned by the Soil Association who plan to grow a range of organic produce and to develop an ecosystem of small food and farming enterprises. This organisation strives to place itself at the heart of the community and in a very short period of time has contacted many local community groups. We very much look forward to their new venture and are delighted that one of their many proposals for the site is the installation of a farm shop. However the Farm entrance is virtually opposite the mouth of the Thames Water Access Road and with 1890 additional vehicle trips per day in addition to all the trips that Herts have failed to include could have a negative impact on the Farm's success. Who will want to purchase organic produce from a heavily polluted field? The warehouse developer will be the Agent of Change and as such has the responsibility to safeguard Woodoaks Farm for the community. Furthermore Woodoaks Farm, unlike the developer, meets many of the Climate Emergency and Sustainability Strategy objectives 2021 - 2026: 'Encourage sustainable food production and consumption in the district.' 'We need a shift in what we eat: buying seasonal, locally produced foods to reduce emissions and improve self sufficiency in the District.' 'Land owners farmers to maximise opportunities for biodiversity gain and climate adaptation', Woodoaks Farm already maximises opportunities for biodiversity gain. By engaging with the community and providing employment they are a perfect illustration of a sustainable business which must not be made to suffer the consequences of a poorly sited warehouse.

Springwell Lake:

This was overlooked in its entirety in the previous round. We fully endorse the comprehensive submission produced by Graham Nye on behalf of the Springwell Residents and Conservation Association as not only will they be heavily impacted by this proposed development but the Amenity will be greatly compromised.

Residents & Children:

The NPPF Para 6: Planning decisions should take into account the likely effects of pollution on health and living conditions that could arise due to a development. Residents and their children will be subjected to greater levels of pollution (1890 vehicle trips each and every day with no respite) not only when children are walking to/from school but playing in their gardens/park. PM2.5 doesn't stay at a roadside it drifts in the air and carries easily into lungs. So health within our area will deteriorate and deaths caused by pollution will rise, children here already die five years younger than their parents so an increase in pollution will directly reduce our children's' life span. This is a fact – ONS stats. This development will compromise our way of life, even at weekends we will be subjected to increased noise and traffic, a relentless non compromising unsustainable form of development that is unacceptable when sited next to a residential area.

6) Environmental Effects:

The development will cause a severe and substantial impact and in accordance with the WFD this application must be rejected by TRDC as they have overall responsibility to ensure that permission is not granted to development which could compromise the WFD objectives which this proposed development does.

Please refer to the comprehensive documents lodged online which the R.A. fully endorse:
Keith Pursall – Maple Lodge Conservation Society

7) Economic:

Judith Passingham has carried out a detailed examination to discover whether or not the warehouses development delivers what the district needs. This document is lodged online and the R.A. fully endorses it.

8) Noise:

Should this development be sanctioned, despite the evidence that clearly warrants your refusal, we would request that TRDC impose certain restrictions both during and post construction. The developers will use a minimum of 1 – 2 rigs (total 3) at a time, to drive 3310 piles into the ground. This piling activity will create noise levels ranging between 100 – 135+ dB and will continue for weeks.



Please insist that the developer installs monitoring equipment so that if the noise reaches x then work must stop for x time, other councils insist on this. This issue needs to be addressed as there are many residents with young families in very close proximity to the site and many more residents, due to the pandemic, are now working from home. Some residents have retrained and are now self employed, building their fledgling businesses. All these livelihoods will be put at risk during this construction process, the trade off post construction of these warehouses will be limited jobs for skill sets unsuited to local residents.

The current noise level must be recorded so that if in the future the tenants choose to increase the sound levels by using eg refrigerated units, the sound level is not based on the new noise level. Env. Health mentioned 'noise creep' but unfortunately there has been no follow through by the dept. on this topic.

We need you to adhere to the government's 'building back better, supporting green jobs, and accelerating our path to net zero', whilst adhering to the fundamental goals of reacting positively to the Climate Emergency and Sustainability Strategy (TRDC 2021). The warehouses oppose these principles in every conceivable manner due to all the aforementioned reasons and therefore the planning balance of the interlinked Economic / Social / Environmental Objectives are not met. Therefore this proposed development that must be REJECTED.

- 4.3.6.2 Further representation received raising concerns regarding how difference officers/consultees are treating the application. Specific reference made to vehicle number details.
- 4.3.6.3 Further representations were received from the Residents Association on 22 April 2021. This comprised a 20 page document 'Doc #1 Traffic and its Implications'.
- 4.3.6.4 Further representations were received from the Residents Association (dated 26 April 2021) in relation to traffic counts for the proposed development. The letter states that it is a direct call for action on the part of the Council to address this matter without further protraction and delay.
- 4.3.6.5 Following the submission of additional information by the applicant in response to the Highway Authority's request for additional information, further objection comments were received from the Residents Association titled 'Response to new BWB document LNT2082'.
- 4.3.6.6 A Noise Report commissioned by Maple Cross and West Hyde Residents Association and undertaken by Cass Allen (Architectural and Environmental Acousticians Noise and Vibration Engineers) has been submitted by the Residents Association in support of their objection to the application including on grounds that there would be an adverse impact as a result of noise and the development fails to comply with TRDC Policy DM9 in this regard.
- 4.3.6.7 Following the submission of a response by the applicant's Noise Consultants, a further report by Cass Allen was submitted providing further comments.
- 4.3.6.8 Further representations were received from the Residents Association on 21 September 2021 reiterating concerns regarding the impact of the development on the underlying chalk aquifer and drinking water. The representation reiterates the RAs view that the development would be contrary to the Water Framework Directive and that TRDC therefore must refuse planning permission. The representation refers to legal advice sought by the RA on this matter.
- 4.3.6.9 Further representations were received from the Residents Association on 30 September 2021. The letter questions the advice received from Hertfordshire Ecology, which is considered by the RA to be both incorrect and inconsistent. There is reference to another site (Killingdown Farm) where the DEFRA metric has been used.
- 4.3.7 Woodoaks Farm - Soil Association Land Trust: [Objection]

The Soil Association Land Trust has recently taken on the care of Woodoaks Farm and plans to use it to showcase a more sustainable approach to land management, integrating farming and food production with environmental enhancement and public benefit. We see Woodoaks very much as part of the wider Colne Valley Regional Park and the network of green space, wildlife habitats and water features it provides.

I am writing to object to this planning application on the grounds a that it is an overly large-scale development and intensive land use so close to existing residential areas that will adversely impact on local amenity and the natural environment including biodiversity and water.

This application has been highly contentious as evidenced by the large number of objections and petitions raised by local people. The scale, mass and form of the proposed buildings will have an adverse impact on the area and will destroy an area of greenspace adjacent to an important local nature reserve.

The additional traffic generated will add to the pressure on an already congested road system that can easily become gridlocked as a result of congestion on the M25. The nature of the proposed operation will also extend the movements of heavy vehicles throughout the

day and night seven days a week adding to the disturbance, air pollution and noise for local residents. 24-hour operation will also extend the need for artificial lighting causing additional light pollution that will be disruptive to bats and other wildlife.

We are particularly concerned about the loss of biodiversity that will result from the development of this site and the potential adverse impact on the Maple Lodge Nature Reserve and would wholeheartedly endorse the comprehensive and detailed objections that the Maple Lodge Conservation Society have made. These are valuable green spaces which are ever-more important environmental assets in view of the catastrophic losses of wildlife in the countryside at large and the ongoing impacts of climate change. Protected trees will be lost, locally important habitats will be lost and ground water flows disrupted with untold consequences for the adjoining wetlands and reed beds which are UK Priority Habitats.

The proposals do not include a detailed assessment of ecosystem impacts nor any convincing mitigation or biodiversity offsetting proposals. The application should not be determined until this has been done, in accordance with current best practice. The applicants must demonstrate clearly that there will be no adverse impacts on the surrounding ecosystems or that any adverse impacts can be satisfactorily mitigated with a guaranteed biodiversity net gain.

In addition, the impact of the development on ground and surface waters on the edge of the floodplain is a major concern. The application itself has acknowledged that there will be disruption to groundwater flows caused by the piling required in the construction of the buildings, and there is an increased likelihood of surface water pollution. If any of this poses a threat to the adjoining fragile wetland ecosystems, which seems highly likely, the precautionary principle should be applied, and consent refused.

At Woodoaks Farm we will be promoting the benefits of sustainable production and encouraging local consumption of local produce. We do not believe that centralised distribution of goods, dependent on national road transport systems is the right approach at a time when climate change and environmental degradation are our greatest challenges.

We would urge Three Rivers District Council to act on its recent commitments to accept that we are in a climate emergency and that we need to think differently about reducing environmental impacts, and refuse this application.

If this proposal is approved, which we seriously hope will not be the case, we feel that the impacts on agricultural and visitor traffic to Woodoaks Farm need to be taken into account. Drawing number MLC-BWB-GEN-XX-DR-TR-0001 showing details of the proposed signal-controlled junction on Denham Way does not show the farm entrance immediately opposite the site and no provision seems to have been made for traffic turning right into the farm when travelling south on the A412.

Paragraph 8.5 of the Transport Assessment states: 'the farm access can be retained informally within the junction as shown, on the basis that vehicle trips will be low, or formally signalised as a worst-case (on a demand led basis)' and no attempt has been made to quantify or analyse the volumes or types of traffic using this entrance.

This access to the farm is used by a range of large agricultural machinery including tractors and trailers, combine harvesters, cultivation equipment, hay and straw transport and delivery lorries as well as increasing volumes of visitor traffic. It is vital that proper provision is made for this use in any re-design of the junction.

4.3.8 Springwell Residents & Conservation Association: [Objection]

I object to the proposal in my personal capacity as a home and business owner affected by the proposal but also as Chairman of the Springwell Residents and Conservation Association, being made up of those households situated within the hamlet of the Springwell Lock Conservation Area (plan attached).

We note that this is the second application following a refusal and dismissal at appeal. I also note the limited grounds for dismissal at appeal in respect of drinking water quality risks, however I believe that the following concerns should also now be considered for the following reasons:

1. No households or businesses in our hamlet were notified of this application, or the original application, or the appeal, despite the proposed development being highly visible from our locality plus at increased risk from noise pollution year-round. We have only in recent days found out about the proposals via social media and have therefore had no opportunity to object previously. Central Government guidance on consultation and pre-decision matters states: ... local planning authorities ... to publicise planning applications so that those with an interest can make representations and effectively participate in the decision-making process.

2. The public path around Springwell Lake passes just 200m from the application site in places. It is popular with walkers, bird watchers and fishermen who enjoy the tranquil natural habitat which is a designated Site of Importance for Nature Conservation, a Nature Conservation Site of Metropolitan or Borough Grade 1 Importance, and a Local Nature Reserve (see attached Hillingdon plan). Given its close proximity to the application site, it is unfortunate that a public notice was not posted on the path advising of applications of this magnitude at such close proximity. The views of a number of important public groups (making up the recreational and amenity users of Springwell Lake nature area) have thus been potentially excluded from the public consultation on the application.

3. Our homes, businesses and local public spaces will be exposed to more light intrusion and noise pollution by the proposed development than arguably any other locality close to the proposed development.

4. The submitted documents dealing with light pollution and mitigation are based on false assumptions and misleading data not previously uncovered, which casts grave doubt over the legitimacy of the Landscape and Visual Impact Assessment.

5. The submitted documents dealing with public sightlines and viewpoints are inaccurate, incomplete and misleading and therefore lead to false conclusions.

It is therefore our contention that the information contained in the application needs to be re-examined.

Viewpoints and sightlines

Viewpoint 6

I attach page 5 from Part 2 of the Landscape Visual Appraisal Report which deals with Viewpoint 6, a public bench and viewing platform on the popular walking route around Springwell Lake, a Site of Importance for Nature Conservation. The "Distance to Site" from the viewpoint is claimed as 460m. This is false. The actual distance to the site from this viewpoint is approximately 200m, less than half of that recorded.

The photograph in the submitted documents is taken from low level at a time when flora is in full leaf.

I attach a photograph taken on 21st March 2021 while some plants and trees are just coming into leaf and the trees on the site boundary and the buildings behind the application site are visible.

Viewpoint 17 and Springwell Residents viewpoints

I attach page 16 from Part 2 of the Landscape Visual Appraisal Report which deals with Viewpoint 17, the path on the east side of the public route around Springwell Lake.

The photograph in the submitted document is also taken from low level in high summer at a time when all flora is in full leaf.

I attach a photograph taken on 21st March 2021 and in this photo the application site boundary and the buildings behind the site are still visible.

This viewpoint is closely similar to the views enjoyed by residents of the Springwell Lock Conservation Area who have a westerly outlook across Springwell Lake.

Viewpoint 18

I attach page 17 from Part 2 of the Landscape Visual Appraisal Report which deals with Viewpoint 18 on public bridleway U3, part of the popular Colne Valley Trail. The photograph in the submitted document is taken from an obscured position again with trees in full leaf.

I attach a photograph taken on 22nd March 2021 at a point just a few feet further along the trail and the application site boundary and the buildings behind the site are significantly more visible.

Summary of Viewpoints and sightlines

The application data for these popular public viewpoints is inaccurate and the photos misleading. The submitted documents suggest that at all of these important viewpoints the proposed development will not be visible and the visual impact Negligible. A critical distance has been over-reported, obscured sightlines used, and no consideration given to the views for nearly half the year when the trees are bare.

The proposed buildings will be clearly visible in places and partially visible in others through bare trees, whilst at night with buildings lit throughout the hours of darkness, the visual impact would be Significant

Light intrusion

I attach a photo taken close to Viewpoint 17 at 1:30pm and another from the same spot, taken after office hours at 7:30pm on Monday 22nd March for comparison. In both photos, the proposed buildings are central to the frame and would fill about 70% of the near horizon. The amount of light visible from any of the above-referenced public viewpoints would have been similar at any time on any evening. What can be seen is a naturally dark view with a handful of dim light points in the far distance from the road lighting in the village of Maple Cross.

From public viewpoints 6, 17 & 18 and many others around the Springwell Lock Conservation Area these are incontrovertibly intrinsically dark natural landscapes at night.

I attach and refer to the Institute of Lighting Professionals - ILP (previously the Institute of Lighting Engineers - ILE) 2020 guidance notes for Local Planning Authorities. The ILP scale of Environmental Zones from E0 to E4 would place these natural landscapes adjoining the application site to the East, (Springwell Lake) and to the South (Maple Lodge Nature Reserve) as Zone E1 (Natural / Intrinsically dark). The other boundary areas to the application site would likely be classed E2 (Village or relatively dark outer suburban locations).

The documentation claims the application site as corresponding to Environmental Zone 3 - described by the ILP as "Small town centres or suburban locations" which appears excessive.

Even if it could be argued that the site be Zone 3, the ILP guidance for LPAs clearly states that: "Where an area to be lit lies on the boundary of two zones the obtrusive light limitation values used should be those applicable to the most rigorous zone."

Therefore in the case of the application site with two boundaries in Zone 1, the light limitation values must be that of Zone 1.

Guidance for Zone E1: S

ky Glow ULR: 0%

Luminaire Intensity: After 11pm curfew, 0 Candelas

Vertical Luminance: After 11pm < 0.1Lx

This indicates that any light emanating from the application site area at any time after 11pm is unacceptable. The only exception would be light emanating from public road lighting installations, but as the site is served only by a private road, street lighting will also be deemed unacceptable by the guidance. Headlights visible due to vehicle movements in and out of the site during the night would therefore also be inappropriate and damaging to the naturally dark landscapes of Springwell Lake and Maple Lodge Nature reserves.

The application as proposed orientates vehicle access, car parks, loading bays, office windows, roof skylights, lorry turning areas and warehouse entrance-ways in the most part, facing East to the most sensitive natural habitat and adjoining Environmental Zone 1 landscape.

Section 5.25 of page 31 of Part 1 of the applicant's Landscape and Visual Appraisal Report / Impact Assessment (LVIA) states:

"For the purposes of this LVIA, the existing conditions in the vicinity of the site are considered to correspond with Environmental Zone E3", whereas correctly interpreted above it corresponds to Zone E1 on at least 1 boundary. This brings into question the validity of the LVIA, which is a cornerstone of the claimed acceptability of the development in this locality, which now can be seen to be contrary to the National Planning Policy Framework and Local Development Management Policies:

Specific to landscape within Section 15 of the NPPF: "Conserving and enhancing the natural environment", paragraph 170 requires that the planning policies and decisions contribute to and enhance the natural and local environment by "protecting and enhancing valued landscapes...." and by "recognising the intrinsic character and beauty of the countryside". The revised Framework, therefore, seeks the protection and enhancement of landscapes / countryside.

Specific to lighting the NPPF states development should: limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation

TRDC Local Plan Policy DM7.b states:

Proposals that would unacceptably harm the character of the landscape in terms of siting, scale, design or external appearance will be refused planning permission

TRDC Local Plan Policy DM9.e states:

Development proposals which include external lighting should ensure that:

- ii) There is no unacceptable adverse impact on neighbouring or nearby properties
- iii) There is no unacceptable adverse impact on the surrounding countryside
- vi) There is no unacceptably adverse impact on wildlife

vii) Proposals in the vicinity of habitats and habitat features important for wildlife ensure that the lighting scheme is sensitively designed to prevent negative impacts on use of these habitats and habitat features.

Summary of obtrusive light issues:

With regard to the above policies and in the context of LPA guidance on obtrusive light limitations, the site, as designed, fails to meet policy objectives and is unsuitable and inappropriate development when intended for operation at night.

Only by the adoption of a different use or by a fundamental redesign of the site according to Zone E1 guidance, without external lighting, entrance ways, windows, nor the approach of vehicles with headlights visible at night could the above concerns be adequately mitigated to be in accordance with the ILP guidelines, NPPF and Local Development Management Policy.

Noise

I attach an image called: Springwell area plan - Viewpoints 6_17&18 - Maple Lodge loading beepers

Households circled in green and recreational visitors to Springwell Lake walks and Reed Beds are currently disturbed by the reversing beeper from a single loading vehicle at Maple Lodge sewage treatment plant. This has been the source of numerous documented complaints by residents of the Springwell area to Maple Lodge management. Despite their best efforts to minimise its operation, the noise carries unattenuated across Springwell Lake and is a significant nuisance.

The above noise from a single vehicle, operating irregularly would be of nothing compared with multiple vehicles operating continually all day and night, 7 days per week at the application site. The noise carried across the lake would be unimaginable and would ruin the quiet enjoyment of residents and public alike in the Springwell area and around the lakeside paths, canal towpath and public bridleway.

Springwell Lake is also a popular destination for fishermen who use the lakeside platforms day and night. This is an amenity use that would be unacceptably adversely affected by the proposals.

TRDC Local Plan Policy DM9.d states:

Planning permission will not be granted for development which:

- i) Has an unacceptable adverse impact on the indoor and outdoor acoustic environment of existing or planned development
- ii) Has an unacceptable adverse impact on countryside areas of tranquillity which are important for wildlife and countryside recreation

The normal statutory noise curfew hours between 11pm and 7am also appear to have been ignored by the application. There is nothing in the proposals which mitigate transmission of noise to sensitive areas between these hours or at any time.

Noise summary

The orientation of the site means that the majority of the noise generated at the site from vehicle reversing beepers and loading bays will be reflected towards the largely tranquil Springwell Lake trails and residents of the Springwell Lock Conservation area whose views have not been consulted. As designed, the adverse impacts on the above groups will be unacceptable and contrary to the above policy.

Conclusions of this submission

1. As designed, it has been shown that the application site is unsuitable for night time operations due to unacceptable light intrusion, and at any time due to the noise that would adversely affect the recreational and amenity use Springwell Lake nature area. It is unlikely that these factors could be satisfactorily controlled by conditions.

Only the complete acoustic enclosure of the site envelope including the service road to prevent any emission of sound or light could remedy this.

2. No very special circumstances have been given as to why operation of the site should not be restricted to "normal working hours". Economic viability arguments for development are not a justification for allowing adverse environmental or social impacts.

3. The refusal of the original application by TRDC and the findings within the Planning Inspectorate's appeal decision report relied upon the accuracy and truthfulness of the applicant's submitted information which is shown to be in doubt. Had the above information been highlighted at the time of consideration of the original application and subsequent appeal, it is likely that the main issues considered and reasons for refusal and dismissal may have been wider ranging. The current application should therefore be re-examined and subject to a broader review in light of this submission.

4. The application should be refused.

4.3.9 North Harrow Waltonians Angling Society: [Objection]

I am writing to you as General Secretary of the North Harrow Waltonians Angling Society to raise our objections to the proposal.

We manage the fishing facilities on Springwell Lake and the River Colne and provide access to approx. 250 members and their families.

This is an area rich in wildlife and accessed by many people for recreation, Springwell Lake and environs are easily accessible through the permissive pathways that link up with the wider area of footpaths.

We object because:

- There is inadequate provision for waste and surface drainage placing water courses at significant risk of contamination.

- There is inadequate provision for monitoring, control and remedy of any pollution risk. Once a pollution event occurs, the impact can be irreversible.

- The developers may suggest that the development can be constructed so that it is not at risk of flooding in itself but that potentially just puts other areas at greater risk as the flood waters will still need to be accommodated, forcing more flood water elsewhere.

- Flooding will increase the risk of pollutants from the site contaminating drinking water and the wider area, given that excess water will be diverted into the Maple Lodge Ditch that could increase pollution risk to a much wider area.

- In the proximity to the development site, conservation efforts have reaped significant benefits, with an abundance of wildlife present. These measures will be reversed by this development. There is insufficient provision made for the bio diversity impact.

- The noise and light pollution on the area will be significant with no meaningful mitigation during construction and no long term shielding.

- If permitted the development will create an aberration on the landscape that will significantly detract from the openness of the Green Belt and the tranquillity of Springwell Lake will be permanently destroyed.

Anglers, walkers and bird watchers will no longer benefit from their quiet enjoyment of the area.

4.3.10 The Chiltern Society: [Objection]

Flooding

Three Rivers by its very name suggests that this area where three rivers (and the Grand Union Canal) meet sees continual water flow through the area. We have been most fortunate in having considerable undeveloped land and lakes adjacent to the water courses on to which water can flood during high rain water events. Thus flooding has not been much of a problem in the area.

This should not lead to complacency. There is likely to be greater risk with much further development proposed for the area. The site developers for the warehouses proposal seem to dismiss flooding as a problem since the land concerned is not in flood zone 3. However the road past the site is known to flood for whatever reason. For example during April and May 2020 it was continuously flooded. We are told there have been improvements in the road drainage to mitigate this problem but we are not sure when this happened.

We would like to point out that the building of two warehouses and ancillary hard standing will remove the previous possibility of water draining into the soil of the site and some also being soaked up by plants. We are anxious about the volume of water likely to be diverted into the Maple Lodge Ditch which as its name implies is a small water course. It seems possible that the flooding problem will simply be diverted to a new site while the warehouses will be protected from flooding. We feel flood risk need further investigation.

Sewer Flooding

Regrettably Thames Water has a poor reputation in regard to this matter. For example: the Maple Lodge Conservation Society land has suffered from 3 episodes of sewage overflow in the past two years. This suggests that the sewers have inadequate capacity and will possibly be inadequate to cope with any extra discharge from the warehouse site.

Further upstream in Chesham sewage overflow in to the River Chess (which in Rickmansworth becomes the River Colne) has caused pollution rendering the river water unsafe for water cress growing and bathing which was a common pleasure for children in the summer. It is therefore most undesirable that there should be an increase of flow into the Maple Lodge sewers which would be inevitable should the warehouses be built.

Air Pollution

This was a major concern to us with the original application. The Covid-19 crisis has had the effect of reducing traffic in the Maple Cross area but should not induce a feeling of complacency in this matter. The Inspector in charge of the appeal against the refusal of a previous application only visited the site after lockdown so she did not see the traffic problems.

Children are once more attending the Reach Free school. The HS2 works down towards Denham has for a time reduced traffic on the A412 as there is only single line traffic and heavy traffic is avoiding this route. The extra traffic to and from warehouses would inevitably

increase air pollution levels. We note that regrettably Three Rivers Council do not at present monitor air pollution levels in Maple Cross.

4.3.11 Colne Valley Fisheries (CVF): [Objection]

On behalf of the Colne Valley Fisheries Consultative (CVFC) I wish to object to the proposed development for employment land to the North of Maple Cross, Rickmansworth, Herts, WD3 9SN. TRDC Planning Application Reference No. 21/0573/FUL

The Colne Valley Fisheries Consultative represents over 30 angling clubs and fisheries and works with various partners to improve and enhance the habitats of the Colne Valley especially for fish in rivers and lakes and for the benefit of the wildlife and the public that visit the area.

We generally support the position taken on this by the numerous organisations and individuals that have commented - many of who have presented justified reasons why this proposal should be rejected.

In our opinion there remains an inadequate environmental impact assessment and there appears to remain a lack of understanding by the developer of the history of this site and the immediately surrounding land. The majority of the site is designated as flood zone 1.

The access road to this site has become so regularly flooded that it now has official signage to that effect warning drivers of the likely conditions. The flooding issue has blighted the area in fact since the 1990's during which time the old Thames Water sewage drying beds and underlying gravel were removed and, in that process, surface water mains that were broken through were buried and never capped or diverted. The area was then landfilled with out any real control and it is known to contain hazardous material because outline planning applications were aborted shortly after that time as remediation of the land was too difficult.

On the 25th April 2021 the site was visited and despite one of the coldest and driest Aprils on record the very site for the proposed warehouse development and the loop road surrounding it were under as much as 400mm water. The site adjacent that was the location of the old drying beds is similarly flooded at what was normal ground level. Only the 'cap' over the land fill is above the water level. The old Thames Water pumping station that pumped the water from this site to the Sewage treatment works remains completely flooded in the ground floor. What implications therefore already exist for groundwater contamination before any piling is undertaken? Since our objection to the original application that contained some of this information our investigations have led to the discovery that the storm drains we referred to may actually have been a stream in a culvert (historic maps indicate the stream) in at least one of the bores. The fact is that these open ends remain and are the only obvious reason for the continuous flooding in the area.

There remains a very high risk of groundwater contamination in this area with road run off, interaction with foul sewers and exposure to buried hazardous materials. It is clear that water will need to be continually removed from the site. There is no robust evidence that any actions or attenuation proposed would achieve the level of decontamination required for disposal to any of the fragile habitats and/or water bodies that may be the recipient

We do not consider that due regard has been given to the possibility of aquifer cross contamination and pollution during the construction process, We respectfully suggest that the significant risk to our natural water environment let alone the general blight, light and noise pollution should in itself be a determining factor in the decision on this proposal that should clearly be to reject.

We do not believe the concept of biodiversity net gain has been demonstrated or will be met.

Three Rivers Local Plan Development Management Policies document states:

Development should result in no net loss of biodiversity value across the District as a whole.... Development that would affect a site identified as being in need of conservation by the UK Biodiversity Action Plan or the Hertfordshire Biodiversity Action Plan, will not be permitted where there is an adverse impact on the ecological, geological or biodiversity interests of the site, unless it can be demonstrated that:

ii) Adverse effects can be satisfactorily minimised through mitigation and compensation measures to maintain the level of biodiversity in the area.

d) Development must conserve, enhance and, where appropriate, restore biodiversity through:

i) Protecting habitats and species identified for retention

ii) Providing compensation for the loss of any habitats

iii) Providing for the management of habitats and species

We request and expect an outcome that comprehensively rejects this application.

5 Reason for Delay

5.1 To enable full consideration of the application.

6 Relevant Planning Policy, Guidance and Legislation

6.1 National Planning Policy Framework and National Planning Practice Guidance

6.2 In July 2021 the revised NPPF was published, to be read alongside the online National Planning Practice Guidance. The 2021 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”.

6.3 The Three Rivers Local 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 PSP3, CP1, CP6, CP8, CP9, CP10, CP11 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 DM2, DM4, DM6, DM8, DM9, DM10, DM13 and Appendix 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 SA2 Site E(d) employment allocation is relevant.

6.4 Other

Planning Practice Guidance (NPPG) (updated 2019).

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 2017 and the Natural Environment and Rural Communities Act 2006 may also be relevant.

South West Herts Economic Study (2018) and Update (2019).

Hertfordshire's Local Transport Plan (adopted 2018).

7 Planning Analysis

7.1 Background

7.1.1 The current application follows the refusal and subsequent dismissal at appeal of planning application ref. 19/1179/FUL. The planning and appeal history regarding that application is set out in detail at section 1 above. The application was refused for a number of reasons, however, the planning appeal was dismissed on 19.12.2019 solely in relation to reason for refusal 4 (groundwater). The appeal decision is discussed in more detail in the relevant sections of the analysis below. The proposed development remains the same as the refused application (LPA ref. 19/1179/FUL) and appeal scheme in terms of scale, layout and massing, with only minor amendments to car parking layouts and entrances. Following the appeal dismissal the applicant has engaged with Affinity Water and further detailed technical assessment has been undertaken and submitted with the current application in response to the Inspector's decision.

7.2 EIA Screening

7.2.1 Three Rivers District Council adopted a Screening Opinion in accordance with the requirements of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017 on 4 November 2019.

7.2.2 This was based on a proposal for the development of two Warehouse Units (Class B1c / B2 / B8), comprising a total Gross Internal Area (GIA) of 16,140 square metres (including 1,986 square metres ancillary B1c office space), access, landscaping and associated works, at Development Site, Maple Lodge, Maple Lodge Close, Maple Cross.

7.2.3 The Council had regard to the information submitted and concluded that an Environmental Impact Assessment was not required for the development.

7.2.4 The current application includes a slight reduction in total GIA (16,115 square metres), however, the conclusions of the Screening Opinion are considered to remain valid.

7.3 Principle of Development

- 7.3.1 The application site is an undeveloped greenfield site located within an allocated employment area (E(d)) as set out in the Site Allocations LDD (adopted November 2014). This allocation removed the site from the Green Belt.
- 7.3.2 The application proposes the construction of two warehouses (Classes E(giii)/B2/B8) comprising a total of 16,115sqm, including 1,882sqm of ancillary E(gi) office space.
- 7.3.3 It is relevant to note that Changes to the Town and Country Planning (Use Classes) (Amendment) (England) Regulations (“UCO”) were announced on 21 July 2020 and came into force on 1 September 2020. A new ‘Commercial, business and service’ use class (Class E) is created which incorporates the former B1 uses. Class E(giii) is the former Class B1c and Class E(gi) the former Class B1a. There are not changes to General industrial (B2) and Storage and distribution (B8) use classes. Reference in the Council’s adopted policies is to the former classifications.
- 7.3.4 Place Shaping Policy (PSP) 3 of the Core Strategy (adopted October 2011) requires that development in Secondary Centres, such as Maple Cross, will;
- c) Maintain and enhance employment opportunities in Secondary Centres but redistribute some employment floorspace through mixed use development in Kings Langley employment area and an extension in floorspace at Maple Cross/Maple Lodge.*
- 7.3.5 Policy CP6 of the Core Strategy advises that the Council will support development proposals that sustains parts of the District as attractive areas for business location. It also comments that the sustainable growth of the Three Rivers economy will be supported by continuing to focus employment use within key employment areas.
- 7.3.6 Policy SA2 of the Site Allocations LDD (adopted November 2014) states that allocated employment sites will be safeguarded for business, industrial and storage or distribution uses.
- 7.3.7 The provision of E(giii), B2, B8 and ancillary E(gi) floorspace would increase the amount of employment floorspace within the district, whilst safeguarding the site for business, industrial, storage and distribution uses. The proposal would accord with above mentioned policies in this regard.
- 7.3.8 The South West Herts Economic Study (2018) indicates a need for 152,000sqm of B1c/B2 floorspace between 2018 and 2036 (8,600sqm per annum) and 329,500sqm of B8 (18,300sq m per annum) across the whole of South West Herts¹. Of these amounts, it is estimated that in Three Rivers, there should be provision of 13,200sqm of B1c/B2 floorspace and 15,600sqm of B8 floorspace over the 2018-2036 period (or 700sqm of B1c/B2 floorspace and 900sqm of B8 floorspace per annum). This is estimated to require a land requirement of 3.3ha and 3.9ha respectively. The application proposes E(giii), B2, B8 uses to comprise the majority of this floorspace within the proposed development. The application site is an existing employment allocation which offers a suitable location to provide a proportion of the land required to meet these needs. It is therefore considered that the proposed development would contribute to meeting the need for floorspace set out in the South West Herts Economic Study (2018).
- 7.3.9 The proposed office floorspace is ancillary to these main uses. The South West Herts Economic Study estimates that 37,600sqm of office floorspace should be provided in Three Rivers over the period of 2018-2036 (equating to 1,700sqm per annum). The proposed office floorspace would contribute to meeting this need and would enable the efficient operation of the main uses and is therefore also supported.

¹ The figures provided are based upon the Preferred Scenario from The South West Herts Economic Study (2018); this is the trends based scenario.

7.3.10 In summary, whilst the objections, including regarding the need for employment space of this nature are noted, the South West Herts Economic Study (2018) identifies that there is a need for Class E(giii), B2, B8 and E(gi) floorspace within the district and the proposed development within an existing allocated employment site would contribute to meeting the identified need. The proposal in this regard would therefore comply with Policies PSP3 and CP6 of the Core Strategy (adopted October 2011) and Policy SA2 of the Site Allocations LDD (adopted November 2014).

7.4 Green Belt

7.4.1 As noted above, the development site is outside of the Metropolitan Green Belt, however the Green Belt does adjoin the eastern site boundary and a narrow strip outlined in red on the site location plan and linking to Maple Lodge Close to the south does fall within the Green Belt. No development is proposed within this strip, which is excluded from the proposed site layout plans. The proposed buildings, parking and servicing yards etc. are outside the Green Belt area, only the existing access road is within the Green Belt.

7.4.2 At paragraph 137 the NPPF states that;

“The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.”

7.4.3 Paragraph 138 of the NPPF continues;

“Green Belt serves five purposes:

a) to check the unrestricted sprawl of large built-up areas;

b) to prevent neighbouring towns merging into one another;

c) to assist in safeguarding the countryside from encroachment;

d) to preserve the setting and special character of historic towns; and

e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.”

7.4.4 No buildings, parking or service yards to either of the units would be located within the Green Belt.

7.4.5 It is noted that the vehicular access to Unit 1 crosses a narrow strip of the Green Belt. Paragraph 150 of the NPPF states that *“Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.”* One of these is: *“b) engineering operations”*. The creation of this access given its limited size and scale would preserve the openness of the Green Belt and would not conflict with the purposes of including land within the Green Belt.

7.4.6 Although the buildings, parking areas and service yards are not located within the Green Belt it is necessary to consider whether they would harm the openness of the adjacent Green Belt. The fact that they can be seen does not mean that they are automatically harmful to openness. Although the site is free from built form and hard surfacing it is not within open countryside as there is built development to the north/north-west including large commercial buildings and there is also the Maple Lodge Treatment Works to the south.

7.4.7 The buildings would be set back from the eastern edge of the site with the Green Belt and, although the buildings would be large and there are extensive parking and hard surfacing areas, they would be close to existing buildings and would not be harmful to the openness of the adjoining Green Belt.

7.5 Impact on Designated Heritage Assets

- 7.5.1 The application site lies to the north of Maple Lodge (known as Maple Lodge Farm), a Grade II Listed farmhouse which mostly dates from the 19th century although it does incorporate elements of an earlier 17th Century timber framed building. It is listed for its historic and architectural value. A former barn to the west of Maple Lodge Farm is also Grade II Listed. The barn is believed to date from the 17th Century and has been converted to residential use.
- 7.5.2 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states:
“In considering whether to grant planning permission or permission in principle for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”
- 7.5.3 Paragraph 195 of the NPPF advises that:
“Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal.”
- 7.5.4 Paragraphs 199 and 200 of the NPPF state 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 (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.”
“Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.”
- 7.5.5 Paragraph 202 of the NPPF advises that:
“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal...”
- 7.5.6 The NPPG advises that public benefits may follow from many developments and could be anything that delivers economic, social or environmental objectives as described in the NPPF. Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits, for example, works to a listed private dwelling which secure its future as a designated heritage asset could be a public benefit.
- 7.5.7 Policy DM3 of the Development Management Policies LDD advises that the Council will preserve the District’s Listed Buildings and that “Applications will only be supported where they sustain, conserve and where appropriate enhance the significance, character and setting of the asset itself and the surrounding historic environment.”
- 7.5.8 The first edition OS map shows that Maple Lodge Farm was historically isolated, forming part of a larger network of farms and arable land within the rural Rickmansworth area. The submitted Heritage Statement demonstrates that the land historically associated with Maple

Lodge Farm does not fall within the application site and the Listed Buildings lack a functional relationship with the site. It is also recognised that there is limited inter-visibility between the farmhouse and the application site due to the existing planting and hedgerow. Despite this, concerns were raised previously (application ref. 19/1179/FUL) that the proposed development would still impact the settings of the Listed Buildings by introducing large scale buildings closer to the historic farmstead and further removing it from its historic context set within a relatively open landscape. As the site is limited in its contribution to the setting and significance of the listed buildings, it was considered that any harm rising would be at the low end of 'less than substantial' and it was therefore necessary to consider if there were public benefits which outweighed the less than substantial harm.

- 7.5.9 The planning and appeal history is a material consideration and therefore the Inspector's conclusions in relation to impact on heritage assets are relevant. The Inspector found no harm to heritage assets, commenting at paragraph 117 of their decision that;

"...I therefore do not agree that the proposal would further diminish the rural setting of Maple Lodge Farm or detract from the way in which the listed buildings are understood and experienced".

- 7.5.10 The Inspector noted that the proposed buildings may be noticeable to the occupants of Maple Lodge Farm, however, they did not consider that these limited views would detract from the architectural or historic significance of Maple Lodge Farm or Maple Lodge Barn.

- 7.5.11 Third parties present at the Appeal Hearing raised concerns regarding the effect of noise on a heritage asset. The Inspector acknowledged that some noise from vehicles using the application site may be noticeable, however, it would be at a low level and having regard to the historical use of the property as a farm, the Inspector did not consider that such noise would detract from the historic interest or significance of the property.

- 7.5.12 The Inspector concluded at paragraph 122 of their decision letter that;

"The existing development in the locality of Maple Lodge Farm and Maple Lodge Barn, together with the domestic use of these properties has significantly harmed their setting. I have given careful consideration as to whether the proposed development would further detract from the significance and setting of these buildings, and I conclude that it would not".

- 7.5.13 In view of the fact that the Inspector found that the development would not harm the heritage assets, consideration of public benefits was not required.

- 7.5.14 In conclusion, whilst it is acknowledged that this is a new planning application submitted to overcome concerns in relation to impact on drinking water, the proposals, in terms of their impact on heritage assets have not changed materially and the conclusions of the previous appeal Inspector are therefore considered wholly relevant in this regard. This is also acknowledged by the Council's Heritage Officer who notes that it is accepted that the Inspector found no harm to the listed buildings and therefore an objection is no longer raised.

7.6 Character & Appearance (including impact on the landscape)

- 7.6.1 Paragraph 126 of the NPPF states that:

"The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. 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..."

- 7.6.2 Paragraph 130 of the NPPF states amongst other things that:

“Planning policies and decisions should ensure that developments:

a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”

7.6.3 Paragraph 134 of the NPPF states that:

“Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be given to (a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes: and/or (b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.”

7.6.4 Policy CP1 of the Core Strategy (adopted October 2011) advised amongst other things that:

“All development in Three Rivers will contribute to the sustainability of the District. This means taking into account the need to:

n) Promote buildings and public spaces of a high enduring design quality that respects local distinctiveness, is accessible to all and reduces opportunities for crime and anti-social behaviour”

Whilst this criterion talks about buildings and public spaces it stresses the importance of design quality and local distinctiveness.

7.6.5 In accordance with the requirements of Policy CP12 of the Core Strategy (adopted October 2011) development should amongst other things:

“a) Have regard to the local context and conserve or enhance the character, amenities and quality of an area.

d) Make efficient use of land whilst respecting the distinctiveness of the surrounding area in terms of density, character, layout and spacing, amenity, scale, height, massing and use of materials”

7.6.6 The combined width (north to south) of Units 1 and 2 would be 180 metres excluding the 3.8 metre spacing between them. The height of Unit 1 at its edge would be approximately 12.5 metres, with its roof sloping to a maximum height of 16 metres. Unit 2 would have a height of approximately 10 metres at its edge, increasing to a maximum of approximately 13 metres. Unit 1 would be sited between approximately 10 - 14 metres from the western site boundary. It is noted that the north-west corners of Unit 1 would sit close to the splayed northern site boundary. Unit 2 would be sited between 11 - 27 metres from the western

boundary. Unit 1 would be sited between 35 and 41 metres from the access road to the east and Unit 2 would be sited between 40 and 51 metres from the access road. Three new vehicular accesses are proposed along the access road, with some trees retained between them. Some soft landscaping is proposed around the perimeter of the site, however, the space between the buildings and access road and between Unit 1 and the northern site boundary would be largely occupied by hardstanding for service yards and car parks.

Character

- 7.6.7 In terms of land use, the area is mixed in character. To the east of the site are open fields. To the south west of the site are a number of residential roads including Longmore Close, Maple Lodge Close and Franklins. To the west of the site are a number of office buildings. Other uses in the nearby area are Maple Lodge Water Treatment Works and the Reach Free School.
- 7.6.8 In view of the variety of uses within the area and noting that the site is within an allocated employment site, the proposed uses would not be out of character within this mixed area.
- 7.6.9 The proposed buildings are large in terms of their footprint. However, the various commercial buildings to the west are also large. For example, Maple Cross House is 86 metres by 44 metres. The three buildings at The Rivers Office Park have a combined length of 97 metres facing Maple Cross House and 100 metres facing Hertford Place, although it is acknowledged that there are gaps between the individual buildings.
- 7.6.10 Therefore while it is acknowledged that the proposed buildings would be larger than these existing buildings, it could not be said that buildings with large footprints would be out of keeping with the area.
- 7.6.11 The proposed buildings would have extensive service yards and car parking; however, Hertford Place, The Rivers Office Park and Maple Cross House all have extensive areas of car parking adjacent to the buildings and these car parks are on more than one floor.
- 7.6.12 As noted above, the height of Unit 1 at its edge would be approximately 12.5 metres, with its roof sloping to a maximum height of 16 metres. Unit 2 would have a height of approximately 10 metres at its edge, increasing to a maximum of approximately 13 metres. The buildings would be relatively tall; however, the heights would not be inappropriate for the proposed uses.
- 7.6.13 There are a range of building heights in the area, ranging from the 2-3 storey residential buildings in Longmore Close and Franklins to the taller commercial buildings and Reach Free School, although it is acknowledged that the latter is some distance from the site. Maple Cross House is a three storey building with a flat roof, the three buildings in The Rivers Office Park are also three storeys in height but have pitched roofs, and finally Hertford Place is four storeys in height. While the heights of these buildings are not known floor to ceiling heights in commercial buildings will be higher than in a residential building. The site adjacent to Hertford Place on the corner of the A412 (Denham Way) and the access road has an extant planning permission for a four storey hotel between 14.5 and 20.5 metres in height. Whilst this building has not been constructed a Certificate of Lawfulness has been granted to confirm that the planning permission has been implemented.
- 7.6.14 Therefore it is considered that the heights of the proposed buildings would not be out of keeping with existing buildings and would be less than a building that could be lawfully constructed on an adjacent site.
- 7.6.15 In summary it is considered that the proposed uses, the scale of the proposed buildings, the site coverage by buildings and hard surfaced areas and the heights of the proposed

buildings would not be demonstrably harmful to the character of the area and the pattern and form of development in the area.

Layout & Appearance

- 7.6.16 Beyond the west of the site is Maple Lodge Farm Ditch. As set out earlier in this section of the report the two units would be positioned between 10 and 27 metres from this watercourse (apart from north west corners of Unit 1). The separation distances provided will ensure the buildings would not be cramped relative to the west boundary and also provides space for significant landscaping including tree planting and will ensure that the setting of the watercourse is not adversely affected. Unit 2 would be 11 and 16 metres from the south boundary which would ensure Unit 2 does not appear cramped relative to the south boundary.
- 7.6.17 The service yard to Unit 1 would be to the north of the building, it provides: areas for lorries to load and unload; parking for lorries; a lorry turning area; and refuse and recycling. The car parking is located to the east of the building between it and the access road and this area would provide car parking including accessible spaces and cycle parking. The entrance to the building for visitors and employees is located at the north east corner.
- 7.6.18 The service yard to Unit 2 would be to the east of the building between it and the access road, it provides: areas for lorries to load and unload; parking for lorries; a lorry turning area; and refuse and recycling. The car parking is also located to the east of the building and this area would provide car parking including accessible spaces and cycle parking. The entrance to the building for visitors and employees is located at the south east corner.
- 7.6.19 With regards to both units the entrances for visitors and employees are appropriately located. The accessible parking spaces are well located immediately adjacent to the entrances and are connected to them by footpaths. The cycle parking areas are also located close to the entrances which will encourage their use. The areas for refuse and recycling containers would be enclosed and are appropriately located within the service yards.
- 7.6.20 The layout of the site and the individual units and their associated car parks, service yards etc. is well considered and is acceptable.
- 7.6.21 Although they are different in size and orientation the two units would be similar in terms of their overall appearance and design features. Each unit has ancillary office accommodation. The entrance to both buildings for visitors and employees is marked by a glazed entrance feature almost the full height of the building. The office areas themselves have second and third floor windows along parts of the elevations. Each building would feature vehicle loading doors. Around the buildings are ground floor fire exit doors. Otherwise there will be no openings in the elevations of the buildings.
- 7.6.22 In terms of their roofs, both buildings would have two shallow pitched roofs, which is necessary given the depths of the buildings. Both buildings would have rooflights including to their internal facing pitches.
- 7.6.23 In terms of materials for the majority of the elevations of the buildings metal cladding is proposed with a half round profile. The cladding to the elevations would be in three bands of colour, with the darkest at the base. For the office elements of the buildings composite grey cladding is proposed. The roof would comprise of metal cladding.
- 7.6.24 The buildings are functional in terms of their design and appearance but this is neither inappropriate nor unacceptable given their proposed uses. The buildings largely comprise blank elevations that are broken up by loading dock doors to one side. The ancillary office accommodation has a greater area of glazing and the entrance to the buildings are marked

by three storey framed glazed elements. These glazed elements serve to break up that part of those elevations and the mass and form of the units.

- 7.6.25 Although the pitched roofs increase the overall heights of the buildings, the shallowness of the roof pitches is such that the highest parts of the roofs are considerably set in from the edges of the buildings and would not be clearly perceptible when close to the buildings; although it is acknowledged that from further away they would be visible but their height relative to the elevations would be limited.
- 7.6.26 A common design approach has been adopted for both units, which would produce a coherent and consistent appearance. This approach, particularly when considered alongside the materials to be used (as discussed below) would produce a high quality design.
- 7.6.27 As set out above, some areas of cladding are profiled while others are flat on different areas of the buildings. The use of different profiles, together with the use of different colours would go some way to help reducing the mass and bulk of the buildings and is considered an acceptable approach to their external appearance.
- 7.6.28 The colour scheme would have graduated blocks of colour with a dark colour at the base and light colour at the top. In addition, there would be different coloured panels used to frame parts of the elevations to denote entrance points etc. Colour shades would graduate up the buildings from darkest at the bottom to lighter shades at the higher levels. The darker colour would have a heavier, more solid appearance helping to draw the eye down the buildings towards the ground, while the lighter colour would have a lighter appearance allowing the higher part of the buildings to sit better against the sky backdrop.
- 7.6.29 While the end user(s) is/are not known and they may have their own branding and colour palette it is proposed that a consistent material and colour scheme would be used for both buildings to ensure continuity. Future occupiers of the development would be required to apply for separate consent to secure the provision of advertising.
- 7.6.30 It is considered reasonable and necessary to impose a condition requiring samples of the external materials to be submitted in order to ensure that the materials are of appropriate quality and appearance and to ensure consistency of approach between the two buildings and their external areas. It is also considered necessary to impose a condition to control the installation of means of enclosure across the site so as to safeguard the ongoing external appearance of the development.
- 7.6.31 In summary, it is considered that the layout and appearance of the buildings is acceptable and would result in a high quality design solution as advocated by the NPPF and Policy CP12 of the Core Strategy (adopted October 2011).

Impact on views and the landscape

- 7.6.32 In order to assess the visual impact of the development on various visual receptors and the character and appearance of the landscape the applicant has submitted a Landscape and Visual Impact Assessment (Landscape and Visual Appraisal Report, January 2021) (LVIA).
- 7.6.33 The LVIA assesses the impact of the development from 18 viewpoints, some of which are immediately adjacent to the site such as Longmore Close and the junction with the A412 (Denham Way), and others are further away such as Long Lane, Mill End and to the east of Springwell Lake.
- 7.6.34 The LVIA considers the impact on 3 types of receptor. These being residents, recreational users (eg. users of local footpaths and bridleways) and drivers. As there is no right to a private view, views from residential properties or their gardens do not need to be assessed as part of an LVIA, however, the LVIA considers public views from the adjoining residential

areas. The LVIA considers the visual impact of the development on the landscape at two points in time: Year 1 (i.e. immediate post completion of the development and any landscaping), and Year 15 (i.e. when the development will have become an established part of the local area and landscaping will have matured).

- 7.6.35 The LVIA has been undertaken in accordance with the most up-to-date version of 'Guidelines for Landscape and Visual Impact Assessment' prepared by the Landscape Institute.
- 7.6.36 Firstly it is considered that the LVIA has been prepared using an appropriate methodology and the viewpoints chosen are also appropriate.
- 7.6.37 The LVIA considers that for the majority of the 18 viewpoints the impacts on the landscape would not be significant or adverse. This is for a number of reasons including the nature of the views (glimpsed views and only the upper part of the buildings would be visible) and intervening existing and/or proposed trees and other vegetation.
- 7.6.38 There are 2 viewpoints where the LVIA identifies that the impact of the development on the landscape would be much greater (Viewpoints 11 and 9). These are set out below.
- 7.6.39 Viewpoint 11 (Longmore Close). Being a residential location the sensitivity of this viewpoint is high. There are gaps in the existing trees along the west boundary of the application site, so there will be glimpses of the development through these gaps. At Year 1 the effects of the development would be significant. It is proposed to implement a landscaping scheme along this boundary including water tolerant trees that would be 4.5 – 5 metres high at day 1 e.g. when planted. By Year 15 the landscaping will have matured and will largely screen views of the development; therefore, it is considered that the visual effects of the development will not be significant.
- 7.6.40 Viewpoint 9 (Maple Lodge Close/Chiltern Sports and Social Clubhouse and Recreation Ground). The LVIA concludes that the effects on road users in Maple Lodge Close would not be adverse. However, the effects on views from the Clubhouse and Recreation Ground on users would be greater.
- 7.6.41 Being a location that will be used by a number of people, the sensitivity of this viewpoint is high. There are gaps in the existing trees along the south boundary of the application site, so there will be glimpses of the development through these gaps. At Year 1 the effects of the development would be significant. It is proposed to implement a landscaping scheme along this boundary including trees that would be 4.5 – 5 metres high at day 1 e.g. when planted. By Year 15 the landscaping will have matured and will screen views of the development, therefore the effects will not be significant.
- 7.6.42 There is one Viewpoint where the LPA does not fully agree with the conclusions of the LVIA (Viewpoint 3) discussed below.
- 7.6.43 Viewpoint 3 (Junction of Denham Way (A412) and the access road). The most sensitive receptors at this viewpoint would be users of the footpath adjacent to the main road. There would be unobstructed views of the Unit 1, although there is a yellow hoarding around the site on the corner of the junction. At Year 1 the visual effects of the development would be moderate. At Year 15 the effects would not be significant. It is noted that the site behind the yellow hoarding has an extant planning permission for a 4 storey hotel between 14.5 and 20.5 metres in height; this consent has been implemented, although the hotel has not been constructed to date. The LVIA comments that the hotel and car park would screen views of the proposed development when completed; however, while the consent has been implemented there is no guarantee that the building will be completed. Therefore the LPA does not consider that the potential screening that the hotel could provide is decisive in the landscape impact.

- 7.6.44 Overall and on balance, the LPA agrees with the conclusion of the LVIA with regards to the assessment of the impact on the various viewpoints.
- 7.6.45 As part of the visual impact assessment the LVIA has considered the effects of night time illumination and considers that the existing conditions in the vicinity of the site correspond with Environmental Zone E3 'Medium district brightness areas (Small town centres or urban locations)'. The LPA agrees with this categorisation.
- 7.6.46 The LVIA also considers the impact on the landscape character of the area. The application site falls within the North Thames Basin (a national landscape character area) and the Colne Valley Gravel Pits (a regional landscape character area). The LVIA suggests that the main visual changes to the character of the landscape would occur at viewpoints in relatively close proximity to the application site and this means that the extent of any perception of landscape change and the viewpoints from where this change would be perceived would be restricted to a localised area. The LVIA continues by arguing that the change in character would be seen in the context of the adjoining land uses. The LVIA considers that the proposed development would not become a noticeable feature in the landscape. The LVIA concludes that the level of change on the landscape character would be moderate to minor and not significant.
- 7.6.47 Officers agree with the conclusion of the LVIA with regards to the impact of the proposed development on views and on landscape character.
- 7.6.48 In summary, it is not considered that the proposed development would have an adverse visual impact on the landscape or an adverse impact on the character of the landscape.

Character & Appearance (including impact on the landscape) – Conclusion

- 7.6.49 Overall and on balance although the buildings would be large and would be significant features, the scale, layout and design of the proposed development would be acceptable and would not have demonstrably harmful impacts on the character and appearance of the street scene, the general locality or the wider landscape. The proposed development would represent the quality of design sought by the NPPF and Core Strategy and would be acceptable in this regard.

7.7 Impact on Amenity

- 7.7.1 Paragraph 130 of the NPPF advises that planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 7.7.2 Policy CP6 of the Core Strategy (adopted October 2011) advises that the Council will support development that sustains parts of the District as attractive areas for business.
- 7.7.3 Policy CP12 of the Core Strategy (adopted October 2011) states that the Council will expect development proposals to protect residential amenities.
- 7.7.4 There are no residential neighbours to the immediate north or east of the site. To the east are open fields and to the north, the application site adjoins Witney Place, Denham Way where planning permission was granted in 2007 (07/1401/FUL) for the erection of a four-storey hotel. This consent has been implemented, but not built out to date. The approved layout includes parking to the rear (southern) boundary of this site where it adjoins the application site and service yard of Unit 1. The proposed development of the application site would not be of detriment to or impact on the ability to build out the adjacent permission.
- 7.7.5 The closest residential neighbours are located to the west and south on Maple Lodge Close and Franklins and Longmore Close, which are accessed via Maple Lodge Close. The

closest neighbour is No. 19 Longmore Close. This is a two-storey end of terrace dwelling that is orientated with its eastern flank elevation running roughly parallel with the western boundary of the application site. There are no first floor flank windows. To the rear of the dwelling is a raised deck with steps down to the remainder of the garden that is laid to lawn and extends to the rear and around the side of the dwelling. The dwelling does not have any boundary treatment marking its eastern boundary, with the Maple Lodge Farm Ditch that runs between No. 19 and the application site forming the boundary.

Overshadowing/Loss of Light/Visual Impact

- 7.7.6 Unit 1 would be located to the north of the site with Unit 2 to the south sited approximately 25 metres from the dwelling at No. 19 Longmore Close at the closest point (rear corner of dwelling). Unit 2 would have a width (north to south) of 97 metres. A distance of approximately 3.8 metres would separate Unit 1 and Unit 2. The combined width (north to south) of Units 1 and 2 would be 180 metres. The height of the building closest to the boundary would be approximately 10 metres, with the roof sloping to a maximum height of 13 metres. The shallow nature of the roof is such that the higher element would be set well off all site boundaries. Unit 1 would be higher with a haunch height of 12.5 metres and maximum height of 16 metres, however, Unit 1 would be located over 70 metres from the closest residential neighbour.
- 7.7.7 Guidance within Appendix 2 of the Development Management Policies LDD (adopted July 2013) suggests a minimum back-to-back distance of 28 metres in the case of two-storey buildings backing onto each other. This guidance is provided in the 'privacy' section of the design guidelines and is stated as being in "in the interests of privacy and to prevent overlooking" and does not relate to consideration of overshadowing or loss of light. In addition to the fact that it relates to privacy, it is important to note that the relationship between the existing residential neighbours (Longmore Close) and proposed buildings would not be a back-to-back relationship. Similarly, Appendix 2 relates specifically to design guidelines for residential development and there are no specific guidelines of this nature relating to separation distances between commercial and residential properties.
- 7.7.8 Whilst the Appendix 2 guidelines are not directly applicable, it is noted that there would be a distance of approximately 34 metres between the front (south-east) corner of 19 Longmore Close and the south-west corner of Unit 2; a distance of approximately 25 metres between the rear (north-east) corner of 19 Longmore Close and the western flank elevation of Unit 2, and a distance of approximately 73 metres from the rear (north-east) corner of 19 Longmore Close and the south-west corner of Unit 1.
- 7.7.9 For the previous application (ref. 19/1179/FUL) an illustrative section showing the relationship with Longmore Close was submitted which demonstrated that the proposed development would be lower than a 45 degree line of sight. To assist in assessing the impacts on neighbouring sites in terms of overshadowing and loss of light, a sunlight analysis was also undertaken and submitted during the consideration of the previous application. It is noted that the height and footprint of Unit 2 was reduced during the consideration of the previous application and that the sunlight analysis was undertaken prior to these amendments (reductions) having been made. The sunlight analysis included 3 views where the existing and proposed conditions had been modelled at 2 hour intervals from 9am to 5pm on 21st March, June, September and December. The sunlight analysis demonstrated that as a result of the proposed height and massing and siting to the north east of the existing residential properties on Longmore Close, the impact of the proposed development would not be significant or harmful, particularly when the sun is at its lowest and at its highest points during the year. As noted above, notwithstanding the conclusions of the sunlight analysis, Unit 2 was reduced in footprint and height in any case.
- 7.7.10 There is existing planting along the western site boundary that is proposed to be supplemented as part of the application. Vegetation cannot be relied upon to provide screening; however, due to its extent it would provide a degree of screening and would

soften the appearance of the development when viewed from Longmore Close. A long term landscape management plan could be secured via condition. It is not disputed that the development would be clearly visible and that the outlook of residents to the west would change; however, there is no right to a view and the separation distance is such that it is not considered that the proposed buildings would result in demonstrable harm through visual impact and the buildings would not appear overbearing.

- 7.7.11 The planning and appeal history is a material consideration, similarly there have been no changes to the height or siting of the proposed Units since the previous application was refused and dismissed at appeal and therefore the conclusions of the previous Appeal Inspector in relation to impact on the living conditions of occupiers of 19 Longmore Close are considered relevant:

67. Due to the location of the proposed building to the east of the flank boundary it would be clearly visible and the outlook of the occupants of 19 Longmore Close would change. The impact on views from the house would be more limited, but from within the garden there would be a loss of view over open land of the appeal site. The existing vegetation along the boundary would provide some screening, and it is proposed to supplement this as part of the landscape scheme. This would filter views of the proposed building. The suggested conditions include the submission of a landscape management plan which would ensure that the planting would remain in the long term.

68. As noted by the appellant, the siting of the proposed buildings is comparable to the existing context and relationships between the employment and residential areas. In particular, the Skanska building is situated 18.3m from the facing flank of the nearest residential properties, and is closer to the rear of the gardens of the residential properties in Franklins by comparison with the appeal scheme.

69. In general, the Courts have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on a view from a neighbouring property, are not generally regarded as a material planning consideration. Having regard to the distance and position of the proposed building in relation to the flank boundary of 19 Longmore Close, I consider that although it would be visible there would be sufficient separation to avoid an overbearing effect on the outlook of the occupants.

70. The submitted sunlight analysis includes 3 views where the existing and proposed conditions have been modelled at 2 hour intervals from 9am to 5pm on 21st March, June, September and December. The sunlight analysis was undertaken prior to amendments to Unit 2 and therefore the impacts shown would be greater than with the appeal scheme. The appeal site is situated to the north west of Longmore Close and as such the proposal would not add significantly to the existing overshadowing.

71. I therefore conclude that although there would be a change in outlook for the occupants of 19 Longmore Close, the proposal would not harm their living conditions and would not conflict with Core Strategy policy CP12 which seeks a high standard of design.

- 7.7.12 In conclusion, it is considered that the proposal would not result in levels of overshadowing or loss of light to justify the refusal of planning permission.

Overlooking

- 7.7.13 Doors and windows are largely located to the northern and eastern elevations of Unit 1 and eastern and south-eastern elevations of Unit 2 where they would overlook the proposed car parking and service areas. Fenestration to the western elevation is limited to rooflights and a single emergency access at ground floor level. The height of the rooflights and their position in the shallow sloping roof is such that they would not facilitate overlooking. There

would be 2 ground floor emergency access doors in the rear (west) elevation of Unit 2. This elevation is located between 11 and 27 metres from the western site boundary with additional planting proposed between the building and boundary. Their number, ground floor nature and spacing is such that it is not considered that overlooking would be facilitated.

Pollution - Noise Impact

7.7.14 Paragraph 174 of the NPPF advises that planning policies and decisions should contribute to and enhance the natural and local environment by amongst other considerations:

(e) Preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans;

7.7.15 Policy DM9 of the Development Management Policies LDD (adopted July 2019) sets out that planning permission will not be granted for development that has an unacceptable adverse impact on the indoor and outdoor acoustic environment of existing or planned development, has an unacceptable adverse impact on countryside areas of tranquillity which are important for wildlife and countryside recreation.

7.7.16 The Units and their servicing and car parking areas have been laid out so that the service yard for Unit 1 is on the northern side and the service yard for Unit 2 is on the eastern side.

7.7.17 An initial Noise Impact Assessment prepared by Cole Jarman (19/0333/R2) was submitted with the application. The assessment concluded that the operational noise from the scheme with the operational assumptions made would be considered to be at or below the Lowest Observable Adverse Effect Level (LOAEL). This is defined as a situation where;

“Noise can be heard and causes small changes in behaviour and/or attitude, eg. turning up volume of television; speaking more loudly; where there is no alternative ventilation, having to close windows for some of the time because of the noise.

Potential for some reported sleep disturbance.

Affects the acoustic character of the area such that there is a perceived change in the quality of life”.

The report considers that the positioning of the service yards allows the warehouse buildings to screen most noise from the service yards to the nearest residential dwellings as well as other surrounding properties.

7.7.18 The report concludes, that noise should not be considered a reason to impede the approval of the planning application.

7.7.19 The Noise Impact Assessment was reviewed by Environmental Health colleagues who raised no initial objections, however, following receipt of a Noise Report from the Residents Association (prepared by Cass Allen ref. LR01-21247-R0) and additional information provided by the applicant (RSK Acoustics, ref. 19/0333/M02 Rev 1) in response to this, Environmental Health were asked to review/provide further comments.

7.7.20 Environmental Health note that the key discussion point is on the methodology and assumptions made particularly around whether a background assessment should be undertaken or absolute sound levels used. There are considered to be arguments for both methods to be used and it depends on the relevant documents used. Whilst previous versions of BS4142 define some terms the current version does not and refers to other documents including WHO guidance and Planning guidance.

- 7.7.21 Environmental Health comment that when assessing the matter from the perspective of the Local Authority, they would argue that the primary focus of a noise assessment is to protect residents and ensure that any potential impact on the environment is considered. With regard to the consideration of the properties to the east of the site, whilst the reasoning submitted by the applicant is reasonable, Environmental Health consider that it would be prudent to demonstrate that by assessment prior to the site being brought into use. As such they recommend that the condition proposed by Cass Allen be included as this would give greater protection to the existing environment. The condition would ensure that prior to the operation of the site by any prospective tenant, a noise assessment that demonstrates that the rating noise level from any fixed or mobile mechanical plant or commercial activity including all noise associated with deliveries and vehicle movements shall not exceed the background sound level representative of the period being assessed at noise sensitive receptors, is submitted to and approved in writing by the Local Planning Authority. It is not considered appropriate for the condition to be worded 'prior to commencement' as until a tenant has been confirmed for the site and the expected operation known, any assessment would have to be based on reasonable assumptions and therefore would not satisfy the intent of the condition.
- 7.7.22 In addition, the Noise Impact Assessment makes assumptions regarding there being no refrigerated HGVs and no tug units. It is considered reasonable and necessary to impose appropriately worded conditions to this effect to ensure that noise resulting from the operations at the site does not have an adverse impact on amenity.
- 7.7.23 In summary, in view of the specialist advice received, it is considered that there would be no adverse impacts with regards to noise as a result of the development. The proposed development complies with the NPPF (2021) and Policy DM9 of the Development Management Policies LDD (adopted July 2013) in this regard.

Pollution - Light

- 7.7.24 Paragraph 174 of the NPPF advises that planning policies and decisions should contribute to and enhance the natural and local environment by amongst other considerations:
- (e) Preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans;*
- 7.7.25 Policy DM9 of the Development Management Policies LDD (adopted July 2013) states in relation to lighting proposals, that development proposals which include external lighting should ensure that:
- i. Proposed lighting schemes are the minimum required for public safety and security*
 - ii. There is no unacceptable adverse impact on neighbouring or nearby properties*
 - iii. There is no unacceptable adverse impact on the surrounding countryside*
 - iv. There is no dazzling or distraction to road users including cyclists, equestrians and pedestrians*
 - v. Road and footway lighting meets the County Council's adopted standards*
 - vi. There is no unacceptably adverse impact on wildlife*
 - vii. Proposals in the vicinity of habitats and habitat features important for wildlife ensure that the lighting is sensitively designed to prevent negative impacts on use of these habitat features.*

- 7.7.26 Details of external lighting are not included with the application. The submitted Planning Statement states that details of the proposed lighting scheme would be provided by way of planning condition. The Planning Statement comments that lighting will be limited to areas located to the north and east of Unit 1 and east of Unit 2 and would therefore be screened

from residential properties to the west by the proposed buildings. External lighting to the rear of the buildings closest to the residential neighbours would be limited to low level emergency lighting only.

7.7.27 It is considered reasonable and necessary to require details of all external lighting to be submitted for approval to enable full assessment against the criteria of Policy DM9 set out above.

7.7.28 In summary, it is considered that subject to the imposition or appropriate conditions the lighting of the site would not be likely to give rise to adverse impacts with regards to light as a result of the development. The proposed development, accordingly, complies with the NPPF (2021) and Policy DM9 of the Development Management Policies LDD (adopted July 2013).

Pollution - Air Quality

7.7.29 Paragraph 174 of the NPPF advises that planning policies and decisions should contribute to and enhance the natural and local environment by amongst other considerations:

(e) Preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans;

7.7.30 The NPPG provides guidance as to when air quality would be relevant to a planning decision. In summary, it states that when deciding whether air quality is relevant to a planning application, considerations could include whether the development would, amongst other considerations:

- *Significantly affect traffic in the immediate vicinity of the proposed development site or further afield.*
- *Introduce new point sources of air pollution eg. furnaces.*
- *Give rise to potentially unacceptable impact (such as dust) during construction for nearby sensitive locations.*

7.7.31 In relation to air quality, Policy DM9 of the Development Management Policies LDD (adopted July 2013) advises that development will not be permitted where it would:

- i. Have an adverse impact on air pollution levels, particularly where it would adversely affect air quality in an Air Quality Management Area and/or*
- ii. Be subject to unacceptable levels of air pollutants or disturbance from existing pollutant sources.*

7.7.32 The application site is not within an Air Quality Management Area.

7.7.33 An Air Quality Assessment prepared by BWB Consulting Ltd (Report ref. LNT2082-001) has been submitted with the application. The submitted reports deal with two aspects of potential air pollution: dust during construction and increased traffic resulting from the proposed development.

7.7.34 With regards to dust during construction, a qualitative construction phase dust assessment has been undertaken in accordance with the IAQM Guidance on the assessment of dust from demolition and construction. It is noted that no demolition is proposed; however, there would be earthworks, etc. The report proposes various mitigation measures during construction works and the report concludes that with these mitigation measures in place, the residual impacts from the construction phase are considered to be 'not significant'.

- 7.7.35 The report notes that the greatest increase in traffic on roads where existing sensitive receptors are present (on the A412 Denham Way, south of the site access road) is below the assessment criteria set out in the IAQM and EPUK guidance. As such the report concludes that the impact on local air quality as a result of additional traffic would be insignificant and detailed dispersion modelling of development generated road traffic would not be required.
- 7.7.36 The Environmental and Protection Officer has considered all of the submitted information. They agree with the methodology and the approaches to dust and traffic impacts. They also agree with the findings of the report and that there would be no adverse impact on air quality as a result of the development.
- 7.7.37 The Environmental and Protection Officer recommends informatives relating to: the use of Euro 6 vehicles where possible, and following relevant guidance such as the IAQM guidance.
- 7.7.38 In summary, in view of the specialist advice received, it is concluded that there would be no adverse impacts with regards to air quality as a result of the development. The proposed development in this respect complies with the NPPF (2021) and Policy DM9 of the Development Management Policies LDD (adopted July 2013).

7.8 Trees and Landscaping

- 7.8.1 The site contains a number of trees, predominantly located around the edges of the site, a number of which are formally protected by Tree Preservation Order (TPO) 493 which comprises A1 (a group of Alder along the eastern boundary) and A2 (several Oak, Hawthorn, Sycamore and Ash trees along the southern boundary). An Ash Tree (T73) is also protected. The most visually important trees are the Alder located along the eastern boundary.
- 7.8.2 Paragraph 174 of the NPPF advises that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.
- 7.8.3 In ensuring that all development contributes to the sustainability of the District, Policy CP12 of the Core Strategy (adopted October 2011) advises that development proposals should:
- i) Ensure that development is adequately landscaped and is designed to retain, enhance or improve important existing natural features; landscaping should reflect the surrounding landscape of the area and where appropriate integrate with adjoining networks of green open spaces.*
- 7.8.4 Policy DM6 (Biodiversity, Trees, Woodlands, Watercourses and Landscaping) of the Development Management Policies LDD (adopted July 2013) advises that development proposals for new development should be submitted with landscaping proposals which seek to retain trees and other landscape and nature conservation features. Landscaping proposals should also include new trees to enhance the landscape of the site and its surroundings as appropriate.
- 7.8.5 The application is accompanied by a Tree Survey and Arboricultural Impact Assessment prepared by Greengage (February 2021). The submitted report identified that 70 trees and tree groups ranging from Category B to Category U were recorded (these categories consider the quality and value (non-financial) of trees with Category A trees being the highest in terms of quality and value).
- 7.8.6 The previous application (ref. 19/1179/FUL) originally proposed the removal of 30 trees (4 Category B, 10 Category C and 16 Category U trees) to facilitate the proposed development. Outline landscaping proposals were also submitted to show new tree planting along the eastern and western boundaries to compensate for those lost. In response to

objections raised from the Council's Landscape Officer the access to Unit 1 was amended during the course of the previous application in order that an additional 3 trees could be retained (27 trees to be lost comprised of 4 groups and 23 individual trees). An amended landscape strategy was also submitted which proposed planting of 46 new trees to the perimeter of the site to supplement the retained vegetation. Notwithstanding the above, the Landscape Officer maintained their objection to the application due to loss of trees and likely detrimental impact on retained trees and the application (ref. 19/1179/FUL) was refused on that basis.

- 7.8.7 During the appeal process further amendments were made to the access and parking arrangements and these amended plans were accepted by the Appeal Inspector who determined the appeal on that basis.
- 7.8.8 The Inspector concluded that the differences between the parties in relation to the categorisation of the trees no longer had implications, and that the calculation of the Root Protection Areas (RPAs) within the submitted tree schedule had been carried out on the correct basis. The Inspector concluded that the use of a cellular confinement system would appropriately protect the existing trees and that a detailed Arboricultural Method Statement could be secured by condition to safeguard the trees during construction. Accordingly, the Inspector concluded that the proposal would not have an unacceptable effect on the trees on the site and would comply with policy.
- 7.8.9 Turning to the current application, this includes further minor amendments to the access and car parking layouts to further reduce the impact on RPAs which has resulted in the retention of additional trees. The current application proposes the removal of 10 trees (4 groups and 6 individual trees), with all trees to be removed either Category C or U trees.
- 7.8.10 The submitted Landscape Strategy would result in 46 new trees to supplement existing retained trees and reflects the Landscape Strategy considered at the time of the previous appeal.
- 7.8.11 The Council's Landscape Officer has reviewed the current application. They note that the submitted tree report indicates that a small number of poor quality trees would be removed to facilitate the development. However, this is substantially less than was proposed in a previous application for the site. They note that whilst the previous application was dismissed at appeal, the Inspector made clear in the decision that the impact on trees was not a reason for dismissal and that the impact had been reduced during the planning process. The Landscape Officer notes that the remedial landscape plans submitted for this application indicate that a substantial number of replacement trees would be planted, following development. They raise no objection to the development on tree grounds, subject to appropriate conditions including in relation to the implementation and maintenance of the landscaping scheme.
- 7.8.12 In summary, the development would result in the loss of a small number of poor quality trees. This loss would be mitigated by additional planting (46 new trees) to supplement retained trees. The submitted details demonstrate that existing trees to be retained could be adequately protected. As such the development is considered to comply with Policies CP1 and CP12 of the Core Strategy (adopted October 2011), Policies DM1, DM6 and Appendix 2 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2021).

7.9 Highways & Access

- 7.9.1 Paragraph 110 of the NPPF advises that;

In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;

b) safe and suitable access to the site can be achieved for all users;

c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and

d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

7.9.2 Paragraph 111 of the NPPF states that ‘Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe’.

7.9.3 All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed (paragraph 113 of the NPPF).

7.9.4 Policy CP1 of the Core Strategy (adopted October 2011) advises that in ensuring all development contributes to the sustainability of the District, it is necessary to take into account the need to reduce the need to travel by locating development in accessible locations and promoting a range of sustainable transport modes.

7.9.5 Policy CP10 (Transport and Travel) of the Core Strategy (adopted October 2011) advises that all development should be designed and located to minimise the impacts of travel by motor vehicle on the District. Development will need to demonstrate that:

i) It provides a safe and adequate means of access

j) It is appropriate in scale to the existing infrastructure...

k) It is integrated with the wider network of transport routes...

l) It makes adequate provision for all users...

m) It includes where appropriate, provision for public transport either within the scheme or through contributions

n) The impact of the proposal on transport has been fully assessed...

o) The proposal is accompanied by a draft Green Travel Plan

7.9.6 The application was accompanied by a Transport Assessment (TA), Construction Logistics Management Plan (CLMP) and Framework Travel Plan. The TA having been updated from the previous application (ref. 19/1179/FUL) taking into consideration the original TA and subsequent TA Addendum. During the course of the application HCC as Highways Authority (HCCHA) requested additional information be provided in relation to the permitted hotel development located on the corner of the private access road and Denham Way. This was submitted in the form of a Transport Note (TN) dated 7/5/2021 prepared by BWB Consulting.

7.9.7 The submitted details have been reviewed by HCCHA who do not wish to restrict the grant of planning permission subject to a number of planning conditions. This is discussed in more detail below.

7.9.8 In terms of the existing access, the site is approximately 1.5km from junction 17 of the M25. The site is approximately 220m from its north-eastern corner to the highway on Denham Way and accessed via a priority T-junction with Denham Way (with a right turn lane provided for vehicles turning into the private road when travelling north along Denham Way) and then a private access road. Denham Way is a single-carriageway road and designated as a

classified A (A412) main distributor road, subject to a speed limit of 40mph within the vicinity of the junction and is highway maintainable at public expense. There is a shared cycle way/footway on the eastern side of Denham Way; a pedestrian only footway on the western side and a signal controlled pedestrian crossing approximately 40m south of the T-junction. There is a pedestrian footway on the south side of the private access road leading to the site, which is not part of the highway, although HCCHA noted at the time of their site visit that vehicles were parked on much of the length of the private footway.

Trip / Traffic Generation

7.9.9 As the site is currently unoccupied, existing trip data has not been provided. HCCHA consider this acceptable.

7.9.10 The TRICs (Trip Rate Information Computer System) database has been used to determine the anticipated traffic levels (including vehicle trip rates) for the proposed use (and is included as part of the submitted TA). During pre-application discussions with HCCHA a Scoping Note was developed and agreed which outlined the anticipated trip generation of the proposed development based on a gross floor area (GFA) of 15,500sqm and a Class B8 land use. The applicant applied the 85th percentile trip rate from the survey sites selected in TRICs to the GFA of the proposed development (rather than using an average of all the sites in the TRICS database, in this instance the applicant has only used those sites at the higher end of the trip generation scale, "the 85th percentile"). HCCHA did note that the TRICs reports are dated 2017 and are therefore 4 years old. An interrogation of TRICs shows that there are new surveys and on this basis it would be appropriate for the TRICs reports to be updated as there are new sites in TRICs to be considered and the search site should exclude Greater London (currently included). However, notwithstanding this, HCCHA have undertaken their own TRICs interrogation to corroborate the results and the 85th percentile AM and PM peak hour trip rates are the same in HCC's interrogation as those presented in the TA and HCCHA therefore consider the approach to be acceptable. These are:

AM Peak:

- *Vehicle driver (per 100sqm): 0.634 arrivals, 0.083 departures resulting in 0.717 two-way trips*

- *Vehicle driver (15,500 sqm): 98 arrivals, 13 departures resulting in 111 two-way trips*

PM Peak:

- *Vehicle driver (per 100sqm): 0.055 arrivals, 0.607 departures resulting in 0.662 two-way trips*

- *Vehicle driver (15,500 sqm): 9 arrivals, 94 departures resulting in 103 two-way trips.*

7.9.11 The applicant has used the same trip rates to calculate trip generation for the gross floor area of the current proposal. In the TA this figure is 16,570 sqm. The application proposes a slightly lower figure of 16,115 sqm, however, the difference is not considered material and in any case the trip rates have been calculated on the higher figure. As previously noted, the applicant has used sites within Greater London and surveys conducted prior to September 2017 to derive the original trip rates. This is considered by HCCHA to be acceptable due to the use of 85th percentile AM and PM peak hour trip rates, as opposed to the average trip rate.

7.9.12 The TRICS database which has been used to estimate the potential trips created by the proposed development outlined approximately 119 and 110 vehicle trips within morning (8-9am) and evening (5-6pm) peak hours respectively. The results which have been obtained from traffic survey at the junction outline total existing vehicle movements of 2,333 and 2,458 vehicles within these peak periods. Therefore, the estimated potential trips created by the proposed development would result in an increase of traffic of 5% during these hours.

- 7.9.13 Data has also been analysed for extended peak periods of 7-10am and 4-7pm. The TRICS database showed 201 and 229 potential trips during these extended periods. The traffic survey data outlined total existing movements of 6,336 and 6,123 during the extended am and pm peaks respectively. The potential trips created by the development would result therefore in an increase in traffic of 3% (am extended peak) and 4% (pm extended peak).
- 7.9.14 The data provided can also be used to forecast potential two-way trips for a 24 hour period:
HGVs 132 two-way trips / LGVs/LVs 773 two-way trips, resulting in a total of 905 two-way trips.
- 7.9.15 HCCHA consider that the methodology used is robust and the results have been verified in TRICs by HCCHA. HCCHA note that the actual figure would most likely be lower due to the use of the 85th percentile rather than the mean, which provide a lower figure. The TA (and the methods within) would therefore be the normal method under which the trip generation would be robustly reviewed and assessed.
- 7.9.16 It is acknowledged that concerns have been raised by residents regarding trip figures provided in the Transport Assessment not corresponding to trip figures provided in the Noise Assessment. Whereas trip figures in the Transport Assessment are based on GFA, figures in the Noise Assessment are provided per unit. The Noise Assessment notes that the number of vehicles accessing and leaving the site on an hourly basis (two-way trips) has been provided by the Transport Consultant and that this number has been halved and rounded up to provide figures for each unit. Therefore a figure of 5 in the Transport Assessment would become 6 in the Noise Assessment ($5 / 2 = 2.5$, rounded up to 3 per unit and 6 in total). The figures in the Noise Assessment relate specifically to the methodology for that assessment and in considering the highways implications, regard should be had to the figures in the Transport Assessment as set out above.
- 7.9.17 As noted above, a Transport Note (TN) has been provided to include details of the permitted hotel. The TRICs database has been used to determine the predicted vehicle trip rates for the hotel. The anticipated traffic generation for the hotel is:

AM Peak (0800-0900):

- Total Vehicle trips (total based on number of bedrooms): 103 arrivals, 79 departures resulting in 182 two-way trips.

PM Peak (1700-1800):

- Total Vehicle trips (total based on number of bedrooms): 32 arrivals, 77 departures resulting in 109 two-way trips.

- 7.9.18 HCCHA consider the vehicular trip rates to be robust in order for a full assessment of the impact on the surrounding highway network to be made.

Impact on the surrounding Highway Network & Junction Modelling

- 7.9.19 Baseline traffic flow data is used (which is actual recorded data not assumed) for existing traffic flows and the directional distribution of these flows on the surrounding highway network. The parameters for the necessary area, scope and duration of baseline traffic data was agreed between HCCHA, Highways England and the applicant at the pre-application stage. As part of the assessment of the TA, HCCHA evaluates whether or not the baseline data used is sufficient and in accordance with any previous pre-app discussions. HCCHA also uses any of its own available traffic model data, recorded traffic flow data and accident data to assess and verify any submitted data in addition to identifying any known capacity or safety issues on the surrounding highway network.

- 7.9.20 The baseline data used for this application includes manual classified counts and existing baseline surveys from other sources (including data recorded and held by HCCHA). This baseline data would include existing traffic flows on the surrounding highway network including traffic from the Thames Water site; Hertford Place, Woodoaks Farm and any other existing uses.
- 7.9.21 Growth factors have then been used to determine suitable future growth rates for the recorded baseline traffic flows i.e. take into consideration any predicted future increase in the levels of traffic on the highway network. For this application future assessment years of 2022 and 2031 have been used and therefore HCCHA has assessed the acceptability of the proposals in the context of the baseline data and future assessment years to ensure a robust assessment of the any impacts.
- 7.9.22 HCCHA consider that the baseline data, assessment years and growth factors used in respect of this application are sufficient and acceptable.
- 7.9.23 With regards to the flow of traffic to and from the site, the application has not assumed that all traffic would access the application site via the M25. The submitted TA and subsequent TN take into consideration that a proportion of development traffic would access the site via the A412 to and from the south and the junction modelling included in the TA and TN reflect this. For example, the traffic flows in the TA show between 23% and 27% of development traffic would turn left in the peak hours when exiting onto the A412 (i.e. the direction of Maple Cross and not the M25). Furthermore the submitted TN shows that the baseline traffic flows + committed development (including the hotel) + proposed development + 2031 growth factors show a percentage flow of traffic from the south-west to and from the private access road (i.e. the direction of Maple Cross and not the M25) of between 20% to 26% for the AM and PM peak hours, which is consistent with this. This is considered to be reasonable and robust when taking into consideration that the 2031 model incorporates baseline (i.e. actual measured flows) in addition to the committed and proposed development, the status of Denham Way as part of the A road network and the close proximity of the site to the M25.
- 7.9.24 An assumed opening year (2022) and 2031 assessment of the local highway network have been completed as part of the TA and subsequent TN, which is an acceptable scope to assess the current and future impacts of the development on the surrounding highway network. PICADY (for priority junctions), ARCADY (for roundabouts) and LinSig (for traffic signalized junctions) model assessments have been prepared for the A412 / private site access road T-junction; M25 J17 and Maple Cross roundabouts and included as part of the TA. The junctions have been modelled using baseline traffic data, committed developments (including HS2 and the Reach Free School), TEMPRO growth factors and the above TRICs vehicle trip rates. The models take into consideration the actual features and constraints of a junction and therefore reflect how existing junctions work and how any design proposals would operate if implemented.
- 7.9.25 The model results for the Maple Cross roundabout and M25 J17 illustrate that the junctions would continue to operate within capacity in 2031 (including committed development) and are therefore considered acceptable by HCCHA. A LinSig model has been used to assess the performance of the existing signalised Chalfont Road / Denham Way / Maple Lodge Close junction and the results in the submitted TA show that the junction works within capacity.
- 7.9.26 HCCHA comment that Highways England would also need to be satisfied, specifically for the M25 junction. In that regard it is noted that Highways England have been consulted on the application and raise no objection subject to conditions.
- 7.9.27 A Junctions 9 PICADY assessment has been included in both the TA and the TN to assess the operation of the existing A412 / site access road ghost island priority-controlled junction, which would provide access to both the consented hotel and the proposed warehouse

development. The results identify significant capacity issues when using the current layout of the junction. Consequently, off-site highway works at this junction have previously been deemed necessary for the proposed warehouse development (and agreed in principle) and would have the additional benefit of improving the access arrangements for the permitted hotel (proposed access discussed below in more detail).

- 7.9.28 A LinSig model assessment has been carried out to assess the performance and functioning of the proposed signalization of the A412/site access junction, which is part of the proposed off-site highway works. The proposed signalized junction has been modelled using baseline traffic data + committed developments (including HS2, the Reach Free School and hotel), TEMPRO growth factors to 2031 and the above TRICs vehicle trip rates in the AM and PM peak.
- 7.9.29 HCC as HA has reviewed the LinSig modelling methods used in the TN, the approach of which reflects the 2031 trip rates and proposed highway junction layout. The methods used would be the standard way of presenting and assessing a proposed signalized junction and are therefore considered acceptable in this respect. The results of the LinSig modelling for all lanes/links of the proposed signalized junction show that the Degree of Saturation (DoS) (which is defined as the ratio of flow to capacity for a lane) is acceptable (at a level of below the recommended 90% for all arms/lanes) and the Practical Reserve Capacity (PCR) (which is a measure of the degree of spare capacity / degree of overload at the arm/lane with the worst DoS) is within capacity. Furthermore the predicted mean maximum queue levels on the highway would not be deemed to have a severe impact on the nearest junctions in either direction.
- 7.9.30 In conclusion, from a highways and transport perspective, HCCHA have assessed and reviewed the capacity and modelling results of the assessment of the proposals in the context of paragraph 111, National Planning Policy Framework (NPPF) (update 2021), which states that: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe". In this context and in conjunction with a review of traffic flows using HCCHAs COMET model, the application and above model results have demonstrated that there would not a severe impact on the road network including when assessing the cumulative impact of baseline traffic data + committed developments (including HS2, the Reach Free School and hotel) + TEMPRO growth factors to 2031 + the development in the AM and PM peak. Furthermore the site is an allocated employment site in TRDC's Local Plan and the A412 forms part of an A road network. Therefore the number of additional trips from the application site itself onto the A road would not be considered to be severe in this context.

Proposed Access & Off-site Highways Works

- 7.9.31 Access to the site is proposed via the private access road, with the introduction of a signalized junction with the A412. Vehicular access is not proposed to be provided via Maple Lodge Close, a residential road with traffic calming measures.
- 7.9.32 It is proposed to extend the existing private access road in addition to the formation of a new pedestrian footway on the western side of the carriageway. Three vehicular accesses are proposed from the private road, one serving Unit 1 and two serving Unit 2.
- 7.9.33 The proposed access arrangements including details of kerb radii, visibility splays and widths are considered to be acceptable and in accordance with Roads in Hertfordshire: Highway Design Guide and MfS.
- 7.9.34 Vehicle tracking / swept path analysis has been included as part of the submitted TA and the details are considered to be sufficient to illustrate that an HGV could safely manoeuvre into and out of the site accesses in addition to a car moving in and out of the car park only access. The developer would need to put in place a permanent arrangement for long term

maintenance and the road name plate would need to indicate that it is a private road as HCCHA would be unlikely to agree to its adoption.

- 7.9.35 The proposed off-site highway mitigation works which include the signalization of the junction of Denham Way (A412) with the private access road, would be necessary to mitigate the impacts from the proposal and enable traffic generated by the proposals to egress safely from and onto the highway. The measures would also be necessary to provide a safe crossing point for pedestrians and cyclists across Denham Way and across the mouth of the entrance to the private access road.
- 7.9.36 HCCHA have advised that the layout appears to work operationally and is considered to be acceptable, however, the design would be subject to a detailed review and road safety audit as part of the Section 278 (Highways) Agreement. The S278 Agreement would need to include:
- The signalization of the junction of Denham Way (A412) and the private access road including the associated carriageway widening, additional filter lanes and any associated works at the junction and to/from the Maple Cross roundabout;
 - The provision of signalized crossings points for pedestrians and cyclists (across Denham Way and one across the mouth / entrance of the private access road) to replace the existing pedestrian signalized crossing on Denham Way;
 - The relocation of the two bus stops with easy access kerbing, shelters and real-time bus information display screens.
- 7.9.37 Concerns raised regarding use of Maple Lodge Close are noted. In terms of construction traffic, a condition on any grant of consent would require the submission of a Construction Traffic Management Plan (CTMP) for approval. The CTMP would be required to include details of access/delivery routes to ensure that construction vehicles did not access the site via Maple Lodge Close. It is standard practice for such detail to be included within a CTMP. In terms of traffic post completion, as noted above, the development includes highways improvements to the private access road and junction with Denham Way such that it is considered it would be the preferred route for vehicles. As noted below a final submitted Travel Plan would need to be submitted for approval prior to the commencement of works, in a similar manner to the CTMP, this can include notifying staff and delivery vehicles regarding the correct access to the site to avoid use of Maple Lodge Close.

Accessibility, Sustainability & Travel Plans

- 7.9.38 HCCHA note that the site is located on the north-east side of Maple Cross within approximately 1.2km of the whole of the settlement. The settlement edge of Rickmansworth is approximately 800m north of the site and the town centre (and train station) approximately 3.5km north-east of the site. As such, the site is within an acceptable cycling and walking distance from the rest of Maple Cross and parts of Rickmansworth. There is footway and cycleway provision along Denham Way south into Maple Cross and north into Rickmansworth although parts of the shared foot/cycle way could be widened and improved to maximise pedestrian and cycling accessibility. The only pedestrian and cycling access into the site would be via the unnamed private access road and not Maple Lodge Close. Measures would need to be explored to ensure that the existing (and new extended) footway is kept free of car parking.
- 7.9.39 The nearest bus stops are located on Denham Way between approximately 350m and 550m from the development site. This is greater than the normally recommended 400m maximum walking distance from some parts of the site. The bus stops are also proposed to be relocated slightly further north along Denham Way as part of the signalisation of the access junction. This is considered to be acceptable when taking into consideration the proposed improvements to pedestrian and cycling accessibility at the junction and walking distances still remain within an acceptable level.

- 7.9.40 HCCHA note that the proposals include the provision of 57 cycle parking spaces which they consider acceptable at this stage. HCCHA recommend that the level of cycle parking is increased accordingly dependent on the number of potential staff members once known. This is to ensure that cycling is encouraged and maximised as a form of sustainable travel for staff members and visitors to and from the site.
- 7.9.41 A Framework Travel Plan has been submitted. Whilst HCCHA consider it to be generally acceptable at this stage of the development, the final submitted Travel Plan would need to be appropriately updated to take into consideration the comments of HCCHA. This would need to be submitted for approval prior to the commencement of works.
- 7.9.42 HCCHA note the concerns from local residents that the number of vehicles associated with the development would detrimentally impact on the safety of the surrounding highway network in Maple Cross, specifically for pedestrians. The proposed signalised junction and associated improvements to pedestrian and cycling accessibility / safety have previously been requested by HCCHA and were agreed in principle as part of the pre-application discussions to take into consideration and mitigate any adverse impacts from the proposals and to ensure that the proposals are acceptable from a highways and transport perspective, specifically in relation to access for pedestrians and cyclists. In this context the proposed highway works would improve the accessibility and safety for pedestrians and cyclists travelling between Maple Cross and Rickmansworth (including to and from the Reach Free School) and therefore onto and from the wider highway network.

Planning Obligations & Conditions

- 7.9.43 HCCHA note that as TRDC has adopted the Community Infrastructure Levy (CIL), therefore contributions towards local transport schemes would be sought via CIL in appropriate cases. The Three Rivers Community Infrastructure Levy (CIL) was adopted in February 2015 and came into force on 1 April 2015. The Charging Schedule sets out that the application site is within 'Area A' within which the charge per sq. m. of non-residential development is £nil.
- 7.9.44 Nevertheless in order to make the proposals acceptable to maximize sustainable travel options, HCCHA recommends that developer contributions of £6000 are sought via a Section 106 Agreement towards supporting the implementation, processing and monitoring of a full travel plan including any engagement that may be needed.
- 7.9.45 In terms of planning conditions, a Construction Logistics Management Plan has been provided and the general details are acceptable to HCCHA, however, a full Construction Management Plan with more specific information would be required to be submitted for approval prior to the commencement of works. As noted above, a final Travel Plan would also need to be submitted for approval.
- 7.9.46 A detailed scheme for off-site highways works would also be required to be submitted, relating to design, implementation and construction.
- 7.9.47 The proposed access road, on-site car parking and turning areas would be required to be laid out, demarcated, surfaced and drained in accordance with the approved plan prior to first occupation and retained thereafter available for that specific use.
- 7.9.48 Details of Electric Vehicle Charging Points (ECVPs) are also requested via condition.

Conclusion

- 7.9.49 HCC as Highways Authority considers that there would not be an unacceptable highway safety reason nor a severe road network reason to justify the recommendation of refusal of the proposals from a highways or transport perspective by HCCHA. Nevertheless the acceptability of the proposals would be subject to the full technical approval and completion

of the necessary off-site highway work and inclusion of the above recommended highway conditions, 106 obligations and highway informatives. It is considered that the obligations would meet the NPPF 57 tests.

7.10 Parking

7.10.1 Three Rivers District Council are the Parking Authority, and Policy DM13 and Appendix 5 of the Development Management Policies LDD set out the car parking requirements for the District. Car parking spaces should be shown on a proposed site layout plan with care taken to ensure that the size of any proposed car parking area is the minimum necessary to facilitate parking.

7.10.2 The parking requirements at Appendix 5 require:

B1(a) office 1 space per 30sqm

B1(c) light industry 1 space per 35sqm

B2 General industry 1 space per 50sqm plus 1 lorry space per 200sqm

B8 Storage and distribution 1 space per 75sqm plus 1 lorry space per 200sqm

7.10.3 The standards for car parking may be adjusted according to which zone the proposed development is located in. The application site is located within zone 3 where provision of between 50-75% of the standard may be acceptable.

7.10.4 The proposed floor areas for Units 1 and 2 combined and parking requirements are summarised in the table below:

Use	Floor Area	Parking Requirements
Core & Office (Class E(gi) formerly B1(a))	1,828 m ²	1,828 m ² / 30 = 61 spaces or 30-46 spaces if apply zonal reduction
Warehouse (E(giii) (formerly B1c), B2, B8)	14,234 m ²	14,234 m ² / 75 = 190 car spaces or 95-142.5 car spaces if apply zonal reduction 14,234 m ² / 200 = 71 lorry spaces or 36 – 53 lorry spaces if apply zonal reduction
Total	16,116 m ²	125 – 188.5 car parking spaces applying zonal reduction + 36 – 53 lorry spaces applying zonal reduction

7.10.5 In summary, the application would generate a requirement for between 128 – 188.5 car parking spaces and for between 36 – 53 lorry spaces.

7.10.6 Appendix 5 of the Development Management Policies LDD also sets out that the parking needs of disabled motorists. The standards require, in the case of employment generating development ‘up to 200 space car park’, individual spaces for each disabled employee plus 2 spaces or 5% of the total capacity, whichever is greater.

7.10.7 The number of disabled employees is unknown at this stage, however, the application proposes 8 accessible spaces which equates to 5% of the total car park capacity of 141 spaces.

7.10.8 The proposed parking versus the policy requirements are summarised in the table below:

	Proposed	Policy Requirement	Difference
Car	141	128 – 188.5	Falls within range
Disabled spaces	8 (of 141)	8 (5% of 141)	None
HGV / Trailers	38	36 - 53	Falls within range

7.10.9 It is noted that TRDC current adopted policy does not require Electric Vehicle Charging Points (EVCP), however, the draft parking policy approved by the Local Plan Sub-Committee and Policy & Resources Committee includes a requirement for 20% of spaces for such a development to be active provision and 30% to be passive. The application proposes 29 active charging points for spaces (20%) and 43 passive spaces (30%), enabling future conversion. Very limited weight can be attached to the emerging policy, however, the proposal accords with the intentions of that policy. Details of the EVCP would be secured via condition. It is also noted that HCCHA are supportive of this to ensure that the development is in accordance with LTP4 and HCC’S Sustainability Strategy.

7.10.10 Appendix 5 also sets out the following cycle parking standards:

- B1 - 1 short-term space per 500sqm gross floor area plus 1 long-term space per 10 full time staff
- B8 – 1 long-term space per 10 full time staff

7.10.11 At this stage employee numbers are not known, however, the application proposes 57 long-term cycle spaces. This is considered acceptable at this stage, as supported by HCCHA. However, HCCHA recommend that the level of cycle parking is increased accordingly dependent on the number of potential staff members. It is considered that this requirement can be addressed by a planning condition.

7.10.12 As indicated in the table above, the proposed car parking provision at 141 spaces would fall within the policy requirement when applying a zonal reduction. Of the car parking spaces proposed, the required percentage of accessible spaces would be provided. The proposed lorry parking provision at 39 spaces would also fall within the required range when applying a zonal reduction. 57 long-term spaces are currently indicated which is considered appropriate at this stage, however, provision could be increased accordingly dependent on the number of staff. The provision of 20% active and 30% passive EVCP is supported.

7.10.13 Whilst TRDC is the parking authority, it is relevant to note that HCCHA do no object to the overall level of parking or the layout which they consider is acceptable in accordance with MfS.

7.10.14 As such no objections are raised on parking grounds and the development is considered to comply with Policy DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

7.11 Energy & Sustainability

- 7.11.1 Paragraph 152 of the NPPF states that “The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support 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.
- 7.11.4 Three Rivers District Council declared a ‘Climate Emergency’ in 2019. The Climate Change Motion put forward by Members commits the council to use all practical means to reduce the impact of council services on the environment, use all planning regulations and the Local Plan to cut carbon emissions and reduce the impact on the environment. Following the declaration of the ‘Climate Emergency’ Three Rivers District Council agreed a Climate Change and Sustainability Report at its Full Council meeting on 25 February 2021. The TRDC Climate Strategy is not a planning document, but an overarching Council Strategy which is informed by the draft policies in the new Local Plan. Whilst the declaration of the Climate Emergency and Climate Change Strategy are noted, it is the current adopted Policy DM4 against which any planning applications must be currently be assessed.
- 7.11.5 The application is accompanied by an Energy Statement prepared by KGA (UK) Ltd (February 2021 R4). The statement sets out that the development has been designed to achieve optimum energy performance, incorporating the following features:
- Significantly exceed the minimum fabric requirements of Part L2A (2013) of the Building Regulations.
 - All buildings will include 100% low energy lighting and lighting control.
 - All buildings will be provided with mechanical ventilation with heat recovery (MVHR) systems for ventilation within offices.
 - The open plan offices will be heated and cooled via a high efficiency heat pump.
- 7.11.6 The statement illustrates that after the application of improvement in fabric, energy efficient building services and low and zero carbon technologies, both Units 1 and 2 would produce 5% less carbon dioxide emissions than Building Regulations Part L (2013).
- 7.11.7 In addition, having explored the feasibility of a range of renewable technologies, 250 square metres of roof mounted photovoltaics are also proposed. The addition of solar PV panels would result in Units 1 and 2 producing 40% and 37% less carbon dioxide emissions respectively. This would significantly exceed the current policy requirement for 5% and is supported.
- 7.11.8 The development would exceed the requirements of Policy DM4 of the Development Management Policies LDD (adopted July 2013).

7.12 Wildlife and Biodiversity

- 7.12.1 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 9 of the Conservation of Habitat and Species Regulations 2017 (as amended) which states that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive.

7.12.2 Paragraph 174 of the NPPF advises that planning policies and decisions should contribute to and enhance the natural and local environment by:

d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

7.12.3 Paragraph 179 of the NPPF advises that in order to protect and enhance biodiversity and geodiversity, plans should:

b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.

7.12.4 Paragraph 180 of the NPPF advises that when determining planning applications, local planning authorities should apply principles including:

if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

7.12.5 Policy CP1 of the Core Strategy (adopted October 2011) advises that; “all development in Three Rivers will contribute to the sustainability of the District. This means taking into account the need to (amongst other things) (f) “protect and enhance our natural, built and historic environment from inappropriate development and improve the diversity of wildlife and habitats”.

7.12.6 Policy CP9 of the Core Strategy (adopted October 2011) advises that; “The Council will seek a net gain in the quality and quantity of Green Infrastructure, through the protection and enhancement of assets and provision of new green spaces”.

7.12.7 Policy DM6 of the Development Management Policies LDD advises that development should result in no net loss of biodiversity value across the District as a whole.

7.12.8 Policy DM6 advises that;

(a) Development that would affect a Site of Special Scientific Interest, Local Nature Reserve, Local Wildlife Site or protected species under UK or European law, or identified as being in need of conservation by the UK Biodiversity Action Plan or the Hertfordshire Biodiversity Action Plan, will not be permitted where there is an adverse impact on the ecological, geological or biodiversity interests of the site, unless it can be demonstrated that:

ii) Adverse effects can be satisfactorily minimised through mitigation and compensation measures to maintain the level of biodiversity in the area.

(d) Development must conserve, enhance and, where appropriate, restore biodiversity through:

i) Protecting habitats and species identified for retention

ii) Providing compensation for the loss of any habitats

iii) Providing for the management of habitats and species

iv) Maintaining the integrity of important networks of natural habitats, and

v) Enhancing existing habitats and networks of habitats and providing roosting, nesting and feeding opportunities for rare and protected species.

(e) Linked habitats are important in allowing species to adapt and respond to circumstances. Development must not result in fragmentation or isolation of wildlife habitats and should seek opportunities for habitat connectivity with the wider landscape.

There is a Local Wildlife Site, Maple Lodge Nature Reserve, to the south east of, but not immediately adjacent to, the application site.

Bats

- 7.12.9 Except for a small (c. 4 sqm), partially-collapsed brick building on the west of the site and a small flat-roof building outside the eastern boundary, there are no existing buildings or hardstandings present and the site is covered almost entirely by natural or semi-natural habitats. The submitted survey indicated that one of the buildings had negligible potential for roosting bats whilst the second had moderate potential. Emergence and re-entry surveys were subsequently carried out on the building with moderate potential and no evidence of use by bats was found. Emergence and re-entry surveys were also undertaken focussing on trees as identified as having moderate potential to support roosting bats and the surveys confirmed the likely absence of roosting bats. As roosting bats are likely absent from the site, no formal mitigation is required on this basis. However, the site is considered to be of local importance of foraging and commuting bats. As such, existing tree lines are proposed to be retained. Similarly, as bats are light sensitive a sensitive lighting plan is required and would be secured by condition. Subject to an appropriate condition regarding lighting, bats would not be adversely affected by the proposed development.

Reptiles, Badgers, Otters & Water Voles

- 7.12.10 No reptiles were found during surveys, however, measures to safeguard reptiles (as set out in the ecological report) are recommended as there is suitable reptile habitat along the site boundary. Appropriate measures and mitigation in relation to badgers has been provided. No evidence of otters or water voles was identified.

Forester Moth

- 7.12.11 During the course of the processing of the application it was brought to the LPAs attention that a Forester moth had been recorded on the application site. This is a rare moth which is understood to have not been recorded in Hertfordshire since 1947 and as such was considered extinct within the County. Hertfordshire Ecology (HECO) note that the County Moth Recorder considers it unlikely that the moth has migrated to the site. There is no evidence of breeding, although the food plants – Common and Sheep's sorrel – are frequent / one patch respectively within the site. HECO note that this used to occur in the west of the county on clay soils, although there is no suggestion it is limited to river valleys. Habitats used by the moth as described by Butterfly Conservation include damp neutral grassland (such as the application site) to chalk downland, heathland, sand dunes and woodland clearings – i.e. a very wide range. Common sorrel - an indicator of old grassland where it survives moderate change - is relatively common throughout most of Hertfordshire.
- 7.12.12 The Forester moth is listed under Section 41 of the Natural Environment and Rural Communities Act (NERC) 2006, which identifies it as a species of principal importance in England. The LPA, accordingly, must 'have regard' to its conservation when performing any of its functions in accordance with its duty to conserve biodiversity under S40 of the Act (see Defra explanatory note on s.41).

- 7.12.13 As noted, paragraph 180 of the NPPF advises:

When determining planning applications, local planning authorities should apply the following principles:

a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

7.12.14 As also noted, Policy DM6 advises that;

(a) Development that would affect a Site of Special Scientific Interest, Local Nature Reserve, Local Wildlife Site or protected species under UK or European law, or identified as being in need of conservation by the UK Biodiversity Action Plan or the Hertfordshire Biodiversity Action Plan, will not be permitted where there is an adverse impact on the ecological, geological or biodiversity interests of the site, unless it can be demonstrated that:

i) The need for the development would outweigh the need to safeguard the biodiversity of the site, and where alternative wildlife habitat provision can be made in order to maintain local biodiversity; and

ii) Adverse effects can be satisfactorily minimised through mitigation and compensation measures to maintain the level of biodiversity in the area.

7.12.15 HECO have commented that conservation work relating to the Forester moth nationally has been variously successful;

“It was lost from Warwickshire despite measures taken to conserve it, but the Forestry Commission (FC) (08/07/2011) reported over 1,200 adults following creation of a 2.5 ha wildflower meadow grassland from former agricultural land at Long Newton near Middlesborough. The Upper Thames moth group reports (2019) Bucks sites with over 40 individuals, 16 individuals on a previously known site and 19 on a new site. These sites were on old ridge and furrow meadows on the clay and records more than doubled previous sighting numbers”.

7.12.16 This suggests that the species is potentially capable of having better years and may indicate why it has been recorded at Maple Cross and Chorleywood Common in 2021. Whilst the Bucks sightings were associated with old well-established grasslands, the FC experience also suggests that new habitat can be created which is capable of being colonised by the species. This suggests that it is reasonable to conclude that appropriate compensation measures secured by planning condition may be successful in providing new and improved suitable habitat resources.

7.12.17 As noted above, as a S41 NERC Act listed species “of principal importance for the purpose of conserving biodiversity” covered under section 41 (England) of the NERC Act (2006) it therefore needs to be taken into consideration by a public body when performing any of its functions with a view to conserving biodiversity. Consequently, in considering an application for development on land supporting the moth, TRDC must seek to secure its conservation. The possibility that the application site has been used for breeding by the Forester moth cannot be ruled out given the presence of its food plant and current rather rank nature of the sward. However, it would seem that there is experience which demonstrates that habitat compensation for any loss can be provided if a suitable grassland species composition and management regime could be secured elsewhere locally. This compensatory approach could overcome the constraint the species may otherwise represent if it could not be retained on-site, which is unlikely if the proposals were approved. HECO also consider that this would ensure that TRDC has complied with its NERC Act obligations relating to its Biodiversity Duty and S41 species responsibilities.

7.12.18 For this compensatory habitat to be provided, a suitably sized species-rich grassland supporting common sorrel and sheep’s sorrel if the ground is acidic, as well as other flowering herbs, would need to be created locally. Hay cutting and or grazing should seek to retain a short length of grass sufficient to enable overwintering of the caterpillar or pupa. Given the moth is currently recorded on a grassland of just over 2 ha, HECO consider that

a grassland of similar size and improved composition would be appropriate to accommodate sufficient habitat, larval food plants and nectar sources.

- 7.12.19 The applicant has proposed a potential conservation approach specifically to accommodate the presence of the Forester moth. This is presented with further background information on the ecology of the moth and proposed mitigation and management (letter from Greengage of 20 August 2021). Without appropriate management of the existing site, the habitat conditions needed by the moth are unlikely to be maintained. This supported the original Biodiversity Net Gain (BNG) proposal which it was proposed would provide a level of suitable compensation habitat for the moth.
- 7.12.20 Since this letter, Greengage proposed (26/08/2021) an additional financial contribution based upon the original HECO July 2019 BNG calculation approach (outlined at 4.2.5.3 above). This calculation is based on the area of the Maple Cross site that is currently grass cover and what an additional S106 contribution could be, looking at this being applied independently to enable compensation for the Forester moth to be delivered.
- 7.12.21 Greengage stated the application site is 3.4ha, of which approximately 2ha is grass cover. If the stewardship costings that were used for the previous contribution figure of £17,725 (for 2.26ha) are applied for this area, the additional S106 contribution would amount to £16,685, resulting in a total contribution of £34,410. Greengage considered that this followed a methodology that is appropriate for a contribution to the creation and management over a 25-year period of an appropriate species rich grassland that would provide suitable habitat conditions for the Forester moth.
- 7.12.22 HECO have confirmed that they have no reason to object to this assumption in itself, which follows the original habitat restoration and enhancement approach and is designed to address the species interest recorded at the site. It would obviously provide more habitat compensation and thus more opportunity for the Forester moth to colonise a potentially suitable offsite grassland site, and in this respect is welcomed.
- 7.12.23 Subject to a S106 to secure such contribution it is considered that the development accords with Policy CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013) and that the LPA has complied with its NERC Act 2006 obligations relating to its Biodiversity Duty and S41 species responsibilities.

Local Wildlife Site (LWS)

- 7.12.24 Maple Lodge Nature Reserve is a Local Wildlife Site to the south-east of, but not immediately adjacent to, the application site. It extends to approximately 40 acres and consists of lakes, a marsh, hedgerows and a wooded plantation. Whilst the wildlife site would not be directly affected by the proposals, significant concerns have been raised by interested parties regarding the impact of the proposed development on water levels within the Local Wildlife Site.
- 7.12.25 The Environment Agency (12 May 2021) ('EA') objected to the application on grounds including:
- “Insufficient information to determine the risk to groundwater, as the planning application fails to identify the Maple Lodge Nature Reserve, a Ground Water Dependent Terrestrial Ecosystem (GWDTE), as a ground water receptor.
Reason: The proposed development presents a high risk of contamination could be mobilised during construction to pollute controlled waters.”*
- 7.12.26 In support of their objection the EA cited paragraphs 170 and 178 of the 2019 NPPF which are now paragraphs 174 and 183 of the 2021 NPPF.

- 7.12.27 The Maple Lodge Nature Reserve (MLNR), as a GWDTE classified by the EA, is a wetland which critically depends on groundwater flows or chemistries. It is, as such, safeguarded by the Water Framework Directive (WFD) and recognised as being sensitive to hydrological and ecological changes caused by developments.
- 7.12.28 The 'environmental objectives' in Regulation 13 of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 (the 2017 Regulations) include:
- (2) For surface water bodies, the objectives are to-
- (a) prevent deterioration of the status of each body of surface water...;
- (5) For ground water bodies, the objectives are to –
- (a) prevent deterioration of the status of each body of groundwater...'
- 7.12.29 In Case C – 461/13 Bund v. Germany 10/07/2015 ('the Weser case') the European Court of Justice ('ECJ') held that the objectives of the Water Framework Directive were legally binding such that individual projects estimated to compromise the objectives were to be refused planning permission. The ECJ also decided that any deterioration in individual water body quality elements constituted 'deterioration' as defined by the Directive (the test did not just apply to overall water body status).
- 7.12.30 In their letter the EA advised that:
- "It may be possible to overcome our objection by undertaking further risk assessment to ensure there will be no adverse impact to the MLNR GWDTE as a result of the proposed development."*
- 7.12.31 In response to the EA objection, the applicants instructed H Fraser Consulting, who have carried out a hydrological impact assessment entitled 'Maple Lodge nature reserve Hydrological impact assessment and GQRA (07/06/2012)' ('HIA') which is to be read in conjunction with the HFCL (2021) Contaminated Land and DQRA reports submitted with the application.
- 7.12.32 The HIA at paragraph 2.2 identifies the development proposal and that the piling method to be used would be displacement piling with pre-formed concrete piles not using wet grout or cement. It is noted that "The compressive zone around the pile tends to be self-sealing, mitigating against the formation of pathways for groundwater transport up or down the pile shaft."
- 7.12.33 In HIA at paragraph 2.3 the assessment describes the MLNR including the shallow lakes, Clubhouse Lake and Marsh Lake; the water levels of the latter lake thought to be influenced by fluctuations in water levels in the River Colne via flow in the River Terrace Deposits ('RTD') aquifer. The RTD aquifer extends to underlying the application site with the Chalk aquifer (which is extensively used for ground water abstraction for Public Water Supply (PWS)) below. The groundwater contours in HIA Figure 2-8 show that the groundwater gradients in the shallow RTD aquifer are towards the southwest, indicating that groundwater flows from the site are towards the stream on the western site boundary which flows, via a ditch, into the MLNR. Groundwater flows in the Chalk aquifer are generally towards the southeast but with some indication of a flow to the south toward the MLNR.
- 7.12.34 HIA section 4 reports that the updated DQRA Site Conceptual Model indicates that, on the basis of groundwater monitoring data, RTD groundwater flowing beneath the application site is not thought to intercept the Clubhouse Lake and Marsh Lake; but that on a conservative analysis, assuming groundwater in the Chalk aquifer under the site flows to the south, it contributes to discharge from the aquifer to the two lakes.

7.12.35 On this analysis, the informed calculations in HIA section 5 Table 5-1 show that the component of groundwater deriving from the application site, including the proposed piling zone, flowing to the lakes is as follows:

- flows through the RTD aquifer 35m³/d or 3% of the total input to the lakes;
- flows through the Chalk aquifer 31m³/d or 3% of the total input to the lakes.

7.12.36 Table 5.2 shows the change in groundwater flow through the site that would arise as a result of the proposed piling; a 'conservative estimate' amounting to a 4% reduction of the current flow of groundwater to the lakes. For the bulleted technical reasons set out in HIA section 5, the risks to the MLNR are considered negligible.

7.12.37 The transport of manganese is addressed in HIA section 6 where the conclusion drawn that the increase in manganese concentrations in the MLNR would be low and not a cause of concern, is explained in six bullet points.

7.12.38 The DQRA report includes a detailed assessment of the likely transport of turbidity in the Chalk aquifer following the proposed development. HIA section 7 updates the assessment to assess whether groundwater velocity in the RTD aquifer is sufficient to sustain transport of turbidity. For the reasons set out in five bullet points, the conclusion is drawn that the risks of the development causing turbidity that would affect the MLNR are considered low. It is observed that, in any case, it is highly likely that the ecosystems within the nature reserve are adapted to normally naturally occurring turbidity events.

7.12.39 The assessment of there being any risk of contamination of the MLNR following the proposed development including displacement piling through the RTD and into the Chalk aquifer is set out in HIA section 8. The technical analysis set out in HIA Table 8-1 indicates that the risk would be negligible such that it is not anticipated that there would be any impact on the MLNR or on any groundwater dependent terrestrial ecosystems that may exist there.

7.12.40 Without prejudice to this conclusion, the HIA proposes an extensive programme of monitoring including the following mitigation measures;

- A piling method statement;
- Densification of the piling zone and the sequence of piling;
- Groundwater monitoring; and monitoring after piling for a period of eight weeks; and
- A Construction Environmental Management Plan setting out good practice for the minimisation of environmental impacts.

7.12.41 Regulation 13 'The Environmental Objectives' of the 2017 Water Environment (Water Framework Directive) (England and Wales) Regulations sets out environmental objectives which seek to prevent the deterioration of the status of water bodies which include the MLNR GWDTE. For the reasons set out in the technical assessment reported in the HIA, it is concluded that there is no demonstrable evidence to show that the proposed development of the application site would cause any material deterioration of the MLNR wetland ecosystems or the GWDTE that are protected by the 2017 Regulations or compromise any WFD objectives. Nor is the development likely to have any significant effect of the ecological status of the MLNR for the purposes of NPPF 182.

Habitats & Biodiversity Offsetting

7.12.42 Paragraph 174 of the NPPF advises that planning policies and decisions should contribute to and enhance the natural and local environment by, among other matters:

d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

No % or quantum of 'net gains' is stipulated in the framework.

- 7.12.43 Paragraph 179 of the NPPF advises that in order to protect and enhance biodiversity and geodiversity, plans should:
- b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.*
- 7.12.44 Paragraph 180 of the NPPF advises that when determining planning applications, local planning authorities should apply principles including:
- if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.*
- 7.12.45 Policy DM6 of the Development Management Policies LDD (adopted July 2013) states that (d) *'development must conserve, enhance and, where appropriate, restore biodiversity through: ii) providing compensation for the loss of any habitats'*.
- 7.12.46 The Environment Bill (introduced in October 2019) proposes to mandate the requirement for BNG in legislation, through changes made to the Town and Country Planning Act 1990. The Bill proposes to achieve a threshold 10% gain in biodiversity. The Bill is currently at the Report stage in the House of Commons and requires a third reading before it can be passed to the House of Lords and receive in due course Royal Assent. The requirement for 10% BNG is, therefore, not yet enshrined in planning law. As noted above, however, Local Plan Policy DM6 refers to the provision of compensation measures for the loss of any habitats.
- 7.12.47 When considering the impact of the development proposals on biodiversity it is necessary to consider impacts on habitats found on the application site and other potentially affected habitats off-site. There is no evidence to show that the proposed development of the application site would cause any demonstrable material deterioration of the MLNR wetland ecosystems or the GWDTE. And as seen in the consultation responses above, the discussion regarding the potential impact of the proposed development on species that are either found on or use the site, concludes that there would be no material adverse impact on species of fauna or flora at or using the site where biodiversity compensatory measures are secured by appropriate planning conditions and obligations.
- 7.12.48 It is recognised that the proposed development would have a direct biodiversity impact on the application site by reason of the loss of grassland. At the time of the previous application (ref. 19/1179/FUL), HECO considered that it would be appropriate to determine the appropriate financial contribution by reference to the cost of creating and managing, over a 25-year period, a smaller area of more species-rich grassland as a comparable ecological resource. HECO recommended that this should be an area of 2.26 hectares (two-thirds of the size of that being lost at the application site) plus 10% to represent a net gain of that resource. The total cost of this provision amounted to £17,725.
- 7.12.49 This recommendation did not follow any formal Biodiversity Metric assessment, which calculates the existing habitat on site in terms of biodiversity units, as well as the impact of the development and related compensation and enhancement measures. It is recognised that the HECO approach would probably have identified a lower monetary value than an approach using the metric with its defined biodiversity unit costs. In particular, it focused only on the conservation measures considered to benefit an existing local site. However, at the time, it was considered that if the measures could be secured, the potential benefits generated from restoring an otherwise degraded but formerly valuable Local Wildlife Site would adequately compensate locally for the loss of a poor grassland site which did not justify LWS status. This was considered to be a reasonable and proportionate

compensatory approach at the time, taking account of what was known of the nature of the application site.

- 7.12.50 In the subsequent appeal, new photographic evidence was submitted which appeared to show higher quality grassland was present on the site than had been previously identified. This was viewed by HMWT as indicative of the grassland meeting Priority Habitat status, based upon species identified in the photographs.
- 7.12.51 In the interim period between the HECO response to the original application and the appeal, the Government published its updated biodiversity metric and the Environment Bill, promoting the need for developments to demonstrate a measured BNG of 10%. Consequentially, at the appeal, HECO stated that if a similar application was now made, they would advise that it was reasonable for the LPA to expect that a 10% BNG be calculated using the NE metric V2.
- 7.12.52 In her decision letter, Inspector Coffey (paragraph 100) observed that: *“the benefits arising from the proposal are not measurable and that it may be beneficial to use a metric such as that produced by DEFRA [NE]. However, the use of a metric is not mandatory. The proposal includes mitigation and enhancement measures on the appeal site as well as sufficient funds to provide an area of grassland of greater ecological interest than the appeal site and to maintain it for 25 years.”* Accordingly, the Inspector did not find that the absence of the application of a biodiversity metric to the proposed biodiversity compensation measures excluded the probability of them contributing to biodiversity gain.
- 7.12.53 Since the Appeal Inquiry, in July 2021 NE published V3 of the metric. And, when this planning application was submitted in 2021, HECO undertook a site survey to update its own understanding of the site given the local concerns and assessed the proposals using V2 of the NE Metric, to determine what contributions to biodiversity net gain might be made. The total contribution based on HECO’s 10% calculation was £142,800.
- 7.12.54 In their comments of 14.09.2021 (Section 4.2.5.3 above), HECO set out that they consider there to be a number of options with regard to delivering BNG, and these are considered in turn:
- 7.12.55 Firstly, to maintain the existing original contribution of £17,725. This is not considered to take into consideration the evidence relating to the Forester Moth and necessary mitigation, and is therefore not supported by the LPA.
- 7.12.56 Secondly, to secure a greater contribution of £34,410. In order to ensure that BNG is achieved and the loss of Forester moth habitat is accounted for, the applicant proposes to include mitigation and enhancement measures on the application site as well as sufficient funds to provide an area of grassland of greater ecological interest than the application site and to maintain it for 25 years. Given that without appropriate management of the site the habitat conditions needed by the moth are unlikely to be maintained and the greater ecological interest of the proposed compensating grassland, it is concluded that the proposed development would comply with Core Strategy policy CP9 and LDD Policy DM6, as well as the advice in the Framework if a biodiversity contribution of £34,410 was secured. It is proposed, accordingly, to increase the financial contribution to take account of up-dated biodiversity information using the same methodology for an additional area of grassland. This would approximately double the area of compensatory grassland. On this basis the total figure sought would be £34,410. This follows the approach and methodology taken at the time of the previous application and is considered development plan policy compliant by officers.
- 7.12.57 Thirdly, to apply the NE V2 Metric and seek a contribution of £142,800. Both the NPPF (para. 174 (d)) and the Development Management Policies LDD are clear that development proposals should seek to secure net gains for biodiversity. The emerging biodiversity policy of Government is also clear, as set out in the Environment Bill; not only should there be ‘net

gains for biodiversity,' the bill proposes to require a measureable gain of 10% BNG. The NPPF and DMP LDD do not currently set out a quantum or percentage of BNG, and 10% BNG is not currently mandatory. However, emerging policy supported by Government is clearly supportive of the achievement of measureable biodiversity gains and the Defra Metric provides a tool for calculating measurable BNG. It is also noted that the applicant has confirmed in writing that should the LPA, having regard to the development plan and other material considerations consider it, necessary and appropriate to determine the biodiversity compensation based on HECO's 10% calculation utilising the NE V2 Metric, they would be willing to make a financial contribution towards BNG of up to £142,800. Officers consider that having regard to Policy DM6 seeking to incorporate measures for biodiversity enhancement wherever possible and the provision of compensation for the loss of habitat, and the support given by NPPF 174 (d) to providing net gains for biodiversity the LPA can find that it is necessary and appropriate to require that the development provides the measured contribution to biodiversity net gain calculated by reference to the NE V2 Metric to secure 10% BNG through a contribution of £142,800.

- 7.12.58 The HECO options, 4 and 5, relate to a compromise figure between options 2 and 3 above. Whilst comments from HECO regarding a compromise between the various figures are noted, as they also note themselves, such a compromise figure cannot be directly justified and therefore the LPA does not consider that such a figure would meet the CIL Regulation 122 tests. As such options 4 and 5 are not considered appropriate.
- 7.12.59 A number of objections, including from Herts and Middlesex Wildlife Trust (HMWT) have been received that the proposed development is not consistent with national or local planning policy in achieving a measurable net gain to biodiversity. Officers advise that the provision of the measured contribution of £142,800 to achieve 10% BNG meets that objection and is in line with the NPPF and Development Management Policies LDD and the CIL Regulation 122 tests. The £142,800 contribution would be secured by way of a S106 Agreement. The monies would be paid to the Council and spent by the Council or an instructed third party following agreement of a written costed scheme, with any amount not spent after 10 years returned.
- 7.12.60 The applicant has confirmed agreement in principle to payment of this sum and a S106 agreement is being progressed. Subject to such agreement being put in place, it is considered that the proposed development meets the requirements of Policy CP9 of the Core Strategy (adopted October 2011), Policy DM6 of the Development Management Policies LDD (adopted July 2013) and accords with the guidance in the NPPF (2021).

7.13 Flood Risk & Drainage

- 7.13.1 The majority of the site is located within Flood Zone 1 and therefore has a 'low probability' of fluvial flooding, with less than a 1 in 1000 annual probability of river or sea flooding in any year. A narrow strip to the eastern and southern boundaries lies within Flood Zone 2 and therefore has a 'medium probability' of fluvial flooding, with between a 1 in 100 and 1 in 1000 annual probability of river flooding in any year. The proposed buildings are located wholly within Flood Zone 1. The site lies within Groundwater Source Protection Zone 1 and Maple Lodge Farm Ditch Main River runs along the west boundary of the site.
- 7.13.2 Paragraph 159 of the NPPF states that;
- Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.*
- 7.13.3 Paragraph 174 of the NPPF advises that the planning system should contribute to and enhance the natural and local environment by remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

- 7.13.4 Policy CP1 of the Core Strategy (adopted October 2011) recognises that taking into account the need to (b) avoid development in areas at risk of flooding will contribute towards the sustainability of the District.
- 7.13.5 Policy CP12 of the Core Strategy (adopted October 2011) also acknowledges that the Council will expect development proposals to build resilience into a site's design taking into account climate change, for example through flood resistant design.
- 7.13.6 Policy DM8 (Flood Risk and Water Resources) of the Development Management Policies LDD (adopted July 2013) advises that development will only be permitted where it would not be subject to unacceptable risk of flooding and would not unacceptably exacerbate the risks of flooding elsewhere and that the Council will support development where the quantity and quality of surface and groundwater are protected and where there is adequate and sustainable means of water supply. Policy DM8 also requires development to include Sustainable Drainage Systems (SuDs). A SuDS scheme for the management of surface water has been a requirement for all major developments since April 2015.
- 7.13.7 The application is accompanied by a Flood Risk Assessment (FRA) and Drainage Strategy, general arrangements showing proposed foul and surface water drainage, drainage construction details and proposed surface water manhole schedule.

Sustainable Drainage

- 7.13.8 HCC as Lead Local Flood Authority (LLFA) were consulted by the LPA to provide advice with regards to surface water drainage. In summary, the LLFA have confirmed (4.2.4 above) that they are content that the applicant has demonstrated a feasible discharge mechanism, management of the volumes of surface water and how they are proposing to manage this (this is with attenuation tanks, permeable paving and an interceptor). The LLFAs consultation response letter to the LPA recommends the inclusion of three conditions, specifically a pre-commencement condition in order to confirm the final details of the scheme, therefore the applicant will be required to submit a detailed drainage strategy with all requirements before they will be able to commence works on site. The LLFA have had regard to the Water Framework Directive, hence the requirement for appropriate management and treatment of surface water, being provided in the form of permeable paving and a petrol interceptor, as well as the exploration of the need for the applicant to assess above ground SuDS features such as filter strips for additional treatment as part of the details requested in the condition.
- 7.13.9 The LLFA note that the drainage strategy is based on permeable paving, geo-cellular attenuation and restricted discharge to the QBAR greenfield runoff rate of 6.5l/s, with a pumped discharge into Maple Lodge Ditch, which is a Main River. As the application site is a greenfield site, the new development should be minimising underground storage. The LLFA consider that the proposal for geo-cellular tanks on a greenfield site is justified by the evidence on the presence of groundwater on site and ensuring that sufficient storage is able to be provided to restrict to the QBAR rate. The applicant will need to fully line SuDS features on site to mitigate against potential groundwater ingress and ensure engineering design against any possible lifting.
- 7.13.10 With regards to management and treatment of surface water, the LLFA note how petrol interceptors are proposed. Mechanical methods of treatment require rigorous maintenance regimes, and it is preferred that more on surface solutions are provided. The LLFA are pleased to see the use of permeable paving for the parking areas. It is acknowledged that due to the use of HGVs on site, mechanical methods of treatment are likely to be needed. The LLFA have recommended to be clarified by way of condition, that the applicant investigates additional provision of above ground management and treatment of surface water. Within the detailed design the applicant will need to explore more appropriate management and treatment of surface water such as the exploration of inclusion of above ground SuDS features such as filter strips e.g. in the north of the site for the linear drainage

channel, as well as other locations including exploration of minimising the use of road gullies and if more appropriate on surface SuDS features could be provided.

7.13.11 With regards to the half drain down times of the drainage system, the applicant has detailed within the FRA itself how half drain down times during the 1 in 100 year + climate change event is 11 minutes. However, from a review of the MicroDrainage calculations, it is stated how Half Drain Time has not been calculated as the structure is too full. However, some specific half drain times are provided within the results for the nodes themselves. If half drain down times are unable to be achieved within 24 hours, the applicant will need to ensure that there is adequate storage on site to cater for a 1 in 30-year storm immediately following a 1 in 100 year + climate change event. The LLFA recommend that this is clarified by way of condition.

7.13.12 The LLFA note that as riparian owner, the applicant will need to ensure that the Maple Lodge Ditch is in a suitable condition and will need to undertake appropriate maintenance. They also note that the applicant will need to liaise with the Environment Agency regarding any permits required for connection to the main river.

7.14 Contaminated Land/Groundwater

7.14.1 Paragraph 174 of the NPPF advises that planning policies and decisions should contribute to and enhance the natural and local environment by amongst other considerations:

(e) Preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans;

7.14.2 Policy DM9 of the Development Management Policies LDD (adopted July 2013) advises that;

“The Council will refuse planning permission for development, including changes of use, which would or could give rise to polluting emissions to land, air and/or water by reason of disturbance, noise, light, smell, fumes, vibration, liquids, solids or other (including smoke, soot, ash, dust and grit) unless appropriate mitigation measures can be put in place and be permanently maintained.”

7.14.3 The application is accompanied by the following documents which have been reviewed by the Environmental and Protection Officer:

- Site Investigation and Geo-Environmental Assessment Report prepared by ESI Environmental Specialists (Report Ref. 62409D1), June 2014;
- Supplementary Site Investigation – Maple Cross, Rickmansworth prepared by Tier Environmental Ltd (Report ref. TL1177SSI1.3), 9th February 2021;
- Method Statement for Monitoring Well Decommissioning prepared by Tier Environmental Ltd (Report ref. TL1177MWDECOM.MS1.2), 23rd February 2021;
- Maple Cross Contaminated Land Assessment and DQRA – Summary report prepared by H Fraser Consulting Ltd (Report ref. 30422R1), 2nd March 2021;
- Piling Method Statement and Risk Assessment for Maple Cross, Hertfordshire prepared by Tier Environmental Ltd (Report ref. TL1177PMSRA1.2), 2nd March 2021.

7.14.4 The Environmental and Protection Officer has advised that the intrusive investigations have not identified any elevated concentrations of contaminants of concern in exceedance of the relevant generic assessment criteria.

7.14.5 The investigations have identified the existence of a complete contaminant linkage with regards to asbestos fibres and fragments in the underlying soils. It is considered that the

site presents a potentially unacceptable risk from asbestos to human health for a commercial/industrial land use.

7.14.6 As the presence of asbestos fibres/fragments was identified in underlying soils a Remediation Strategy is required. Outline remedial measures have been discussed in the report. These include the following:

- Preparation of a Remediation Strategy;
- Removal and verification of areas containing heavily impacted asbestos soils for disposal as hazardous waste, verification of excavations to validate complete removal;
- Removal and segregation of areas containing impacted asbestos soils through hand-picking of visibly identifiable ACM fragments for disposal as both non-hazardous (bulk soils) and hazardous waste (reduced asbestos volume). Verification sampling of excavations to validate complete removal*;
- Removal and verification of any previously unidentified areas of contamination, where required:
- Backfill of resultant excavations with suitable material;
- Laboratory chemical testing and risk assessment of imported materials required for the for the clean cover system;
- Installation of a 300mm clean cover system at the site in the soft landscaping areas.

7.14.7 Further details were provided in a previously submitted technical note. The physical barriers provided by the hardstanding of the development and the clean cover system are considered suitable measures to break the pathway between any remaining sources of contamination and sensitive receptors. Asbestos fibres are only a risk if they are inhaled, if these are encapsulated under a concrete foundation there is no availability of a pathway and therefore no likelihood of a receptor being exposed to fibres.

7.14.8 The Environmental and Protection Officer has considered all of the submitted information. They agree with the findings of the reports and that there would be no adverse impacts with regards to land contamination as a result of the development subject to appropriate conditions.

7.14.9 The Environmental and Protection Officer has recommended the imposition of a condition requiring both an options appraisal and remediation strategy. The remediation strategy would include details of fibre monitoring to address the potential impact with regards to asbestos. The site would be required to be remediated to a standard that ensures it is suitable for its proposed use. The remediation would remove risks not only to future occupiers of the site but also to adjacent site users.

7.14.10 A verification report would then be required to be prepared to demonstrate completion of works in the agreed remediation strategy. The verification report would be reviewed in order to assess whether the works carried out had removed or controlled the identified risks in accordance with the agreed remediation strategy.

7.14.11 The Environmental and Protection Officer also recommends a condition regarding any unsuspected contamination encountered during development that was not previously identified and proposals put forward to remediate accordingly.

7.14.12 With regards to surface water drainage, Thames Water have advised that if the developer follows the sequential approach to the disposal of surface water they would have no objection. With regards to foul water sewerage network infrastructure capacity, Thames Water raise no objection based on the information provided.

7.14.13 As the site is within 15 metres of a strategic sewer, Thames Water have requested an appropriately worded planning condition requiring submission of a Piling Method Statement.

7.14.14 Thames Water recognises that this catchment is subject to high infiltration flows during certain groundwater conditions. However, they do not consider that the scale of the proposed development would materially affect the sewer network and as such they have no objection. Thames Water recommend that petrol / oil interceptors be fitted in all car parking/washing/repair facilities.

Ground Water

7.14.15 The proposed development site is located within an Environment Agency defined groundwater Source Protection Zone 1 (SPZ1) corresponding to Pumping Station (SPRW) which is for public water supply, comprising a number of Chalk abstraction boreholes, operated by Affinity Water Ltd. In addition, this proposed development is within close proximity of two other Affinity Water pumping stations with the potential to adversely impact water quality for public water supply.

7.14.16 As set out above, planning application 19/1179/FUL was refused on grounds that it had not been demonstrated that the proposed development (particularly as a result of piling and dewatering) would not have an adverse impact on the quality and quantity of groundwater. Following the appeal dismissal the applicant has engaged with Affinity Water and further detailed technical assessment has been undertaken and submitted with the current application in response to the Inspectors decision.

7.14.17 Following the refusal of planning permission ref. 19/1179/FUL and subsequent dismissal at appeal, Affinity Water have confirmed that they have provided the developer and their consultants with a significant amount of data to inform a DQRA and Piling RAMS that has influenced the construction and piling process, and implements mitigation measures and controls to reduce any risks to public water supply during construction and post construction. In addition, Affinity Water have advised that they have carried out an extensive ongoing engagement during the development of these documents and have been given the opportunity to review and comment on the drafts and final versions before this application was submitted.

7.14.18 Affinity Water acknowledge the engagement and cooperation in this process from the developer and their consultants and the subsequent changes, amendments and adjustments that have been made to the application, to address the concerns they highlighted in response to the previous application.

7.14.19 Affinity Water consider that the risk to public water supply still remains due to the proximity of the development to the pumping stations, however, they recognise that these risks can be managed, provided the agreed plans are thoroughly adhered to. Therefore Affinity Water do not object to the planning application but request that a number of planning conditions are included should planning permission be granted. They also emphasise the importance of regular consultation and dialogue throughout the construction phase alongside the proposed monitoring programme, to ensure that risks to public water supply are effectively managed. As discussed earlier in the report, the Environment Agency raise no objection subject to conditions.

7.15 Refuse and Recycling

7.15.1 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

- 7.15.2 The County Council's adopted waste planning documents reflect Government policy which seeks to ensure that all planning authorities taken responsibility for waste management. This includes ensuring that development makes sufficient provision for waste management and promotes good design to secure the integration of waste management facilities with the rest of the development and ensuring that the handling of waste arising from the construction and operation of development maximises reuse/recovery opportunities, and minimises off-site disposal.
- 7.15.3 HCC would therefore require a Site Waste Management Plan (SWMP) to be submitted which should aim to reduce the amount of waste produced on site. As a minimum the waste types should be defined as inert, non-hazardous and hazardous. The SWMP should be set out as early as possible so that decisions can be made relating to the management of waste during construction, whereby building materials made from recycled and secondary sources can be used within the development. This will help in terms of estimating what types of containers/skips are required for the stages of the project and when segregation would be best implemented for various waste streams. It will also help in determining the costs of removing waste for a project. The total volumes of waste during enabling works (including demolition) and construction works should also be summarised.
- 7.15.4 The proposed development site is located north of the Safeguarded Area SA143 STW Maple Lodge. It should be noted that Maple Lodge Sewage Treatment Works is a permanent existing operational waste site which is safeguarded under HCC Waste Policy 5: Safeguarding of Sites, in the County Council's Waste Core Strategy and Development Management Policies document, adopted November 2012 as they contribute to a strategic network of waste management provision within the county. Proposals should not prejudice the site's use a sewage treatment works.
- 7.15.5 In relation to minerals, the site falls entirely within the 'Sand and Gravel Belt' as identified in HCC's Minerals Local Plan 2002 – 2016. The Sand and Gravel Belt', is a geological area that spans across the southern part of the county and contains the most concentrated deposits of sand and gravel throughout Hertfordshire. In addition the site falls entirely within the sand and gravel Mineral Safeguarding Area within HCC's Proposed Submission Minerals Local Plan, January 2019.
- 7.15.6 Adopted Minerals Local Plan Policy 5 (Minerals Policy 5: Mineral Sterilisation) encourages the opportunistic extraction of minerals for use on site prior to non-mineral development. Opportunistic extraction refers to cases where preparation of the site for built development may result in the extraction of suitable material that could be processed and used on site as part of the development. This may include excavating the foundations and footings or landscaping works associated with the development. Policy 8: Mineral Safeguarding, of the Proposed Submission document relates to the full consideration of using raised sand and gravel material on site in construction projects to reduce the need to import material as opportunistic use.
- 7.15.7 The county council, as the Minerals Planning Authority, encourage the opportunistic use of these deposits within the developments, should they be found when creating the foundations/footings. Opportunistic use of minerals will reduce the need to transport sand and gravel to the site and make sustainable use of these valuable resources.
- 7.15.8 Space for the storage of refuse and re-cycling is included within the service yards adjacent to both Units. Whilst it is anticipated that collections would be privately operated, the Council's Waste and Environment Manager has reviewed the submitted details and has raised no objections. Elevational details of the storage areas has not been submitted so would be secured via condition on any grant of consent.
- 7.16 Infrastructure Contributions

- 7.16.1 Policy CP8 of the Core Strategy requires development to make adequate contribution to infrastructure and services. The Three Rivers Community Infrastructure Levy (CIL) was adopted in February 2015 and came into force on 1 April 2015. The Charging Schedule sets out that the application site is within 'Area A' within which the charge per sq.m of non-residential development is £nil.
- 7.16.2 In order to make the proposals acceptable to maximize sustainable travel options, HCCHA recommends that developer contributions of £6000 are sought via a Section 106 Agreement towards supporting the implementation, processing and monitoring of a full travel plan including any engagement that may be needed. The applicant raises no objection to this requirement and a S106 agreement to secure the contribution is being progressed.
- 7.17 Conclusion & Planning Balance
- 7.17.1 Paragraph 11 of the NPPF states that; *"Plans and decisions should apply a presumption in favour of sustainable development"*.
- 7.17.2 For decision-taking this means:
- c) approving development proposals that accord with an up-to-date development plan without delay;*
- 7.17.3 Paragraph 8 of the NPPF sets out that there are three overarching and independent objectives to achieving sustainable development: an economic objective; a social objective, and an environmental objective.
- 7.17.4 The proposed use of the site and the principle of development accords with the Core Strategy (adopted October 2011) and Site Allocations LDD (adopted November 2014). This is considered to add substantial weight in favour of the grant of planning permission for the development.
- 7.17.5 The proposed development would not materially harm the living conditions of surrounding residents and would not result in demonstrable harm to the character or appearance of the area, the wider landscape or the Green Belt. It would be acceptable in terms of its impact on trees, and the site would not be at risk of flooding or increase the risk of flooding elsewhere. There would not be any unacceptable impact on groundwater on or off the application site or public water supply. It would not harm the setting of any heritage assets. Appropriate levels of parking would be provided on site.
- 7.17.6 Subject to the applicants' entry into a section 106 agreement providing for biodiversity loss compensation and BNG and the attachment of conditions C5, C28 and C29 below, the proposed development would comply with Core Strategy policy CP9 and LDD policy DM6 as well as advice in the Framework.
- 7.17.7 The proposed development would provide a number of benefits, including contributing to meeting the need for B1c, B2 and B8 floorspace set out in the South West Herts Economic Study (2018) and would create jobs within the District, both full time and during construction. This would be of benefit to the local economy and is afforded substantial weight. Other benefits include improvements to the local highway network through the proposed highways works to the access road and junction and improvements to drainage.
- 7.17.8 The proposed development is considered to have overcome the planning issues underlying the previous refusal and appeal dismissal and is considered to be in accordance with development plan policy and is recommended for approval subject to the completion of the S106 Agreement (BNG and Travel Plan requirements) and the conditions as set out below. As set out in Informative 7 below, it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section

278 of the Highways Act 1980 to ensure the satisfactory completion of the necessary off-site highway improvements.

8 Recommendation

8.1 That the decision be delegated to the Director of Community and Environmental Services and that PLANNING PERMISSION BE GRANTED, subject to the following conditions and subject to the completion of a S106 Agreement:

C1 Time

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 Plans

The development hereby permitted shall be carried out in accordance with the following approved plans:

17019-C4P-AV-00-DR-A-0100 REV P5
17019-C4P-AV-00-DR-A-0500_P17
17019-C4P-AV-00-DR-A-0101 REV P4
17019-C4P-AV-ZZ-DR-A-0700 REV P4
17019-C4P-B1-R-DR-A-2001 REV P4
17019-C4P-B1-ZZ-DR-A-2000 REV P4
17019-C4P-B1-ZZ-DR-A-2100 REV P5
17019-C4P-B2-R-DR-A-2001 REV P4
17019-C4P-B2-ZZ-DR-A-2000 REV P4
17019-C4P-B2-ZZ-DR-A-2100 REV P4
55-01 REV P17
65-03 REV P16
65-04 REV P6
05-885-700 REV H

Reason: For the avoidance of doubt, in the proper interests of planning in accordance with Policy SA2 of the Site Allocations Local Development Document (adopted November 2013), Policies PSP3, CP1, CP6, CP8, CP9, CP10, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM2, DM4, DM6, DM8, DM9, DM10, DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

C3 Construction Traffic Management Plan (Highway Authority and Highways England)

No development shall commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Traffic Management Plan shall include details of:

- a. Construction vehicle numbers, type, routing;
- b. Expected frequency of vehicles during construction and size and weight of these vehicles;
- c. Access arrangements to the site;
- d. Traffic management requirements;
- e. Construction and storage compounds (including areas designated for car parking, loading / unloading and turning areas);
- f. Siting and details of wheel washing facilities;

- g. Cleaning of site entrances, site tracks and the adjacent public highway;
- h. Timing of construction activities (including delivery times and removal of waste);
- i. Post construction reinstatement of the working areas and/or temporary access to the highway;

Reason: This is a pre-commencement condition in order to protect highway safety and the amenity of other users of the public highway and rights of way and to mitigate any adverse impact from the development on the M25 in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011).

C4 Site Levels – Details (TRDC)

No development shall take place until details of the existing site levels and the proposed finished floor levels and sections of the proposed buildings have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: This condition is a pre commencement condition in order to ensure a satisfactory form of development relative to surrounding buildings and landscape and to meet the requirements of Policies CP1 and CP12 of the Core Strategy (adopted October 2011).

C5 Scheme for compensatory habitat creation (Environment Agency)

No development shall take place until a scheme for the provision and management of the eight-metre buffer zone adjacent to the Maple Lodge Ditch main river for the benefit of biodiversity has been submitted to, and agreed in writing by, the Local Planning Authority and implemented as approved.

Reasons: This condition is a pre commencement condition in the interest of biodiversity net gain and to meet the requirements of Policies CP1 and CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

C6 Drainage Scheme – Final Design (LLFA)

No development shall take place until the final design of the drainage scheme is completed and sent to the LPA for approval. The surface water drainage system will be based on the Flood Risk Assessment and Drainage Strategy for Maple Cross Rickmansworth, Issue 1.4, dated 22 August 2019, Ref: T/17/1999/FRA, prepared by Tier Consult Ltd and the General Arrangement Drawing showing proposed foul and surface water drainage layout Sheet 1, Project No. T_17_1999, Drawing No. 55-01, Rev. P17, dated 25.02.2021, prepared by Tier Consult. The scheme shall also include:

1. Detailed engineered drawings of the proposed SuDS features including their location, size, volume, depth and any inlet and outlet features including any connecting pipe runs.
2. All corresponding detailed calculations/modelling to ensure the scheme caters for all rainfall events up to and including the 1 in 100 year + climate change event.
3. Details of half drain down times of the surface water attenuation.
4. Clarification on the volumes of water to be stored within each SuDS attenuation feature / permeable paving sub-base etc.
5. Detailed engineering drawings, calculations and evidence to secure and safeguard the SuDS features from groundwater.
6. Detailed engineering drawings and evidence of the proposed surface water pump including details of safeguarding and a management and maintenance plan.

7. Detailed management and maintenance plan for the Maplodge Ditch Main River and a timetable for implementing maintenance and the removal of any necessary blockages.
8. Exploration of above ground SuDS, to include the provision of filter strips / filter trenches to support effective and sustainable management and treatment of surface water.
9. Silt traps for the protection of any tanked elements.
10. Demonstrate appropriate SuDS management and treatment and inclusion of above ground features such as permeable paving etc. and reducing the requirement for any underground storage. To include details of products and maintenance.

Reason: This is a pre commencement condition to prevent flooding by ensuring the satisfactory storage of and disposal of surface water from the site and to meet the requirements of Policy CP1 of the Core Strategy (adopted October 2011) and Policies DM8 and DM9 of the Development Management Policies LDD (adopted July 2013).

C7 Groundwater Levels (Environment Agency)

No development should take place until a monitoring and maintenance plan in respect of groundwater levels across the site and the Maple lodge nature reserve including a timetable of monitoring and submission of reports to the Local Planning Authority, has been submitted to and approved in writing by the Local Planning Authority.

Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to and approved in writing by the Local Planning Authority. Any necessary contingency measures shall be carried out in accordance with the details in the approved reports.

Reasons: This condition will ensure that the development does not cause undue detriment to groundwater levels upon which the Maple Lodge nature reserve relies in line with paragraph 174 of the National Planning Policy Framework and to meet the requirements of Policy CP1 of the Core Strategy (adopted October 2011) and Policies DM8 and DM9 of the Development Management Policies LDD (adopted July 2013).

C8 Land Affected By Contamination (Environment Agency & Watford Environmental Health)

No development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall be submitted to and approved, in writing, by the Local Planning Authority:

1. A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
1. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
2. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
3. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: This condition will ensure that the development does not contribute to, or is not put at unacceptable risk from/adversely affected by levels of water pollution in line with paragraph 174 of the National Planning Policy Framework and Policy CP1 of the Core Strategy and Policies DM8 and DM9 of the Development Management Policies LDD (adopted July 2013).

C9 Long Term Monitoring and Maintenance Plan for Groundwater (Environment Agency)

No development should take place until a long-term monitoring and maintenance plan in respect of contamination including a timetable of monitoring and submission of reports to the Local Planning Authority, has been submitted to and approved in writing by the Local Planning Authority. Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to and approved in writing by the Local Planning Authority. Any necessary contingency measures shall be carried out in accordance with the details in the approved reports. On completion of the monitoring specified in the plan a final report demonstrating that all long-term remediation works have been carried out and confirming that remedial targets have been achieved shall be submitted to and approved in writing by the Local Planning Authority.

Reasons: To ensure that the site does not pose any further risk to human health or the water environment by managing any ongoing contamination issues and completing all necessary long-term remediation measures. This is in line with paragraph 174 of the National Planning Policy Framework. To prevent further deterioration of a water quality element to a lower status class of adjacent surface waterbodies and prevent the recovery of a drinking water protected area in the Mid-Chilterns Chalk groundwater body and to meet the requirements of and Policy CP1 of the Core Strategy and Policies DM8 and DM9 of the Development Management Policies LDD (adopted July 2013).

C10 Site Waste Management Plan SWMP (Hertfordshire County Council)

Prior to the commencement of development, a Site Waste Management Plan (SWMP) shall be submitted to and approved in writing by the Local Planning Authority. The SWMP should aim to reduce the amount of waste being produced on site and should contain information including types of waste removed from the site and where that waste is being taken to. The development shall be carried out in accordance with the approved SWMP.

Reason: This is a pre commencement condition to promote sustainable development and meet the requirements of Policy CP1 of the Core Strategy (adopted October 2011) and Policy DM10 of the Development Management Policies LDD (adopted July 2013).

C11 Dust Management Plan (Watford Environmental Health)

Prior to the commencement of the development hereby permitted, a Dust Management Plan shall be submitted for the written approval of the Local Planning Authority. The Dust Management Plan shall include best practicable means to be incorporated to minimise dust caused by the permitted operations and to prevent the emission of dust from the site. The management of dust emissions shall thereafter be carried out in accordance with the approved plan.

Reason: This is a pre-commencement condition in the interests of the amenities of surrounding occupiers during the construction of the development and to meet the requirements of Policy CP12 of the Core Strategy (adopted October 2011) and Policy DM9 of the Development Management Policies LDD (adopted July 2013).

C12 Arboricultural Method Statement and Tree Protection

No development shall commence on site whatsoever until an arboricultural method statement (prepared in accordance with BS: 5837 (2012) 'Trees in relation to design, demolition and construction') has been submitted to and approved in writing by the Local Planning Authority. This method statement shall include details of any development works with the potential to impact retained trees, such as; demolition, level changes, services, drainage, hard surfaces, foundations, contamination investigation/remediation, archaeological investigations, site facilities/accommodation, contractor parking and equipment/material storage etc. Any encroachment into the RPA of a retained tree will require a detailed design and working specification demonstrating how the works will be carried out to minimise the impact upon the tree. In addition full details of all tree protection, mitigation works and a timetable of site monitoring and arboricultural supervision of works should be included.

The construction methods to be used shall ensure the retention and protection of trees, shrubs and hedges growing on or adjacent to the site in accordance with the approved plans. The development shall only be implemented in accordance with the approved method statement.

The protective measures, including fencing, shall be undertaken in full accordance with the approved scheme before any equipment, machinery or materials are brought on to the site for the purposes of development, and shall be maintained during construction and until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any area fenced in accordance with this condition; and the ground levels within those areas shall not be altered, nor shall any excavation be made unless in accordance with the agreed method statement. No fires shall be lit or liquids disposed of within 10.0m of an area designated as being fenced off or otherwise protected in the approved scheme.

Reason: This condition is a pre commencement condition to ensure that no development takes place until appropriate measures are taken to prevent damage being caused to trees during construction, to protect the visual amenities of the trees, area and to meet the requirements of Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

C13 Materials (TRDC)

Before any building operations above ground level hereby permitted are commenced, samples and details of the proposed external materials 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 prevent the building being constructed in inappropriate materials in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011).

C14 Highways Improvements (Highway Authority)

A. Offsite (Design Approval)

Notwithstanding the details indicated on the submitted drawings no on-site works above slab level shall commence until a detailed scheme for the offsite highway improvement works as indicated on drawing number MLC-BWB-GEN-XX-DR-TR-0001 S2 rev. P3 have been submitted to and approved in writing by the Local Planning Authority.

B. Offsite (Implementation / Construction)

Prior to the first use of the development hereby permitted the offsite highway improvement works referred to in Part A of this condition shall be completed in accordance with the approved details.

Reason: To ensure construction of a satisfactory development and to ensure that the highway improvement works are designed to an appropriate standard in the interest of highway safety and amenity and in accordance with Policies CP1, CP10 and CP12 of the Core Strategy (adopted October 2011).

C15 Piling Method Statement (Affinity Water, Thames Water, Environment Agency)

No piling shall take place until a Piling Method Statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the Local Planning Authority. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

Reason: The proposed works will be in close proximity to underground sewerage utility infrastructure and the source protection zone of one or more of Affinity Water's groundwater abstractions for Public Water Supply (PWS). Piling has the potential to impact on local underground sewerage utility infrastructure in addition to contaminant transport to the Chalk aquifer (including manganese), turbidity in the Chalk aquifer and potentially at the PWS abstractions, and on ground permeability, which may affect groundwater levels and flows. This condition is necessary to protect underground infrastructure and water supply in accordance with Policies CP1 and CP8 of the Core Strategy (adopted October 2011) and Policy DM8 of the Development Management Policies LDD (adopted July 2013).

C16 Decommission of Investigation Boreholes (Affinity Water)

A scheme for managing any borehole installed for the investigation of soils, groundwater or geotechnical purposes shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide details of how redundant boreholes are to be decommissioned and how any boreholes that need to be retained, post-development, for monitoring purposes will be secured, protected and inspected (and details of the consultation undertaken with Affinity Water). The scheme as approved shall be implemented prior to the occupation of any part of the permitted development.

Reason: To ensure that redundant boreholes are safe and secure, and do not cause groundwater pollution or loss of water supplies in accordance with Policies CP1 and CP8 of the Core Strategy (adopted October 2011) and Policy DM8 of the Development Management Policies LDD (adopted July 2013).

C17 Dewatering Method Statement (Affinity Water)

No dewatering shall take place. Should dewatering be necessary, no dewatering shall occur until a Dewatering Method Statement (detailing the dewatering method and predicted impact on groundwater flow and details of the consultation undertaken with Affinity Water) has been submitted to and approved in writing with the Local Planning Authority. Any dewatering must be undertaken in accordance with the terms of the approved dewatering method statement.

Reason: The proposed work will be within the source protection zone of one or more of Affinity Water's groundwater abstractions for Public Water Supply (PWS) and within

500 m of the Clubhouse/Marsh Lakes within Maple Lodge Nature Reserve. This condition is necessary to protect water supply and the environment in accordance with Policies CP1 and CP8 of the Core Strategy (adopted October 2011) and Policy DM6 and DM8 of the Development Management Policies LDD (adopted July 2013).

C18 Conditions to be displayed on site (Affinity Water)

A copy of all conditions addressing groundwater protection, foundation design and site drainage, and any other groundwork or surface water matters and details submitted during the discharge of conditions, and approved pursuant and subsequent to this consent, shall be displayed at the site office at all times.

The Site Manager will ensure that the contents and intent of each are known to any persons given responsibility for operational management or control of the site, or carrying out works on that site.

Reason: To ensure that any potential contamination or other activity likely to pose a risk to groundwater and public water supply, is recognised, monitored and managed by all contractors on site, in good time in accordance with Policies CP1 and CP8 of the Core Strategy (adopted October 2011) and Policy DM6 and DM8 of the Development Management Policies LDD (adopted July 2013).

C19 Noise Assessment (TRDC Environmental Health)

Prior to operation of the site by any prospective tenant, a noise assessment that demonstrates that the rating noise level from any fixed or mobile mechanical plant or commercial activity including all noise associated with deliveries and vehicle movements shall not exceed the background sound level representative of the period being assessed at noise sensitive receptors shall be submitted to and approved in writing by the Local Planning Authority. The noise assessment should be carried out in line with the methodology presented in BS4142:2014+A1:2019 Methods for rating and assessing industrial and commercial sound. The development shall thereafter be implemented and operated in accordance with the approved noise assessment and any measures contained therein.

Reason: This is a pre-operation condition to ensure that nearby residential properties are not subjected to excessive noise and disturbance having regard to Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM9 of the Development Management Policies LDD (adopted July 2013).

C20 Verification Report (Environment Agency and Watford Environmental Health)

No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason: To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 174 of the National Planning Policy Framework. To prevent further deterioration of a water quality element to a lower status class of adjacent surface waterbodies and prevent the recovery of a drinking water protected area in the Mid-Chilterns Chalk groundwater body and to meet the requirements of in accordance with Policies CP1 and CP8 of the Core Strategy (adopted October 2011) and Policies DM8 and DM9 of the Development Management Policies LDD (adopted July 2013).

C21 Borehole Management (Environment Agency)

A scheme for managing any borehole installed for the investigation of soils, groundwater or geotechnical purposes shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide details of how redundant boreholes are to be decommissioned and how any boreholes that need to be retained, post-development, for monitoring purposes will be secured, protected and inspected. The scheme as approved shall be implemented prior to the occupation of any part of the permitted development.

Reasons: To ensure that redundant boreholes are safe and secure, and do not cause groundwater pollution or loss of water supplies in line with paragraph 174 of the National Planning Policy Framework and to prevent further deterioration of a water quality element to a lower status class of adjacent surface waterbodies and prevent the recovery of a drinking water protected area in the Mid-Chilterns Chalk groundwater body in accordance with Policies CP1 and CP8 of the Core Strategy (adopted October 2011) and Policies DM8 and DM9 of the Development Management Policies LDD (adopted July 2013).

C22 Provision of Parking & Access (Highway Authority)

Prior to the first use of the development hereby permitted the proposed access road, on-site car parking, electric vehicle charging provision, cycle parking and turning areas shall be laid out, demarcated, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.

Reason: To ensure construction of a satisfactory development and in the interests of highway safety and in accordance with Policies CP1, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

C23 Travel Plan (Highway Authority)

Prior to the first use of the development hereby permitted a detailed Travel Plan for the site, based upon the Hertfordshire Council document Hertfordshire's Travel Plan Guidance, shall be submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan shall be implemented at all times.

Reason: To ensure that sustainable travel options associated with the development are promoted and maximised to be in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011).

C24 Cycle Parking (Highway Authority and TRDC)

Prior to the first use of the development hereby permitted, detailed designs for the parking of cycles shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is first occupied (or brought into use) and thereafter retained for this purpose.

Reason: To ensure the provision of cycle parking that meets the needs of occupiers of the proposed development and in the interests of encouraging the use of sustainable modes of transport in accordance with Policy CP1 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

C25 Electric Vehicle Charging Points (EVCPs) (Highway Authority and TRDC)

Prior to the first use of the development hereby permitted, the details and design of EVCPs shall be submitted to and approved in writing by the Local Planning

Authority. All EVCPs shall be installed in accordance with the approved details prior to occupation of the units and permanently maintained and retained.

Reason: To ensure construction of a satisfactory development and to promote sustainable development in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011).

C26 Refuse and Recycling Details (TRDC)

Prior to first use of the development a scheme for the separate storage and collection of waste shall be submitted to and approved in writing by the Local Planning Authority. Details shall include siting, size and appearance of refuse and recycling facilities on the premises. The development hereby permitted shall not be brought into use until the approved scheme has been implemented and these facilities should be retained permanently thereafter.

Reason: To ensure that satisfactory provision is made, in the interests of amenity and to ensure that the visual appearance of such provision is satisfactory in compliance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM10 of the Development Management Policies document (adopted July 2013).

C27 Landscaping (TRDC)

Prior to the first use of the development hereby permitted, a scheme of hard and soft landscaping, which shall include the location and details of all existing trees and hedgerows to be retained, and the recommendations of Greengage Preliminary Ecological Appraisal (REF 550987dpJan21FV02_PEA), together with a scheme detailing measures for their protection in the course of development shall be submitted to and approved in writing by the Local Planning Authority.

All hard landscaping works required by the approved scheme shall be carried out and completed prior to the first use of the development hereby permitted.

All soft landscaping works required by the approved scheme shall be carried out before the end of the first planting and seeding season following first occupation of any part of the buildings or completion of the development, whichever is sooner.

If any of the proposed soft landscaping is removed, die, become severely damaged or diseased within five years of the completion of development they shall be replaced with trees or shrubs of appropriate size and species in the next planting season (i.e. November to March inclusive).

Reason: This condition is required to ensure the completed scheme has a satisfactory visual impact on the character and appearance of the area. It is required to be a pre commencement condition to enable the LPA to assess in full the trees to be removed and the replacement landscaping requirement before any works take place, and to ensure trees to be retained are protected before any works commence in the interests of the visual amenity of the area 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).

C28 Landscape & Ecology Management Plan (TRDC & Herts Ecology)

Prior to the first use of the development hereby permitted, a landscape and ecology 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 and ecology management plan shall include details for the management and maintenance of the 8m buffer zone between Unit 2 and the Maple Lodge Ditch main river for 15 years and include details for replacement in this location if any of the proposed soft landscaping within this zone is removed, die, become severely damaged or diseased. The landscape and ecology management plan shall be carried out as approved.

Reason: 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).

C29 Lighting Design – Biodiversity (Herts Ecology)

Prior to first use of the development a “lighting design strategy” in accordance with current guidance from Bat Conservation Trust and Institution of Lighting Professionals, for features or areas to be lit, shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall:

a) Identify those areas/features on site that are particularly sensitive for nocturnal species and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and

b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specification) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

Reason: In the interests of visual amenity and biodiversity and to meet the requirements of Policies CP1, CP9 and CP12 of the Core Strategy (adopted October 2011) and Policies DM6 and DM9 of the Development Management Policies LDD (adopted July 2013).

C30 External Lighting (TRDC Environmental Health)

Prior to first use of the development a scheme for external lighting including details of the position, height, design and intensity shall be submitted to and approved in writing by the Local Planning Authority. The external lighting solution is to be designed in accordance with CIBSE external lighting guidelines, BS 5489 and BS 5266. The lighting shall be installed in accordance with the approved details before the use commences.

Reason: In the interests of visual amenity to meet the requirements of Policies CP1, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policy DM9 of the Development Management Policies LDD (adopted July 2013).

C31 Boundary Treatments (TRDC)

A plan indicating the positions, design, materials and type of boundary treatment to be erected on the site shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be erected prior to first use

of the development in accordance with the approved details and shall be permanently maintained as such thereafter.

Reason: To ensure that appropriate boundary treatments are proposed to safeguard the amenities of neighbouring properties and the character of the locality in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011).

C32 Sustainability – In Accordance With (TRDC)

Prior to first use of the development the measures detailed in Section 5 within the KGA (UK) Ltd Energy Statement (ref. 5000 rev 4, dated February 2021) shall be incorporated into the approved development and thereafter permanently maintained.

Reason: To ensure that the development meets the requirements of Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM4 of the Development Management Policies LDD (adopted July 2013) and to ensure that the development makes as full a contribution to sustainable development as possible.

C33 Flood Risk Assessment – In Accordance With (LLFA)

The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment and Drainage Strategy for Maple Cross Rickmansworth, Issue 1.4, dated 22 August 2019, Ref: T/17/1999/FRA, prepared by Tier Consult Ltd and the General Arrangement Drawing showing proposed foul and surface water drainage layout Sheet 1, Project No. T_17_1999, Drawing No. 55-01, Rev. P17, dated 25.02.2021, prepared by Tier Consult. The scheme shall include the following mitigation measures:

1. Provide attenuation to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + climate change event.
www.hertfordshire.gov.uk 3
2. Restrict surface water discharge into Maplodge Ditch (via pump) to the QBAR Greenfield run-off rate (6.5l/s).
3. Implement drainage strategy based on lined permeable paving, lined cellular attenuation and discharge via surface water pump into the nearest watercourse, Maplodge Ditch, which is Main River.

Reason: To prevent flooding by ensuring the satisfactory storage of and disposal of surface water from the site and to meet the requirements of Policy CP1 of the Core Strategy (adopted October 2011) and Policy DM8 of the Development Management Policies LDD (adopted July 2013).

C34 SuDS Management & Maintenance (LLFA)

Upon completion of the drainage works for the site and in accordance with the timing / phasing arrangement, a management and maintenance plan for the SuDS features and drainage network must be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

1. Provision of a complete set of as built drawings for site drainage.
2. Maintenance and operational activities.
3. Arrangements for adoption and any other measures to secure the operation of the scheme throughout its lifetime.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and to meet the requirements of Policy CP1 of the

Core Strategy (adopted October 2011) and Policies DM8 and DM9 of the Development Management Policies LDD (adopted July 2013).

C35 Unidentified Contamination (Environment Agency and Watford Environmental Health)

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reasons: No investigation can completely characterise a site. This condition ensures that the development does not contribute to, is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with paragraph 174 of the National Planning Policy Framework. To prevent further deterioration of a water quality element to a lower status class of adjacent surface waterbodies and prevent the recovery of a drinking water protected area in the Mid-Chilterns Chalk groundwater body and to meet the requirements of Policy CP1 of the Core Strategy (adopted October 2011) and Policies DM8 and DM9 of the Development Management Policies LDD (adopted July 2013).

C36 Infiltration of Surface Water onto the Ground (Environment Agency)

No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the Local Planning Authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details.

Reasons: To ensure that the development does not contribute to, is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants. This is in line with paragraph 174 of the National Planning Policy Framework. To prevent further deterioration of a water quality element to a lower status class of adjacent surface waterbodies and prevent the recovery of a drinking water protected area in the Mid-Chilterns Chalk groundwater body and to meet the requirements of Policy CP1 of the Core Strategy (adopted October 2011) and Policies DM8 and DM9 of the Development Management Policies LDD (adopted July 2013).

C37 Noise – no refrigerated HGVs or use of tug units (TRDC Environmental Health)

There shall be no operation of refrigerated HGVs or of tug units without prior details being submitted to and approved in writing by the Local Planning Authority which demonstrate that the proposed operation would not give rise to unacceptable noise levels.

Reason: To ensure that nearby residential properties are not subjected to excessive noise and disturbance having regard to Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM9 of the Development Management Policies LDD (adopted July 2013).

8.2 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 Construction Hours:

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 Positive & Proactive:

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 application has been submitted with amendments/additional information following the refusal and subsequent dismissal at appeal of a previous application, and further information has also been submitted during the course of this application. This has resulted in a form of development that maintains/improves the economic, social and environmental conditions of the District.

14 Section 106 Agreements:

The applicant is reminded that this planning permission is subject to either a unilateral undertaking or an agreement made under the provisions of Section 106 of the Town and Country Planning Act 1990.

- 15 Site Notice Removal:
The applicant is hereby advised to remove all site notices on or near the site that were displayed pursuant to the application.
- 16 Thames Water – Advisory Notes:
Please read our guide ‘working near our assets’ to ensure your workings will be in line with the necessary processes you need to follow if you’re considering working above or near our pipes or other structures. <https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-near-or-diverting-our-pipes>.
- Should you require further information please contact Thames Water. Email: developer.services@thameswater.co.uk Phone: 0800 009 3921 (Monday to Friday, 8am to 5pm) Write to: Thames Water Developer Services, Clearwater Court, Vastern Road, Reading, Berkshire RG1 8DB.
- Thames Water would recommend that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of petrol / oil interceptors could result in oil-polluted discharges entering local watercourses.
- There are easements and wayleaves running through the site. The company will seek assurances that it will not be affected by the proposed development. The applicant should contact Thames Water to discuss their proposed development in more detail. All enquiries from developers in relation to proposed developments should be made to Thames Waters Developer Services team. Their contact details are as follows: Thames Water Developer Services, Reading Mail Room, Rose Kiln Court, Rose Kiln Lane, Reading, RG2 0BY, Tel: 0800 009 3921, Email: developer.services@thameswater.co.uk
- 17 Construction standards for works within the highway (S278):
The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the necessary off-site highway improvements. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website:
<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx>
- 18 Environmental Health Informatives:
Vehicles should meet the most recent European emissions standards and relevant guidance such as IAQM Guidance should be followed. Information for Developers and guidance documents can be found online at:
https://www.watford.gov.uk/info/20011/business_and_licensing/349/contaminated_land
- 19 Secured By Design:
It is recommended that CCTV be installed to cover the site / warehouses (please refer to comments of Herts Constabulary).
- 110 Advertisement Consent:
This Decision relates only to a grant of planning permission. The applicant is advised that any signage may need consent under separate cover.

111 Environment Agency Advice Notes:

Additional Risk Assessment – The applicant has proposed the following further works in relation to the Maple Lodge Nature Reserve:

1. A controlled waters risk assessment conducted with the nature reserve identified as a groundwater receptor of potential contamination arising from the site, and a risk assessment undertaken to determine if there is a significant risk of pollution arising from the development To comprise a description of potential contamination sources, a description of the receptor, identification of pathways between them, and a description of whether the development will have any impact on potential contaminant transport from the site to the receptor.

2. A semi-quantitative assessment of long and short term impacts to water quantity and quality drawing on the detailed and robust site investigation, monitoring information, conceptualisation and Detailed Quantitative Risk Assessment works already carried out to date and submitted. To include semi-quantitative assessment of groundwater and surface water flows between the site and the nature reserve, and an assessment of potential impacts arising from turbidity.

3. Detailed drawings of the location and the construction of the proposed development to be provided alongside a Piling Method Statement and Risk Assessment which includes details of timing of works, methods and materials to be adopted.

The Environment Agency would expect the outcomes of proposals 1 & 2 to be included in any future consultation on Condition 8 (Land affected by Contamination) and the outcome of proposal 3 to be included in any future consultation on our Condition 15 (Piling).

General Advice – The Environment Agency recommend that developers should:

- Follow the risk management framework provided in Land Contamination: Risk Management (formerly CLR11), when dealing with land affected by contamination.
- Refer to the Environment Agency Guiding principles for land contamination for the type of information that we require in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, such as human health.
- Consider using the National Quality Mark Scheme for Land Contamination Management which involves the use of competent persons to ensure that land contamination risks are appropriately managed. The Planning Practice Guidance defines a "Competent Person (to prepare site investigation information): A person with a recognised relevant qualification, sufficient experience in dealing with the type(s) of pollution or land instability, and membership of a relevant professional organisation." (<http://planningguidance.planningportal.gov.uk/blog/policy/achieving-sustainable-development/annex-2-glossary>)
- Refer to the contaminated land pages on GOV.UK for more information.
- We expect the site investigations to be carried out in accordance with best practice guidance for site investigations on land affected by land contamination. E.g. British Standards when investigating potentially contaminated sites and groundwater.

DQRA/Remediation – A Detailed Quantitative Risk Assessment (DQRA) for controlled waters using the results of the site investigations with consideration of the hydrogeology of the site and the degree of any existing groundwater and surface water pollution should be carried out. Following the DQRA, a Remediation Options Appraisal to determine the Remediation Strategy in accordance with the Land Contamination: Risk Management guidance.

Flood Risk Activity Permit – The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culvert (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission.

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03702 422 549 or by emailing enquiries@environment-agency.gov.uk. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

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PLANNING COMMITTEE – 21 OCTOBER 2021

PART I - DELEGATED

9. **21/1081/FUL - Construction of new entrance gates and boundary wall to the front and fencing to the flank boundaries at DOVETAIL COTTAGE, 21 CHESTNUT AVENUE, RICKMANSWORTH, WD3 4HA**
(DCES)

Parish: Chorleywood Parish Council
Expiry of Statutory Period: 11.08.2021
Extension of time: 28.10.2021

Ward: Chorleywood North And Sarratt
Case Officer: David Heighton

Recommendation: That PLANNING PERMISSION be granted

Reason for consideration by the Committee: This application was called in by Chorleywood Parish Council on the grounds that the proposed development is out of keeping with the streetscene and that the amendments do not resolve the previous objection.

1 Relevant Planning History

- 1.1 10/2332/FUL - Demolition of existing garage and erection of two storey side and rear extension and single storey rear extension including pergola and extension to patio area - Permitted - 31.01.2011
- 1.2 12/0257/FUL - Demolition of existing garage and erection of two storey side and rear extension and single storey rear extension including pergola and extension to patio area; alterations to driveway and landscaping to frontage - Permitted - 23.04.2012
- 1.3 13/0385/FUL - Demolition of existing building and erection of a new 5 bedroom detached dwellinghouse with an integral single garage and ancillary external works - PER - 14.05.2013
- 1.4 13/1360/FUL - Resubmission of 13/0385/FUL: Demolition of existing building and erection of a new 5 bedroom detached dwellinghouse with an integral single garage and ancillary external works including alterations to front elevation and roof form of rear projection, changes to fenestration and habitable accommodation at second floor level - Permitted - 17.09.2013
- 1.5 13/2345/RSP - Part Retrospective: Demolition of existing dwelling and erection of a new 6 bedroom two-storey detached dwelling with additional accommodation at second floor and basement levels, Juliet balcony to rear, integral single garage and ancillary external works (Amendment to planning permission 13/1360/FUL) - Permitted - 28.02.2014 - Implemented.
- 1.6 14/1564/FUL - Provide additional vehicular access and alterations to drive to create carriage drive – Refused - 14.10.2014

R1: The proposed development, by virtue of its siting would result in the loss of a prominent protected tree which contributes to the visual amenities and sylvan quality of the street scene. The need and benefits of the development would not outweigh the loss of the protected Silver Birch. The proposed development would therefore be contrary to Policies CP1 and CP12 of the Core Strategy (adopted October 2011), Policies DM1, DM6 and Appendix 2 of the Development Management Policies LDD (adopted July 2013) and the principles of the National Planning Policy Framework.

2 Description of Application Site

- 2.1 The application site is rectangular in shape and contains a two storey detached dwelling located on the south eastern side of Chestnut Avenue, Rickmansworth. The streetscene generally consists of detached dwellings of varied architectural design.
- 2.2 The dwelling has a pitched roof form including three hipped roofed two storey front projections of varying depths. The frontage contains a driveway which leads to an area of hardstanding which could accommodate at least five vehicles with the remainder of the frontage laid to lawn with a number of individually protected trees within and neighbouring the property. These trees are subject to TPO: Three Rivers (Chestnut Avenue, Chorleywood) Tree Preservation Order 2010, (TPO738). Along the front boundary there is a low stepped bricked wall. Works had commenced to erect close boarded fencing along both flank boundaries to enclose the frontage but they have subsequently ceased.
- 2.3 To the rear is a two storey rear projection with a flat roof and a raised terrace adjacent to the rear of the dwelling with an area laid to lawn beyond. The large landscaped rear garden is screened by close boarded fencing and mature trees and vegetation.

3 Description of Proposed Development

- 3.1 This application seeks full planning permission for the construction of new entrance gates and boundary wall to the front and fencing to the flank boundaries.
- 3.2 The proposed front boundary wall would replace the existing low level wall and would have a maximum total height of 0.6m extending across the entire plot width. At various points a number of brick piers would be built which would have a maximum height of 1.2m. The boundary treatment would be stepped in height to follow the existing land level gradient. Between two piers and in front of the existing dropped kerb entrance, iron railing double gates are proposed (opening inwards), set back approximately 2.2m from the front boundary (5.5m with the road) with a width of 3.8m and height of 1.1m. The existing hedging adjacent to the front boundary would be retained.
- 3.3 Close-bordered timber fencing 1m in height is also proposed to the front northern and southern flank boundaries, which would extend the full depth of the application site frontage. It is also proposed to introduce soft landscaping in the form of 1.5m high hedging behind the fencing.
- 3.4 Amended plans were received during the course of the application, which reduced the height of the proposed front boundary wall and piers, removed railings from in-between the gate piers, amended the style and reduced the height of the proposed gates and reduced the height of the proposed flank boundary treatment with the addition of soft landscaping.

4 Consultation

- 4.1 Statutory Consultation
- 4.1.1 Chorleywood Parish Council: [Objection]

The Committee had Concerns with this application on the following grounds:-

The construction is inconsistent with the street scene.

Re-consultation, following amended plans:

The Committee had Objections to this application on the following grounds and wish to CALL IN, unless the Officer are minded to refuse planning permission.

Should the plans or supporting information be amended by the Applicant, please advise the Parish Council so the comments can be updated to reflect the amended.

- *Out of keeping with the street scene*

- *The amendments do not cover our previous objections.*

4.1.2 National Grid: [No comments received, any comments received will be verbally updated]

4.1.3 Landscape Officer: [No Objection]

Initial comments: –

The proposal to construct a low wall with associated pillars and gates will impact negatively on the two trees at this location, T01 mature oak and T02 mature birch. Both trees are subject to Tree Preservation Order, ref. 738.

The BS5837 (2012) 'Trees in relation to Design, Demolition and Construction' report provided suggests that in relation to T02, the mature birch, the shallow brick planter to the property frontage may be used as a base for the wall and the pillar to the south western end. It is difficult to see how practical this would be from a constructional point of view, and whether it would provide an adequate foundation for the proposed wall. No construction details have been provided to clarify this.

Of more concern is T01, the mature oak located immediately adjacent to the entrance. The proposal places a pillar and wall immediately beneath the crown spread of the tree, within the RPA. This equates to construction within approximately 1.5m of the tree stem, at which point structural roots are likely to be substantial. The report goes on to recommend trial excavations to establish the location of any roots, but this in itself may cause damage to roots. As tree roots often seek water in the form of condensate resulting from heating during the day and cooling during the night of asphalt or other hard surfacing, it is possible that tree roots have advantageously grown into the area earmarked for the curved wall.

It is likely that the proposals will impact the long-term health of the trees, particularly the oak.

Additional information received: Supplementary arboricultural report and investigation works

Revised comments: - *The supplementary tree report as provided has allayed my concerns with regard to the proposals at this location. No Objection.*

4.1.4 Highways Officer: [No Objection]

Amended Proposal – 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.

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) 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/businesslicences/business-licences.aspx> or by telephoning 0300 1234047.

AN) 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) 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/Analysis

Development Proposals

The proposal is for the construction of new entrance gates that are inwards swinging and boundary wall to the front boundary at Dovetail Cottage, 21 Chestnut Avenue, Rickmansworth.

Site and Surroundings

Chestnut Avenue is a class U local access road subject to a 30mph speed limit and is maintainable at highway expense. In terms of sustainability, the closest bus stop is just over 350m away from the site and is served by the 103 bus leading to High Wycombe and Watford. Chorleywood train station is located around 2.4km from the location which links to Watford, Amersham, Chesham, Aylesbury and London Marylebone via Chiltern and Metropolitan lines. LTP4 promotes the use of sustainable transport methods, this is possible to encourage at this site.

Access and Parking

The application does not propose any changes to the existing site access. The proposal is for the construction of gates to the access, these gates are set back approximately 5.5m from the edge of the road, this is an acceptable distance for gates which open inwards as outlined in Roads in Hertfordshire: Highway Design Guide 3rd Edition Section 4 – Design Standards and Advice, Paragraph 1.9. Therefore, the gates do not impact upon the required visibility splay on a 30mph road of 2.4m x 43m, as outlined in Roads in Hertfordshire: Highway Design Guide 3rd Edition Section 4 – Design Standards and Advice, Table 4.2.3.1. There have been no collisions on Chestnut Road within the last 5 years, indicating that the existing access is not a cause of collisions, and is therefore safe. Parking is a matter for the LPA but HCC would like to comment that there is ample space within the driveway for cars to park and turn around before leaving the site in a forward gear.

Refuse and Waste Collection

Stated within Manual for Streets Paragraph 6.8.9, waste collection vehicles must be able to get within 25m of the bin storage location. This is possible at the site as the front of the property is less than 25m from the edge of the highway.

Emergency Vehicle Access

In accordance to Manual for Streets Paragraph 6.7, the entirety of a dwelling must be within 45m from the edge of the highway so an emergency vehicle can gain access, this is the case at this site with all of the dwelling being within this 45m. Otherwise, the minimum width required for an emergency vehicle to enter an access is 3.1m; again, this is possible at the site if need be as the width of the access between the gateposts is 3.826m, as shown in Drawing CAR/21/PL/L11D Rev D.

Conclusion

HCC as Highway Authority has considered the application and agrees that the proposal would not have an unreasonable impact on the safety and operation of the adjoining highway and therefore, has no objections on highway grounds to this application.

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 11 No of responses received: 5

4.2.2 Site Notice: not applicable

Press Notice: not applicable

4.2.3 Summary of Responses:

4 – (Objections)

- Out of keeping
- Set a precedent
- Permitted Development Rights removed

1 – (Support)

- Security

- Other examples of screening and front boundary treatments

5 Reason for Delay

- 5.1 Committee cycle, re-consultation of amended plans and submission of supplementary tree report.

6 Relevant Planning Policy, Guidance and Legislation

6.1 National Planning Policy Framework and National Planning Practice Guidance

- 6.1.1 In July 2021 the revised 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 2021 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”.

- 6.1.2 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 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.

The Chorleywood Neighbourhood Development Plan (Referendum Version, August 2020). Policy 2 is relevant.

6.3 Other

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

7 Planning Analysis

7.1 Overview

7.1.1 Permitted development rights were removed in relation to any enlargement, improvement or other alteration to the dwelling, any enlargement consisting of an addition to the roof and any other to the roof. This also included any erection, construction or alteration of a gate, fence, wall or other means of enclosure under the previous planning permission (reference 13/2345/RSP).

7.1.2 This was to ensure adequate planning control over further development having regard to the limitations of the site and neighbouring properties and in the interests of the visual amenities of the site and the area.

7.1.3 Works have commenced in line with the original plans submitted but have ceased until a decision has been made. Further, if approved, the current fencing along the flank boundaries would need to be reduced in height.

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 The Chorleywood Neighbourhood Plan outlines that all development should seek to make a positive contribution to the 'street scene' by way of frontage, building line, scale and design.

7.2.3 Chestnut Avenue is a residential road with the visual amenity of the street scene enhanced by soft landscaping features, including grass verges and a number of prominent protected trees, which are evident from within the public realm. Chestnut Avenue therefore has a sylvan quality. The front gardens are generally open in character along Chestnut Avenue with a number of properties benefitting from carriage drives or large areas of hardstanding, some with low level front boundary walls and others with mature hedging.

7.2.4 The new front boundary wall would have a maximum height of 0.6m with the brick piers standing at a height of 1.2m. Whilst the introduction of higher boundary treatment would have an impact, it is not considered that the height of the boundary which will be stepped in height and softened by the existing hedging immediately behind would be at odds with the character of the area. The site is also opposite some other examples of similar height walls and thus cannot be considered to be out of character. The proposal also includes double wrought iron gates across the access into the site, which would be set back 2.2m from the front boundary wall and 5.5m from the road edge. Whilst it is noted that there are not any examples of iron gates

evident within the existing streetscene, there are many examples within the surrounding area including another example of closed-bordered timber gates within the existing streetscene. Nevertheless, proposed gates at 1.2m coupled with their set back would not have a harmful impact on the character of the area.

- 7.2.5 It is acknowledged that permitted development rights have been removed, given that the property in question is a new dwelling, which is a common practice. However, given consideration to the proposed development and the limitations of permitted development, it is considered that the brick piers and gates at 1.2m height would be 0.2m higher than what other householders in Chestnut Avenue could erect without planning permission.
- 7.2.6 Nevertheless given the height and setback nature of the proposed double iron railing gates, which would allow for a view of the existing dwelling and a low level wall and piers with soft landscaping, it is considered that the proposed front boundary treatment would not appear as an incongruous addition or result in a prominent or contrived feature within the street scene. Soft landscaping would also be retained within the frontage so that the development would respect the sylvan character of the street scene.
- 7.2.7 The proposal also seeks to construct front flank boundary close-bordered timber fencing, 1m in height, which would also include the planting of a 1.5m high hedging immediately adjacent along the front flank boundaries. The dominant front flank boundary treatment serving the existing streetscene is vegetation, predominantly hedging. However, there are some examples of close-bordered timber fencing. Given that a significant amount of hedging along the northern and southern front flank boundaries would be proposed, it is not considered that the close-boarded fencing at a height of 1m would detrimentally harm the character of the area as to warrant the refusal of planning permission. Additionally, with regard to permitted development, whilst it is again noted that permitted development rights have been removed at the application site, in the proposed location, fencing not facing or adjacent to the highway would be considered as being permitted development up to 2m in height. As such it is not considered that the proposed front flank timber fencing along the northern and southern flank front boundaries with the planting of 1.5m high hedging, which would be subject to a condition, would be significantly out of character within the streetscene or surrounding area to justify a reason for refusal.
- 7.2.8 In summary, it is not considered that the amended proposed development would result in a significant adverse impact on the character or appearance of the host dwelling, streetscene or surrounding area and the development would be acceptable in this regard in accordance with Policies CP1 and CP12 of the Core Strategy and to Policy DM1 and Appendix 2 of the Development Management Policies and the Chorleywood Neighbourhood Plan (August 2020).

7.3 Impact on amenity of neighbours

- 7.3.1 Policy CP12 of the Core Strategy advises that development will be expected to 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 LDD set out that development should not result in loss of light to the windows of neighbouring properties not allow overlooking, and should not be excessively prominent in relation to adjacent properties.

- 7.3.2 The proposed wall, gates and front flank boundary fencing to the drive would not result in any harm to the residential amenities of the surrounding neighbouring properties in terms of loss of light, impact on their visual amenities or overlooking.
- 7.3.3 As such, the proposed conversion would not result in an adverse impact upon any neighbours and would be acceptable having regard to Policy C12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies document (adopted July 2013).
- 7.4 Highways, Access and Parking
- 7.4.1 Core Strategy Policy CP10 requires development to provide a safe and adequate means of access and to make adequate provision for all users, including car parking. Policy DM13 and Appendix 5 of the Development Management Policies document set out parking standards.
- 7.4.2 The existing hardstanding could accommodate in excess of three parking spaces. Thus, sufficient on-site parking would be provided.
- 7.4.3 The Highways Officer raised no objections to the proposed access gates in relation to highway safety given they have been set back from the edge of the road by 5.5m. A condition has been recommended to ensure that the gates are maintained as inward opening.
- 7.5 Trees
- 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'.
- 7.5.2 Policy DM6 of the Development Management Policies 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.
- 7.5.3 There are number of trees adjacent to the front of the application site, which are protected by a Tree Preservation Order. There is an oak tree (T01) to the north and a birch tree (02) to the south of the proposed development. The proposed works would be within the root protection areas of the above trees. A tree report accompanied the application including various investigation works. It concluded that the existing low front wall has a concrete base, which can be utilised to support the new wall with no excavations required. For the entrance and pillars a supplementary arboricultural report was submitted during the course of the application, given initial concerns raised by the Landscape Officer. A number of trial excavations were carried out and not roots were discovered. The Landscape Officer was re-consulted and raised no objection to the proposed development. The supplementary tree information provided has allayed any concerns over harm to the trees.
- 7.5.4 A condition would be subject to any approval to ensure that works would follow the submitted tree reports.
- 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, which states that no protected species or biodiversity interests will be affected as a result of the application.

8 Recommendation

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

8.2 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 implemented and permanently maintained in accordance with the following approved plans: TRDC 001 (Location Plan), CAR/21/PL/L10A, CAR/21/PL/L11D, CAR/21/PL/L20C, CAR/21/PL/L21B, CAR/21/PL/L22B

Reason: For the avoidance of doubt and in the proper interests of planning 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) and the Chorleywood Neighbourhood Plan (August 2020).

C3 The gates, fencing and wall shall not be erected other than in the materials as have been approved in writing by the Local Planning Authority as shown on Drawing Number CAR/21/PL/L11D ; and no external materials shall be used other than those approved.

Reason: To ensure a satisfactory appearance of the development and to maintain the character and appearance of the area 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 The works hereby permitted shall be undertaken in accordance with the Arboricultural Report 2021 prepared by Bucks Plant Care Ltd and the recommendations as set out within the Supplementary Arboricultural Report 2021.

Reason: To ensure that no damage is caused to protected trees during construction and to meet the requirements of Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

- C5 Prior to their first use, the gates hereby permitted shall be installed to open inwards, set back, and thereafter retained in perpetuity at a minimum distance of 5.5 metres from the edge of the road.

Reason: To enable vehicles to safely draw off the highway before the gate is opened/closed, to minimise danger, obstruction and inconvenience to users of the adjacent highway, in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011).

- C6 The proposed hedging along the flank boundaries of the front garden shall be carried out before the end of the first planting season immediately following completion of the fencing. If the hedging is removed, dies, becomes severely damaged or diseased within five years of the completion of development it shall be replaced with hedging of appropriate size and species in the next planting season.

Reason: This condition is in the interests of visual amenity 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).

- C7 The hedging along the front boundary (fronting Chestnut Avenue) as shown on drawing number CAR/21/PL/L11D shall be maintained.

In the event that any part of the hedging shown to be retained, is removed (including prior to the commencement of the works hereby permitted), dies, becomes severely damaged or diseased it shall be replaced with hedging of appropriate size and species in the next planting season (ie November to March inclusive).

Reason: To soften the impact of the front boundary treatments in accordance with Policy DM1, DM6 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- 8.3 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 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/businesslicences/business-licences.aspx> or by telephoning 0300 1234047.
- 15 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-andpavements/business->

and-developer-information/business-licences/business-licences.aspx or by telephoning 0300 1234047.

- 16 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.

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PLANNING COMMITTEE – 21 OCTOBER 2021

PART I - DELEGATED

10. **21/1139/FUL - Removal of Condition 11 (Agricultural Occupation) of planning permission 17/2169/FUL at THE MULBERRY BUSH, FARM DAWES LANE, SARRATT, WD3 6BQ (DCES)**

Parish: Sarratt Parish Council
Expiry of Statutory Period: 29.06.2021
(Extension of Time Agreed 25.10.2021)

Ward: Chorleywood North & Sarratt
Case Officer: Scott Volker

Recommendation: That Condition 11 be varied (subject to deed of variation to previous Section 106 being agreed).

Reason for consideration by the Committee: This application is brought before the Committee as it has been called-in by the Parish Council for the reasons set out at paragraph 4.1.1.

1 Relevant Planning History

1.1 There is an extensive planning history relating to the application site. Over the years buildings/structures and works have been permitted on the site. Other developments have taken place there without planning permission, resulting in the Council taking enforcement action.

1.2 8/40/91 - Erection of three horse boxes – Permitted June 1991.

1.3 In March 2001 planning permission was refused for the erection of five static poultry houses (ref. 00/01196/FUL), for a barn incorporating a free range poultry house and storage (00/01197/FUL) and for the erection of a single storey extension to a stable block to create a hatchery, chick unit and store (00/0001/FUL). A subsequent appeal linked all three applications. In February 2002 the Inspector allowed the erection of the single storey extension and five free range poultry houses. The appeal relating to the barn was dismissed. A condition was imposed on planning permission 00/1196/FUL for the poultry houses requiring:

No more than seven poultry houses, whether permanent buildings or mobile structures, shall exist within the application site at any one time and no caravans or mobile homes shall be stationed within the site.

REASON: In the interests of the character and appearance of the Green Belt and Chilterns AONB, in accordance with Policies GB1 and N20 of the Three Rivers Local Plan 1996-2011.

1.4 An outline application (03/0627/OUT) for a permanent agricultural dwelling was refused planning permission in August 2003 for the following reasons:

R1 Having regard to the submitted details and an investigation into the current and proposed farming operations at The Mulberry Bush, Dawes Lane the Local Planning Authority are not satisfied that there is a sufficient agricultural justification for a permanent new dwelling on this site, having regard to the Metropolitan Green Belt policies of the Three Rivers Local Plan 1996-2001 and national policy guidance contained in PPG7 (countryside).

R2 The erection of a dwelling not justified by agricultural need would be a visible, prominent development in the locality, adversely affecting the appearance and character of this rural area within the Metropolitan Green Belt and Area of Outstanding Natural Beauty,

contrary to policy GB1, GB11 and N20 of the Three Rivers Local Plan 1996-2011.

R3 The level of annual dwelling completions in Thee Rivers is such that without intervention, the allocated number of dwellings for the District is likely to be significantly exceeded. Policy H3 of the adopted Local Plan provides the appropriate mechanism to restrain further release of housing sites and is considered relevant in this case. The proposal is considered to be contrary to Policy H3 (1)(iii) and H3 (3) of the adopted Local Plan.

- 1.5 A full planning application (04/0533/FUL) for the erection of a temporary agricultural worker's dwelling was refused planning permission on 18 August 2004 for the following reasons:

R1 Having regard to the submitted details and an investigation into the current and proposed farming operations at The Mulberry Bush, Dawes Lane the Local Planning Authority are not satisfied that there is a sufficient agricultural justification for a permanent new dwelling on this site, having regard to the Metropolitan Green Belt policies of the Three Rivers Local Plan 1996-2001 and national policy guidance contained in PPG7 (countryside).

R2 The location of the site is such that it is poorly located in relation to accessibility to town and local shopping centres and passenger transport and is not considered to be a sustainable form of development. The proposal is considered to be contrary to Policies GEN 1, GEN 1a and Figure 2 of the Three Rivers Local Plan 1996 - 2011.

R3 The erection of a dwelling not justified by agricultural need, and as such by virtue of the siting and size of the dwelling, would be a visible, prominent development in the locality, adversely affecting the appearance and character of this rural area within the Metropolitan Green Belt and Area of Outstanding Natural Beauty, contrary to policy GB1, GB11 and N20 of the Three Rivers Local Plan 1996-2011.

Appeals against the refusal of planning permission for a temporary (04/0533/FUL) and permanent dwelling (03/0627/OUT) were dismissed in November 2004.

- 1.6 04/1689/FUL - Erection of 2 detached poultry houses. Refused for the following reason:

R1 The proposal would comprise further spread of scattered buildings in the very attractive open landscape of the Chess Valley in the Chilterns Area of Outstanding Natural Beauty, detracting from the character and appearance of the locality, contrary to Policy 42 of the Hertfordshire Structure Plan Review 1991-2011 (adopted April 1998) and Policies N20 and N23 of the Three Rivers Local Plan 1996-2011.

- 1.7 06/0514/FUL - Erection of two detached poultry houses - Refused. Allowed on appeal subject to conditions.

- 1.8 07/1091/FUL - Agricultural barn. Refused for the following reason:

R1 The proposed agricultural barn would, by reason of its height and siting, be a prominent and visible building, which would detract from the character and appearance of the Area of Outstanding Natural Beauty, contrary to Policy N20 of the Three Rivers Local Plan 1996-2011.

- 1.9 07/1496/FUL - Two polythene tunnel greenhouses to south east of site for growing of organic herbs. Refused. Subsequent appeal allowed.

- 1.10 07/1793/FUL - Part retrospective: Retention and relocation of 4 brooder huts and levelling of soil adjacent to Dawes Common boundary. Refused for the following reason:

R1 The proposal would comprise a further spread of scattered buildings and associated development in the very attractive open landscape of the Chess Valley in the Chilterns Area

of Outstanding Natural Beauty, detracting from the character and appearance of the locality and openness of the Metropolitan Green Belt, contrary to Policies GB1, N20 and N23 of the Three Rivers Local Plan 1996-2011.

1.11 07/1860/FUL - Change of Use: Land from agriculture to camp site/amenities building. Refused, subsequent appeal dismissed.

1.12 08/0164/FUL - Three temporary chicken houses. Application refused in March 2008.

A Breach of Condition Notice (BCN) was served in February 2008 following the continued presence of in excess of seven poultry houses on the site. This came into force immediately and the owner had 3 months to comply. The applicant reduced the number of permanent/temporary poultry houses in September 2008 but eleven poultry units including four brooder units remained. This BCN compliance period was held in abeyance following the submission of application 07/1793/FUL to retain four brooder units and the subsequent appeal. The appeal was dismissed on 3 October 2008. Instead of bringing a prosecution for failure to comply with the BCN, the Council proceeded to issue an Enforcement Notice alleging a breach of a condition.

At a subsequent enforcement appeal against the notice the Inspector determined that the brooder huts did not constitute development and condition 6 of 00/1196/FUL and 06/0514/FUL was void for uncertainty. For this reason, the Enforcement Notice was quashed referenced APP/P1940/C/09/2105319.

1.13 08/2277/FUL - Installation of four brooder huts and aviaries for the purposes of raising chicks to four weeks of age. This application was refused on 9 February 2009 for the following reason:

R1 The proposal would comprise a further spread of scattered buildings and associated development in the very attractive open landscape of the Chess Valley in the Chilterns Area of Outstanding Natural Beauty, detracting from the character and appearance of the locality and openness of the Metropolitan Green Belt, contrary to Policies GB1, N20 and N23 of the Three Rivers Local Plan 1996-2011.

A subsequent appeal was allowed referenced APP/P1940/A/09/2109064.

1.14 09/0813/FUL - Change of use of land for the stationing of mobile home for a temporary agricultural worker dwelling for a period of 3 years. Planning permission refused October 2009 for the following reason:

R1 The proposed temporary worker's dwelling would, by reason of its siting, design and appearance and the cumulative amount of development on the site, lead to a visually intrusive form of development in this attractive open landscape of the Chess Valley in the Metropolitan Green Belt and Chilterns Area of Outstanding Natural Beauty, detracting from the character and appearance of the locality. In addition, the proposal would fail to meet test (v) of Annex A of PPS7 and would thus comprise inappropriate development in the Metropolitan Green Belt to the detriment of the openness of the Metropolitan Green Belt. No very special circumstances have been presented to outweigh this harm. As such, the proposed development would be contrary to Policies N20, N23, GB1, GB11 of the Three Rivers Local Plan 1996-2011 and Government guidance contained in PPG2 and PPS7.

A subsequent appeal was dismissed referenced APP/P1940/A/09/2117687.

1.15 10/2087/FUL - Change of use of land for the stationing of a mobile home for a temporary agricultural worker dwelling (3 years) to supervise the agricultural business. This application was permitted on 13 January 2011 on the basis that functional and financial need had been demonstrated for a temporary dwelling on site. This temporary dwelling has been constructed on site.

- 1.16 13/1345/FUL - Agricultural dwelling with office and clean down facilities with detached garage and log store, associated residential curtilage and septic tank. This application was refused on 25 October 2013 for the following reasons:

R1 The proposed agricultural worker's dwelling and related facilities and structures would, by reason of their size, siting and appearance and cumulative extent of development on site, lead to a visually intrusive and prominent form of development in this attractive open landscape of the Chess Valley in the Metropolitan Green Belt and Chilterns Area of Outstanding Natural Beauty, detracting from the rural character, openness and appearance of the locality. No satisfactory very special circumstances have been put forward to overcome this harm and as such, the proposed development would be contrary to Policies CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM2 and DM7 of the Development Management Policies LDD (adopted July 2013).

R2 In the absence of an agreement or unilateral undertaking under the provisions of Section 106 of Town and County Planning Act 1990, securing restrictions in respect of the operation of the Site, there would be inadequate control of the permitted use of the Site potentially resulting in harm to the openness and rural character of the Metropolitan Green Belt and the Chilterns Area of Outstanding Natural Beauty. The application therefore fails to meet the requirements of Policies CP1, CP8, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM2, DM7 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

A subsequent appeal was dismissed by the Planning Inspector in January 2015 referenced APP/P1940/A/14/2213952.

- 1.17 14/0034/FUL - Temporary consent (3 years) for mobile home for use as an agricultural dwelling – Permitted on 19 June 2014.

- 1.18 17/0488/FUL - Erection of agricultural worker's dwelling with associated curtilage – This application was presented to Planning Committee in June 2017 with the recommendation for approval, with the Officer considering that the relevant functional and financial tests had been met for a permanent dwelling. However, Members overturned the Officer's recommendation and resolved to refuse planning permission for the following reason:

R1 The proposed agricultural worker's dwelling would be inappropriate development in the Green Belt and would cause harm to the openness of the Green Belt. It has not been adequately demonstrated that there is a proven need for the dwelling in accordance with the requirements of Policy DM2 and Appendix 3 of the Development Management Policies LDD (adopted July 2013) and there would be no very special circumstances to outweigh this harm. The development would therefore be contrary to Policies CP1, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM2 and DM7 and Appendix 3 of the Development Management Policies LDD (adopted July 2013).

- 1.19 17/1361/FUL - Temporary consent (3 years) for mobile home for use as an agricultural dwelling – Permitted November 2017.

- 1.20 17/2169/FUL - Erection of agricultural worker's dwelling with associated curtilage – Permitted December 2017 subject to conditions, including condition 11 which stated the following:

C11 The occupation of the agricultural worker's dwelling hereby permitted shall be limited to a person(s) solely or mainly working, at The Mulberry Bush in agriculture, or a widow or widower of such a person, and to any resident dependants.

Reason: The site is within an area where a dwelling would not normally be permitted and permission is only granted because the dwelling is intended to serve the needs of agriculture in accordance with Policy CP1, CP11 and CP12 of the Core Strategy

(adopted October 2011) and Policies DM2 and DM7 and Appendix 3 of the Development Management Policies LDD (adopted July 2013).

This permission has been implemented and is subject to a Section 106 legal agreement. The Heads of Terms of the S.106 included the following:

- i. Removal of the temporary accommodation from the site prior to the occupation of the dwelling permitted under application 17/2169/FUL. This has been undertaken.
- ii. Restrictions on the number of chicken sheds and feed silos on site.
- iii. Restrict number of laying chickens on site at any one time and the number of chickens to be farmed for slaughter per annum
- iv. Restrict any additional temporary structures and mobile structures being constructed or brought onto the site excluding the stationing of a caravan within the residential curtilage of the agricultural dwelling or in connection with the lawful use of the site for caravan and camping purposes in accordance with Schedule 2, Part 4, Class B of the GPDO.

1.21 19/2143/FUL – Replacement Polytunnel – Refused November 2019 for the following reasons:

R1 The proposed polytunnel by reason of its siting, height and length would result in the spread of built form into the open landscape of the Area of Outstanding Natural Beauty and Metropolitan Green Belt, detracting from the openness of the Green Belt and conflicting with the purposes of including land within the Green Belt and failing to conserve and/or enhance the special landscape character and distinctiveness within the Area of Outstanding Natural Beauty and detracts from its setting. The proposed development is therefore considered to be an inappropriate form of development in the Green Belt contrary to the aims of the National Planning Policy Framework (2019), Policies CP9 and CP11 of the Core Strategy (adopted October 2011) and Policies DM2 and DM7 of the Development Management Policies LDD (adopted July 2013).

A subsequent appeal was allowed referenced APP/P1940/W/20/3247693.

1.22 19/2143/PDA - Prior Notification: Change of use of existing agricultural building to flexible commercial use (C1 Hotel) – No objection raised January 2020.

1.23 20/0402/PDF - Prior Notification: Change of use of agricultural buildings to a flexible commercial use: Class C1 hotel / holiday accommodation – Prior Approval required and Prior Approval given in April 2020.

1.24 20/2603/FUL - Variation of Condition 11 (Agricultural Occupation) of planning permission 17/2169/FUL to amend wording of the condition to as follows: 'The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependants' – Refused February 2021 for the following reason:

R1 The proposed variation to the wording of Condition 11 (Agricultural Occupancy) of 17/2169/FUL would result in the dwelling not being secured for the exclusive occupation of agricultural workers to serve the agricultural needs of the Mulberry Bush Farm, despite the original permission being contingent on the need for on-site presence of workers to serve the Farm. This would impact on the future viability of the site as an agricultural holding and lead to future pressure for an additional agricultural dwelling on the site. The variation of the condition would therefore be unacceptable as it would lead to a dwelling which would be inappropriate development in the Green Belt contrary to Policy CP11 of the Core Strategy (adopted October 2011) and Policy DM2 and Appendix 3 of the Development Management Policies LDD (adopted July 2013).

- 1.25 21/1417/PDF - Prior Notification: Change of use of agricultural buildings to a flexible commercial use Class C1 hotel / holiday accommodation - Prior Approval is Required and that Prior Approval is Given (subject to Section 106 Agreement) in July 2021.

Relevant Enforcement History

- 1.26 19/0206/COMP - Breach of Condition 11 (Residency) of Planning Permission 17/2169/FUL – Pending Consideration.
- 1.27 20/0057/COMP – Unauthorised Operational Development to Chicken Sheds – Pending Consideration.

2 Description of Application Site

- 2.1 The application site, outlined in red on the submitted Location Plan, has access from Dawes Lane along a roadway aligning its southern boundary and contains an agricultural worker's detached dwelling granted consent under application 17/2169/FUL and occupied by the applicant. The dwelling has a brick plinth and vertical timber clad exterior with a clay tiled roof.
- 2.2 The wider site of The Mulberry Bush outlined in blue on the submitted Location Plan is a 4.2 hectare (11 acres) agricultural holding, lying 600 metres to the south-west of the village core of Sarratt in South West Hertfordshire. The site lies on the side of a valley within the Metropolitan Green Belt and the Chilterns Area of Outstanding Natural Beauty. Dawes Lane aligns its south-eastern boundary. Part of the site adjacent to the south-eastern site boundary is within a Local Wildlife site. In addition to the access from Dawes Lane the wider site has access from Moor Lane to the west of the site which has recently been re-surfaced by the applicant under Schedule 2, Part 9 Class E of the GPDO. The site includes a number of buildings, some of which have undergone a change of use from agriculture to a flexible use to provide holiday accommodation (Use Class C1). One of these buildings (19/2143/PDA) is situated approximately 25 metres south-east of the agricultural worker's dwelling. Also converted are a former agricultural building located in the eastern part of the wider site, a building located centrally along the northern boundary and an agricultural building in a row of three located in the lower part of the site close to Moor Lane and closest to the northern corner of the site, all of which were permitted under application 20/0402/PDF.
- 2.3 Public footpath 52 runs parallel to part of the north-eastern boundary of the wider site and continues through Dawes Common, and woodland, to the north-east.
- 2.4 An Article 4 Direction, confirmed in 1963, applies to the site removing all agricultural permitted development rights.

3 Description of Proposed Development

- 3.1 Planning permission 17/2169/FUL for the 'Erection of agricultural workers dwelling with associated curtilage' was granted subject to 11 conditions. This application seeks planning permission for the development described but with condition 11 ('Condition 11') of the planning permission removed.
- 3.2 Condition 11 of planning permission 17/2169/FUL states the following:

C11 The occupation of the agricultural worker's dwelling hereby permitted shall be limited to a person(s) solely or mainly working, at The Mulberry Bush in agriculture, or a widow or widower of such a person, and to any resident dependants.

Reason: The site is within an area where a dwelling would not normally be permitted and permission is only granted because the dwelling is intended to serve the needs of agriculture in accordance with Policy CP1, CP11 and CP12 of the Core Strategy

(adopted October 2011) and Policies DM2 and DM7 and Appendix 3 of the Development Management Policies LDD (adopted July 2013).

- 3.3 The wording of the condition restricts the occupation of the dwelling to a person(s) working in agriculture on the 11 acres at The Mulberry Bush.
- 3.4 This application seeks to remove this condition. This would then remove the requirement for the occupants of the dwelling to be restricted to persons solely or mainly working, at The Mulberry Bush in agriculture, or be a widow or widower of such persons, and any resident dependants.
- 3.5 No changes to the dwelling itself are proposed under the application.
- 3.6 The application is supported by a Planning Statement prepared by Parsonson Planning Consultancy dated May 2021 and an Agricultural Needs Appraisal prepared by North Letherby Ltd. dated September 2021.
- 3.7 Conditional planning permission 17/2169/FUL was approved subject to completion of a S.106 legal agreement. Should this Section 73 planning application result in a new planning permission being granted, it will be necessary to vary the existing Section 106 by means of a Deed of Variation so as to ensure that the planning obligations secured by the principal deed also apply to the further grant of planning permission. The current extant S.106 secures the following planning obligations in respect of the Mulberry Bush:

Permanent Poultry Houses

1. Not to construct or place or permit or suffer to permit the construction or placement of more than seven (7) Permanent Poultry Houses on the Site at any time.

Temporary Structures and Mobile Structures

2. Not to construct or place or permit or suffer to permit the construction or placement of any Temporary Structures or Mobile Structures on the Site without the prior written approval of the Council.
3. Unless first agreed in writing by the Council, not to allow any type of vehicle to be brought onto or remain on the Site (excluding the Residential Curtilage) unless such type of vehicle is required:
 - a. For transportation purposes in connection with the lawful agricultural use of the Site and is so used, or
 - b. For transportation purposes in connection with any lawful use of the Site as permitted by the 2015 Order (without prejudice to the effect of any planning condition imposed in respect of the First Planning Permission or the Second Planning Permission or the Further Temporary Planning Permission restricting such use), or
 - c. For transportation purposes in connection with the lawful use of the Site for caravan and camping purposes in accordance with those permitted development rights contained in the 2015 Order where the circumstances described in paragraphs 2 or 3 of Schedule 1 of the Caravan Sites and Control of Development Act 1960 exist and is so used.
4. No vehicle shall be brought onto or remain within the Residential Curtilage unless it is reasonably required for the purposes incidental to the enjoyment of the Dwellinghouse and is so used.

Feed Silos

5. Not to construct, place or operate (or allow the construction, placing or operation of) on the Site of more than four (4) Further Mobile Feed Silos and not to do so unless such Further Mobile Feed Silo:

- a. Is located within five (5) metres of a Permanent Poultry House
- b. Is no higher (when measured to ridge height) than the nearest Permanent Poultry House
- c. Does not exceed the maximum capacity of six (6) tons;

AND FOR THE AVOIDANCE OF DOUBT the total cumulative number of Existing Mobile Feed Silos and Further Mobile Feed Silos on the Site shall not at any time exceed seven (7) in total;

6. Not to move any Existing Mobile Feed Silo from its Current position as shown on the Location Plan without the prior written approval of the Council
7. Not to replace any Existing Mobile Feed Silos or Further Mobile Feed Silos removed from the Site without the prior written approval of the Council.

Mobile Home and Caravans

8. Subject to clause 4.2 and paragraph 12 of this Schedule, not to place nor permit the stationing or storage of any caravans or mobile homes (other than the Mobile Home), in accordance with this Deed) on the Site
9. Prior to its permanent removal from the Site in accordance with clause 10:
 - a. Not to move the Mobile Home from its Current position on the Site
 - b. Not to enlarge the Mobile Home
 - c. Not to alter the Mobile Home's Current physical appearance without the prior written approval of the Council
10. To permanently remove the Mobile Home from the Site at the earliest of the five dates/occurrences:
 - a. Within three months of the cessation of the use of the Mobile Home as a dwelling by an agricultural worker employed to supervise the agricultural business from the Site
 - b. Within three months of the date on which the Further Temporary Planning Application is withdrawn.
 - c. Within three months of the expiry, quashing or revocation of the Further Temporary Planning Permission
 - d. The date on which a refusal of the Further Temporary Planning Application is Finally Determined
 - e. Before the first Occupation of the First Development or Second Development (and not to occupy or permit Occupation of the First Development or Second Development unless the Mobile Home has been permanently removed for the Site)
11. Not to occupy nor cause or permit Occupation of the First Development or Second Development until the Mobile Home has been permanently removed from the Site
12. The provisions of this Schedule shall not prevent the use of the Residential Curtilage of the First Development or Second Development for the stationing of a single touring caravan present for purposes incidental to the enjoyment of the Dwellinghouse (in accordance with paragraph 1 of Schedule 1 of the Caravan Sites and Control of Development Act 1960)

Operation of Site

13. Not to cause or permit the number of laying hens present on the Site at any one time to exceed eight thousand two hundred and fifty (8,250)
14. Not to cause or permit the number of chickens produced on the Site and slaughtered for meat to exceed nine thousand six hundred (9,600) per annum

Permanent Dwellinghouses

15. To implement either the First Planning Permission or the Second Planning Permission

but not to implement both

16. Prior to carrying out a Material Operation pursuant to the First Planning Permission any Material Operations undertaken pursuant to the Second Planning Permission shall be demolished and that part of the Site restored to the condition it was in prior to the Second Development taking place
17. Prior to the carrying out a Material Operation pursuant to the Second Planning Permission any Material Operations undertaken pursuant to the First Planning Permission shall be demolished and that part of the Site restored to the condition it was in prior to the First Development taking place
18. Upon carrying out a Material Operation pursuant to the First Planning Permission thereafter not carry out any Material Operations pursuant to the Second Planning Permission
19. Upon carrying out a Material Operation pursuant to the Second Planning Permission thereafter not carry out any Material Operations pursuant to the First Planning Permission

3.8 Following the construction of the permanent dwelling pursuant to 17/2169/FUL and the removal of the mobile home that historically served as a temporary dwelling, officers consider that the following planning obligations would continue to remain necessary if the application is approved to make the development acceptable in planning terms:

Permanent Poultry Houses

1. Not to construct or place or permit or suffer to permit the construction or placement of more than seven (7) Permanent Poultry Houses on the Site at any time.

Temporary Structures and Mobile Structures

2. Not to construct or place or permit or suffer to permit the construction or placement of any Temporary Structures or Mobile Structures on the Site without the prior written approval of the Council.
3. Unless first agreed in writing by the Council, not to allow any type of vehicle to be brought onto or remain on the Site (excluding the Residential Curtilage) unless such type of vehicle is required:
 - a. For transportation purposes in connection with the lawful agricultural use of the Site and is so used, or
 - b. For transportation purposes in connection with any lawful use of the Site as permitted by the 2015 Order (without prejudice to the effect of any planning condition imposed in respect of the First Planning Permission or the Second Planning Permission or the Further Temporary Planning Permission restricting such us), or
 - c. For transportation purposes in connection with the lawful use of the Site for caravan and camping purposes in accordance with those permitted development rights contained in the 2015 Order where the circumstances described in paragraphs 2 or 3 of Schedule 1 of the Caravan Sites and Control of Development Act 1960 exist and is so used.
4. No vehicle shall be brought onto or remain within the Residential Curtilage unless it is reasonably required for the purposes incidental to the enjoyment of the Dwellinghouse and is so used.

Feed Silos

5. Not to construct, place or operate (or allow the construction, placing or operation of) on the Site of more than four (4) Further Mobile Feed Silos and not to do so unless such Further Mobile Feed Silo:
 - a. Is located within five (5) metres of a Permanent Poultry House
 - b. Is no higher (when measured to ridge height) than the nearest Permanent

Poultry House

- c. Does not exceed the maximum capacity of six (6) tons;

AND FOR THE AVOIDANCE OF DOUBT the total cumulative number of Existing Mobile Feed Silos and Further Mobile Feed Silos on the Site shall not at any time exceed seven (7) in total;

6. Not to move any Existing Mobile Feed Silo from its Current position as shown on the Location Plan without the prior written approval of the Council
7. Not to replace any Existing Mobile Feed Silos or Further Mobile Feed Silos removed from the Site without the prior written approval of the Council.

Mobile Home and Caravans

8. Subject to clause 4.2 and paragraph 12 of this Schedule, not to place nor permit the stationing or storage of any caravans or mobile homes
9. The provisions of this Schedule shall not prevent the use of the Residential Curtilage of the First Development or Second Development for the stationing of a single touring caravan present for purposes incidental to the enjoyment of the Dwellinghouse (in accordance with paragraph 1 of Schedule 1 of the Caravan Sites and Control of Development Act 1960)

Operation of Site

10. Not to cause or permit the number of laying hens present on the Site at any one time to exceed eight thousand two hundred and fifty (8,250)
11. Not to cause or permit the number of chickens produced on the Site and slaughtered for meat to exceed nine thousand six hundred (9,600) per annum.

4 Consultation

4.1 Statutory Consultation

4.1.1 Sarratt Parish Council: [Objection – CALL IN]

Sarratt Parish Council strongly objects to this application.

Agricultural use and the associated occupation was a key tenet of the original application 17/2169/FUL for the dwelling, and its subsequent approval. SPC is aware from recent correspondence with the owner of The Mulberry Bush and a recent site visit by the TRDC Case Officer that the owner contends that the farm is moving towards horticulture and viniculture which he states are both valid forms of agriculture. As such, there are no grounds for the removal of Condition 11 (Agricultural Occupation) and application 21/113/FUL should be refused.

SPC respectfully request that this application is called into Committee if the planning officers are minded to approve.

4.1.2 National Grid: [No response received]

5 Public/Neighbour Consultation

5.1.1 Number consulted: 84

5.1.2 No of responses received: 11 objections, 0 letters of support

5.1.3 Site Notice: Posted 14.05.2021 Expired 05.06.2021

5.1.4 Press Notice: Published: 21.05.2021 Expired: 12.06.2021

5.1.5 Summary of Responses:

- Overdevelopment
- Condition 11 was carefully worded when the original planning permission was granted. A variation to include the words "or last working" and "forestry" severely undermines the integrity of the restriction.
- Retrospectively trying to legalise what is an illegal act.
- Unacceptable in the ANOB or in the Green Belt
- Set a dangerous precedent, and makes a mockery of the planning department and planning law in Three Rivers.
- Original application was granted on specific agricultural grounds, which he now seeks to turn back to front as no agriculture exists.
- Planning permissions was obtained with conditions so that the development was consistent with the setting.
- The original conditions for planning approval have been blatantly disregarded, which should result in a demolition order.
- The application must be rejected in order to avoid setting a dangerous planning precedent.
- Section 4 confirms that the applicant didn't start to build the dwelling until after the agricultural use ceased. This is a material change to which invalidates the Planning Permission so it would have been unlawful when it was built.
- To permit the application would encourage building requests from huge numbers of rural applicants all of whom would meet such criteria.
- No longer an agricultural need for the dwelling to be on site.
- The Mulberry Bush has failed to sustain a functional and financial need for an agricultural workers dwelling for the last 3 years since dwelling was approved.
- The applicant says Condition 11 is an infringement of his human rights. He appears oblivious to the human rights of neighbours - his holiday lets plan will create unacceptable intrusions of noise and traffic volumes
- This is planning by stealth and sets a dangerous precedent.
- Condition 11 as originally drafted continues to be necessary to ensure that need.
- Wrong type of application submitted.
- Earlier application to vary condition was refused and this current application should be refused as well

6 Reason for Delay

6.1 Legal advice required and committee cycle.

7 Relevant Planning Policy and Guidance

7.1 National Planning Policy Framework and National Planning Practice Guidance

7.1.1 In 2021 the new National Planning Policy Framework (NPPF) was published. The framework is a material planning consideration to be taken into account in planning decisions along with the National Planning Practice Guidance (NPPG). NPPF 47 states:

7.1.2 'Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.' This guidance applies equally to section 73 applications for the amendment of conditions on existing planning permissions (Pye v. SSOE [1998] 3 PLR 72). NPPF 80 advises that:

"Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

(a) There is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside..."

7.2 The Three Rivers Local Development Plan

- 7.2.1 The planning merits of this application are to be considered against the relevant policies of the development 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). The relevant development plan policies of Three Rivers District Council reflect the guidance in the NPPF.
- 7.2.2 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: Sustainable Development, CP2: Housing Supply, CP3; Housing Mix and Density, CP4, Affordable Housing, CP9: Green Infrastructure, CP10: Transport and Travel, CP11: Green Belt and CP12 Design of Development.
- 7.2.3 The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013. Relevant policies include DM1: Residential Design and Layout, DM2: Green Belt, DM4: Carbon Dioxide Emissions and On site Renewable Energy, DM6: Biodiversity, Trees, Woodland and Landscaping, DM7: Landscape Character, DM8: Flood Risk and Water Resources, DM9: Contamination and Pollution, DM10: Waste Management, DM13: Parking and Appendix 3: Agricultural and Forestry Dwellings.

8 **Planning Analysis**

8.1 Introduction

- 8.1.1 Planning application 17/2169/FUL for the construction of a single agricultural worker's dwelling was presented to the Planning Committee in December 2017 with a recommendation for approval; the relevant functional and financial tests having been met for a permanent agricultural dwelling on the application site in the Green Belt to serve the agricultural needs of the Mulberry Bush farm in accordance with Appendix 3 of the Development Management Policies LDD. As noted in the planning officer's report, the applicant Mr Norris had been employed full time on agricultural activities at the Mulberry Bush since 2001; and it was demonstrated that there was a need for a dwelling on the site so that an agricultural worker was readily available in connection with the operation of a chicken farm enterprise comprising of four flocks of 1,600 hens each (6,400 laying hens) and three to four batches of 700 each (up to 2,800 in total) of young chicks being reared on in different groups every 4 weeks for table birds. The business employed 4 full time workers and a number of part-time workers who attended various farmers' markets and assisted with the day-to-day running of the poultry business.

- 8.1.2 Condition 11 (agricultural occupancy condition) was attached to the permission to restrict the occupancy of the dwelling to an agricultural worker employed exclusively in connection with the active chicken farm enterprise on the 11 acres of The Mulberry Bush farm. The wording of the condition reads as follows:

'The occupation of the agricultural worker's dwelling hereby permitted shall be limited to a person(s) solely or mainly working, at The Mulberry Bush in agriculture, or a widow or widower of such a person, and to any resident dependants.'

Reason: The site is within an area where a dwelling would not normally be permitted and permission is only granted because the dwelling is intended to serve the needs of agriculture in accordance with Policy CP1, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM2 and DM7 and Appendix 3 of the Development Management Policies LDD (adopted July 2013).'

- 8.1.3 The 'needs of agriculture' referred to in the Reason for the condition was supported by a report produced by *Kernon Countryside Consultants* and were related to the on-site

agricultural activities at The Mulberry Bush described in the officer's report and summarised in paragraph 8.1.1 above. Planning permission 17/2169/FUL has been implemented with the construction of the dwelling completed and it is currently occupied by the applicant Mr. Norris, the freehold owner of The Mulberry Bush farm. Officers note that, since shortly after the grant of planning permission for the permanent agricultural worker's dwelling, there have been no chickens kept on the site and a number of the chicken sheds have been converted into holiday accommodation as detailed within para. 2.2 above.

8.1.4 This application seeks to remove Condition 11 (Agricultural Occupancy) of planning permission 17/2169/FUL. Accordingly it is necessary to assess whether the condition continues to serve a planning function having regard to the guidance in NPPF 56 and in the National Planning Practice Guidance.

8.2 Wording of Condition 11

8.2.1 Section 73 of the Act permits applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted. The LPA can grant planning permission unconditionally, or subject to different conditions or refuse the application if they consider the original condition(s) should continue unchanged.

8.2.2 Paragraph 56 of the NPPF makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests:

1. necessary;
2. relevant to planning;
3. relevant to the development to be permitted;
4. enforceable;
5. precise; and
6. reasonable in all other respects.

8.2.3 The PPG (Para: 018 Reference ID: 21a-018-20190723) states that rigorous application of the six tests should be undertaken each time a planning condition is being considered, be that through imposition, removal or variation.

8.2.4 Policy DM2 : Green Belt says:

'As set out in the National Planning Policy Framework, the construction of new buildings in the Green Belt is inappropriate with certain exceptions...(a) New Buildings – Within the Green Belt, except in very special circumstances, approval will not be given for new buildings other than those specified in national policy and other relevant guidance. Further guidance on the factors that will be considered in assessing applications for agricultural or forestry dwellings in the Green Belt is contained in Appendix 3.'

8.2.5 With regards to agricultural and forestry occupancy conditions, Appendix 3 of the Development Management Policies LDD states that:

"Occupancy Conditions 15. Where the need to provide accommodation to enable farm, forestry or other workers to live at or near their place of work has been accepted as providing the special justification required for new, isolated residential development in the Green Belt it will be necessary to ensure that the dwellings are kept available for meeting this need for as long as it exists. For this purpose planning permission will be made subject to appropriate occupancy conditions."

8.2.6 It can be seen from the Reason set out in paragraph 1.20 above that Condition 11 was attached to planning permission 17/2169/FUL in accordance with, among other policies, Policy DM2 and Appendix 3 to ensure that the dwelling, which otherwise would not have been permitted, was made available and 'kept available' (Appendix 3:15) to meet an agricultural need.

8.2.7 The Planning Statement prepared by Parsonson Planning Consultancy, Ref:: s73-2012-v-1, accompanying the application contends in paragraph 1.05 that Condition 11 'cannot be justified because:

“(1.) can no longer serve the intended planning purpose as required by paragraph 15 of LDP Appendix 3;
(2.) is unnecessary, no longer relevant to the development and unreasonable wherein it fails requisite tests for conditions prescribed by paragraph 55 of the National Planning Policy Framework where failing just one is fatal to it;
(3.) its continued retention is placing unjustifiable burdens upon the applicant;
(4.) the proposal will not cause demonstrable harm;
(5.) in development plan and decision making terms these are material considerations of significant weight;”

8.2.8 As noted at para. 8.1.3 above, planning permission 17/2169/FUL, including Condition 11, was granted for the agricultural worker's dwelling to serve the needs of agriculture at The Mulberry Bush farm. It is appropriate, accordingly, in determining this application which seeks the removal of the condition, to consider whether Condition 11 meets the six tests in NPPF 55 as set out at para. 8.2.2 above.

1. Necessary, 2. Relevant to Planning & 3. Relevant to development permitted.

8.2.9 The Planning Statement 4.01 acknowledges that:

“It is acknowledged that at the time of its imposition, pursuant to 17/2169/FUL, an agricultural occupancy condition was deemed necessary to make the development acceptable in planning terms. That planning decision is a settled matter.”

8.2.10 The LPA consider that this does remain the case today and that an agricultural occupancy condition restricting the occupation of the dwelling remains necessary, relevant to planning and relevant to the development permitted applying Policies DM2 and CP11. Planning permission for an isolated residential development within the Green Belt would not have been supported without proof of the dwelling being required to 'serve the needs of agriculture' as stated in the Reason for Condition 11. As stated in the Planning Statement 4.07:

“agricultural activities continue on the site and the applicant remains employed in agriculture.”

8.2.11 Furthermore the applicant is a rural worker who, it is indicated, has a majority control of the Mulberry Bush Farm business for the purposes of NPPF 80. While the agri-business model may have changed since 2017, as the Planning Statement makes clear, this has led to:

“4.10 ...changed cropping on the farm from poultry to horticulture... Viticulture is also being actively explored by the applicant with members of his family.”

8.2.12 The planning purpose served by the imposition of Condition 11, namely agricultural need, accordingly remains extant today for these policy reasons.

4. Enforceable

8.2.13 With regards to enforceability, it has been previously asserted by Parsonson Planning Consultancy within their Planning Statement submitted in support of 20/2603/FUL that Condition 11 “appears to meet the test of enforceability.” Officers agree that this is the case. The condition restricts the occupation of the dwelling to readily identifiable persons.

5. Precision

8.2.14 Condition 11 is precise in its terms. Its wording is clear. This is acknowledged in the 20/2603/FUL Planning Statement which stated that “we can understand the terms used within Condition 11 inferring precision.” 6. Reasonableness

8.2.15 At 3.17, 4.20-4.21 the Planning Statement supporting this application questions the reasonableness of Condition 11 on the grounds that it precludes occupation of the dwelling by someone working in agriculture within the locality or someone who last worked in agriculture in the locality. As part of the proposal to vary the wording of Condition 11 under application 20/2603/FUL the submitted Planning Statement in support of 20/2603/FUL drew attention to the model condition 45 in Appendix A of Circular 11/95 worded as follows:

‘The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry or a widow or a widower of such a person, and to any resident dependants.’

8.2.16 While Circular 11/95 has been cancelled, the Government advises that this is ‘With the exception of Appendix A (model conditions) which is retained;’ and that the circular is replaced by National Planning Practice Guidance. Paragraph: 015Reference ID: 21a-015-201403 of the NPPG says:

“Is it appropriate to use conditions to limit the benefits of the planning permission to a particular person or group of people?”

Planning permission usually runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission. For example, conditions limiting benefits to a particular class of people, such as new residential accommodation in the open countryside for agricultural or forestry workers, may be justified on the grounds that an applicant has successfully demonstrated an exceptional need.”

8.2.17 Condition 11 limits the occupation of the dwelling not to a particular class of people such as agricultural or forestry workers working in the countryside generally, but to a particular person, a worker solely or mainly working only on the 11 acres of Mulberry Bush farm and his or her family. In addition, the condition does not cater for the circumstances where that person retires.

8.2.18 An extension of the class of persons entitled to occupy the dwelling would, however, accord with the model condition and the guidance in paragraph 103 of Circular 11/95 upon which it was founded:

“103. It should not be necessary to tie the occupation of the dwelling to workers engaged in one specific farm or forestry business even though the needs of that business justified the provision of the dwelling. The model occupancy condition will ensure that the dwelling is kept available to meet the needs of other farm or forestry businesses in the locality if it is no longer needed for the original business, thus avoiding a proliferation of dwellings in the open countryside.”

8.2.19 While the LPA acknowledge that Circular 11/95 has been cancelled, this policy rationale for the wording of the model condition has been upheld by inspectors on appeal. A recent example is the appeal decision of Inspector Walker MRTPI 17/12/2019 APP/R0660/W/19/3236598 where in paragraph 21 he held:

‘In the interests of protecting the open countryside from unacceptable encroachment, a condition is necessary restricting the building use to only those employed in agriculture or forestry or their widowed spouse and resident dependants. At the hearing there was a discussion as to whether there should be a personal condition tying the dwelling to the business. However, were the business to cease trading the dwelling would not be able to

be occupied, which would put pressure on the Council to remove the condition, resulting in it becoming an open market dwelling.'

- 8.2.20 Where Condition 11 restricts the occupation of the dwelling to persons working on the farm and no other persons, it has no regard to the future possibility of the failure of the agricultural business at The Mulberry Bush. Were the business to cease, the dwelling would not be able to be occupied which would put pressure on the Council to remove the condition with the result in it becoming an open market dwelling. This is a risk that is recognised in national planning guidance as one to be avoided in the interest of protecting the countryside. And in the LPA's view, it is a real risk inherent in the wording of Condition 11 that is not in the public interest of protecting the countryside in the Green Belt in Three Rivers District.
- 8.2.21 Following the grant of application 17/2169/FUL, the LPA have been in receipt of a number of concerns that the applicant has breached Condition 11 of the permission as the chicken farm enterprise, which justified the need for a permanent dwelling to be on the application site, appears to have ceased. An enforcement investigation was subsequently opened (ref: 19/0206/COMP) and is pending consideration. While it is not appropriate to pre-judge the outcome of the enforcement proceedings, the possibility of the agricultural business at The Mulberry Bush farm ceasing reinforces the planning merits of widening the scope of the occupancy of the dwelling to include persons employed or mainly employed on agriculture in the locality.
- 8.2.22 The objective of planning policy as contained in the NPPF the NPPG and model condition 45, is to seek to retain agricultural dwellings to ensure that they can be kept available to meet future agricultural needs within the locality, and not just for the purposes of a single holding
- 8.2.23 In addition to the above considerations, Condition 11 omits the phrase "*or last working*" which can be also be considered unreasonable. The term "*last working*" is included in the model to cover the case both of a person who is temporarily unemployed or of a person who from old age or illness is no longer able to work in agriculture.
- 8.2.24 The words 'or mainly working' would include persons who engaged in other part-time employment enabling them to continue to remain working in agriculture in the interests of the rural economy.
- 8.2.25 In these circumstances, where up-to-date national planning policies recognise that where agricultural dwellings are granted planning permission as an exception to restrictive countryside policies, agricultural occupancy conditions should accommodate a class of persons, namely agricultural and forestry workers working in the countryside generally, the LPA considers it is arguable that Condition 11 places an unreasonable planning restriction on the occupation of the dwelling.
- 8.2.26 In addition, Condition 11, as currently worded, would place limitations on the use of the dwelling to serve the commercial agricultural needs of the farm, including the ability to raise finance, should the holding expand beyond the existing 11 acres.

8.3 The proposed removal of Condition 11

- 8.3.1 The application seeks the full removal of Condition 11 attached to planning permission 17/2169/FUL. This application follows a recently refused application which sought planning permission to vary the wording of condition 11 to reflect the model condition 45 under reference 20/2603/FUL.
- 8.3.2 As set out in paragraph 7.1.1 planning permission was granted after the relevant functional and financial tests having been met for a permanent agricultural dwelling on the application site in the Green Belt to serve the agricultural needs of the Mulberry Bush farm in accordance with Appendix 3 of the Development Management Policies LDD. The 'needs of

agriculture' related to the on-site agricultural activities at The Mulberry Bush in connection with an established chicken farming enterprise.

- 8.3.3 The Planning Statement at 4.07 sets out that there is no longer a need to retain the agricultural occupancy condition to serve the agricultural needs of The Mulberry Bush. Paragraph 4.08 onwards states:

"4.08 The applicant, having developed the poultry business over the past decades has faced significant challenges in more recent years. The economic returns from small scale Free Range egg production has shifted from being reasonable and secure, to marginal and risky.

4.09 Add to this the challenges arising through Brexit, recent outbreaks of Avian Flu, the proliferation of Red Kites and most recently, Covid 19, the business model is now irrevocably changed.

4.10 These challenges have been the motivator for changing cropping on the farm from poultry to horticulture. This, in turn, has precipitated the change of use of some of the chicken units through Class R Permitted Development Rights. Viticulture is also being actively explored by the applicant with members of his family.

4.11 The LPA has been clear that Condition 11 was attached to the planning permission to restrict the occupancy of the dwelling to an agricultural worker employed exclusively and specifically in connection with the active chicken farm enterprise on the 11 acres of The Mulberry Bush farm and nowhere else. This was reinforced by a recent unanimous decision to refuse to vary Condition 11.

4.12 The wording of the condition was specifically constructed to serve this particular need in accordance with Policy CP1, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM2 and DM7 and Appendix 3 of the Development Management Policies LDD (adopted July 2013).

4.13 In short; the advanced need for on-site accommodation, which was established through the development of a poultry business over some 20+ years, secured the use of the resulting dwelling for the exclusive occupation of agricultural workers serving the agricultural needs of the poultry business at Mulberry Bush Farm.

4.14 Condition 11 was thus drafted explicitly to ensure that the dwelling was kept available for meeting the advanced need for as long as it existed, reliant upon and compliant with LDP Appendix 3, paragraph 15.

4.15 However the poultry business, and therein this need, no longer exists. Accordingly, in the absence of need, Condition 11 is found to be otiose and no longer necessary.

4.16 Flowing from this, Condition 11 is no longer relevant to the development which was entirely founded upon welfare standards of poultry which are no longer kept on site."

- 8.3.4 As noted, the Planning Statement 4.08 states that the applicant has faced significant challenges in recent years including the viability of the business due to a shift in the economic returns from small scale Free Range egg production from being reasonable and secure to marginal and risky. In addition to this, the challenges arising through Brexit, recent outbreaks of Avian Flu, the proliferation of Red Kites and most recently, Covid-19, the business model is now irrevocably changed.

- 8.3.5 Notwithstanding the success or failure of the commercial viability of the free range poultry farming business, however the Planning Statement at 4.10 details that as a result of the challenges the applicant has been motivated to diversify the agricultural use of and change the cropping of the farm from poultry to horticulture.

- 8.3.6 The site includes two existing polytunnels which are currently in use for growing herbs and planning permission was granted for the erection a new replacement polytunnel to create a more efficient environment for growing herbs and salad crops on the site. This polytunnel is under construction but is yet to be brought into its first use. Other alternative agricultural uses are being explored by the applicant including Viticulture. The Agricultural Needs Appraisal accompanying the application also details that a sheep enterprise comprising of 30-35 ewes could be sustained at the farm and is being considered. Furthermore, whilst a number of the chicken sheds are proposed to be converted to hotel accommodation through Class R Permitted Development Rights, there are three sheds still available for agricultural use. As mentioned above, planning permission was previously sought in 2020 under application 20/2603/FUL to vary the wording of Condition 11 and this application was supported by details that the agricultural activity on the farm was ongoing and the current wording of the condition was overly restrictive and prevented any expansion of the agricultural activity beyond the 11 acres of The Mulberry Bush Farm.
- 8.3.7 The works to construct the agricultural workers dwelling were completed in 2018 and the dwelling has been continuously occupied by the applicant since works were completed. As confirmed by the Agricultural Needs Appraisal undertaken in support of this application by North & Letherby, the applicant continues to work in agriculture at the Mulberry Bush notwithstanding the cessation of the chicken farm enterprise. The current occupation of the agricultural dwelling by Mr & Mrs Norris does not constitute a breach of Condition 11. Mr Norris has recently began construction of a new polytunnel for horticulture purposes. Paragraphs 6.21-6.22 of the ANA confirms "*agricultural production continues at the Mulberry Bush*", adding that horticultural production will increase as a result of the construction of the new replacement polytunnel that was granted consent at appeal in 2020 (PINs Ref: APP/P1940/W/20/3247693 LPA Ref: 20/0014/REF). Furthermore, as set out above, the applicant has future plans for agricultural diversification at the Mulberry Bush which may include viticulture and sheep farming. However the ANA concludes that unlike the former poultry farming activities that took place on the land, none of those contemplated expanded or new agricultural activities would necessitate an on-site presence and submits that Condition 11 can no longer be considered to comply with the six tests as set out at Para 56 of the NPPF, in particular that it is necessary in planning terms and reasonable in all other respects. These submissions address the very restrictive wording of Condition 11 but would be only of limited relevance were Condition 11 to reflect the model wording.
- 8.3.8 Whilst the occupancy criteria as set out in Condition 11 tied the occupation of the dwelling to the agricultural enterprise that informed the original need for it, officers are of the view that the wording as required by members of the planning committee when resolving to grant planning permission for a permanent dwelling in 2017 was unduly restrictive and went beyond what was necessary. This would appear to be borne out by the wording of the reason for condition 11 which referred to the dwelling being intended "to serve the needs of agriculture". It is clear from the agricultural model occupancy condition (No 45) contained in Annex A of Circular 1/95 ("*the occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependants*") **that it is the need for a dwelling for someone solely, mainly or last working in agriculture or forestry in an area as a whole, and not just on the particular holding, that is relevant in the case of farm or forestry workers' dwellings (officers emphasis)**. The previous application reference 20/2603/FUL sought a variation of Condition 11 so as bring it into conformity with the model condition. Officers recommended approval of the application on this basis.
- 8.3.9 Officers would again recommend that the current wording of Condition 11 be substituted for Circular 11/95 Annex A's model agricultural occupancy condition. This condition would permit the wider occupation of the dwelling by persons working in the locality in agriculture or forestry, thereby meeting the previously identified need for an agricultural workers dwelling. The model condition would also be consistent with the reason cited for condition 11 which explained "*the site is within an area where a dwelling would not normally be*

permitted and permission is only granted because the dwelling is intended to serve the needs of agriculture.”

8.3.10 The dwelling is currently occupied by the applicant Mr Norris but the lawfulness of that occupation is dependent on him continuing to solely or mainly work at the Mulberry Bush in agriculture. Were agricultural activities on the site to cease (or the tourist use of the Site to become the dominant use) and Mr Norris to remain in occupation, then unlike the model condition (which refers additionally to “last working”), Mr Norris’s continuing occupation of the dwelling would be in breach of Condition 11. The Planning Statement prepared by Parsonson contends:

“Excluding occupation of the dwelling by those who, by dint of age, failing health or disability, seek to retire from their agricultural employment steps over a significant line. This is potentially both discriminatory and an infringement of a property owners Human Rights under Article 8 of the 1998 Act. A public body should not interfere or impinge in such a way which denies respect to a property owners rights to his home.”

8.3.11 As well as making no provision for a retired worker, Condition 11 currently also fails to ring-fence the use of the dwelling for the benefit of future agricultural workers. Were all agricultural activities at the Mulberry Bush to cease, Condition 11 as worded would not provide for agricultural workers serving the area as a whole. Accordingly the model condition should be substituted for Condition 11.

8.3.12 Where an application is made to remove a model agricultural occupancy planning condition the PINS Planning Appeals Procedural Guide (Appendix J) advises that:

For appeals concerned with the removal of an agricultural occupancy condition attached to an earlier permission, the Inspector is likely to need the information detailed below:

- evidence of existing demand or lack of demand for houses for agricultural or, where appropriate, other rural workers in the area;
- *whether there are any vacant dwellings in the neighbourhood that are suitable for agricultural or other rural workers. If so, you should provide details of the asking price or rent;*
- *evidence of efforts to sell or lease the dwelling subject to the occupancy condition. This should include any offers to buy the property and, if it has been advertised, how frequently, for how long and the names of the publications it has been advertised in;*
- *what the asking price or rent was, whether this reflected the reduction in value arising from the occupancy condition and, if so, by how much;*
- *the history of the site and details of the land owned (to include details of any land with full agricultural tenancy, additional land rented and other dwellings on the site).*

8.3.13 None of these issues are addressed specifically or in any detail addressed in the application and accompanying documentation.

8.4 Conclusion

8.4.1 In conclusion, in its current form Condition 11, is considered to be not in accordance with the up-to-date NPPF and NPPG guidance including model condition 45 and arguably is unreasonable. Whilst it is acknowledged that the chicken farm enterprise which was required to demonstrate the need for the dwelling on the site has currently ceased, nevertheless alternative agricultural/horticultural activities are ongoing and others being explored; and the occupier of the dwelling remains employed in agriculture / horticulture on the farm. Thus it is considered that there is still a continuing agricultural need served by the dwelling that is necessarily secured by Condition 11 modified to reflect the wording of the model planning condition.

- 8.4.2 Under Section 73 of the Act the LPA can grant planning permission unconditionally, or subject to different conditions or refuse the application if they consider the original condition(s) should continue unchanged. For the reasons set out above officers consider that there is a continued need for the dwelling to serve the needs of agriculture at the Mulberry Bush Farm but accept that the current wording of the condition is overly restrictive and potentially prevents the agricultural activities at the farm from expanding and/or the dwelling serving a wider area of agricultural need for residential accommodation. Should the agricultural activities at The Mulberry Bush Farm cease then it is considered that the dwelling should be made available to serve the needs of agriculture in the locality in line with the model condition 45 in the absence of proof of the matters identified above in the PINS guidance. As such, in this case officers advise the LPA do not consider that condition 11 should be removed but instead be varied.
- 8.4.3 The substitute condition recommended to be imposed, would follow the wording of the model condition and it is considered would thereby meet the tests set out at para. 56 of the NPPF. The substitute condition would accord with the continuing use of the Mulberry Bush for agriculture/horticulture and with the development plan policy in CP11 of the Core Strategy (adopted October 2011) and Policy DM2 and Appendix 3 of the Development Management Policies LDD (adopted July 2013) in ensuring that the dwelling remained subject to an appropriate agricultural occupancy condition and would, thereby, better serve the needs of agriculture, including forestry and the public interest in protecting the countryside in this part of the District.
- 8.4.4 The variation of Condition 11 of 17/2169/FUL (which is now listed as Condition 3 below) would not result in any greater harm to the openness of the Green Belt as the built form currently exists and there would be no intensification of use, additional incursion of residential development or domestic paraphernalia into the countryside or Green Belt than that associated with the development of the dwelling under 17/2169/FUL.

9 Recommendation

9.1 Planning permission should be granted subject to:

1) The prior completion of a Deed of Variation entered into pursuant to Section 106 and 106A securing the heads of terms as set out at paragraph 3.8 above, and

2) the following conditions:

C1 Notwithstanding the provisions of the Town and Country (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 A – enlargement, improvement or other alteration to the dwelling

Class B – enlargement consisting of an addition to the roof

Class C – alteration to the roof

Class D – erection of a porch

Class E – provision of any building or enclosure

Class F – any hard surface

Class G – provision of a chimney, flue, soil or vent pipe

Class H – installation, alteration or replacement of an antenna

Part 2

Class A – erection, construction, maintenance or alteration of a gate, fence, wall or other means of enclosure

No development of any of the above classes shall be constructed or placed on any part of the land subject of this permission.

Reason: To ensure adequate planning control over further development having regard to the limitations of the site and in the interests of the visual amenities of the site and the area in general, in accordance with Policies CP1, CP9, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM2, DM7 and Appendices 2 and 3 of the Development Management Policies LDD (adopted July 2013).

- C2 No external lighting shall be installed on the site or affixed to any buildings on the site unless the Local Planning Authority has first approved in writing details of the position, height, design and intensity. The lighting shall be installed in accordance with the approved details.

Reason: In the interests of visual amenity and to meet the requirements of Policies CP1, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM2, DM7 and DM9 and Appendices 2 and 3 of the Development Management Policies LDD (adopted July 2013).

- C3 The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependants'.

Reason: The site is within an area where a dwelling would not normally be permitted and permission is only granted because the dwelling is intended to serve the needs of agriculture in accordance with Policy CP1, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM2 and DM7 and Appendix 3 of the Development Management Policies LDD (adopted July 2013).

- C4 The development shall be maintained in accordance with the Landscaping Plan referenced 1246.LP.01 REV-A including the replacement of any trees or plants which die, are removed or become seriously damaged or diseased in the next planting season with others of a similar size or species, for a period for five years from the date of the approved scheme was completed as agreed in writing by the Local Planning Authority on 12th March 2018.

Reason: In the interests of visual amenity in accordance with Policies CP1, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM2 and DM7 and Appendices 2 and 3 of the Development Management Policies LDD (adopted July 2013).

- C5 The parking layout shall be maintained in accordance with plan 1246.LP.01 REV-A and shall be kept permanently available for the use of residents and visitors to the site as agreed in writing by the Local Planning Authority on 12th March 2018.

Reason: To minimise danger, obstruction and inconvenience to highway users in the interests of safety in accordance with Policies CP1, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

9.2 Informatives

- 11 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 development maintains/improves the economic, social and environmental conditions of the District.
- 12 The applicant is reminded that this planning permission is subject to either a unilateral undertaking or an agreement made under the provisions of Section 106 of the Town and Country Planning Act 1990.

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PLANNING COMMITTEE – 21 OCTOBER 2021

PART I - DELEGATED

- 11. 21/1271/OUT - Outline Application: Development of up to 70 residential dwellings (Use Class C3) with new access from Gosforth Lane (appearance, landscaping, layout and scale reserved) at FORMER LITTLE FURZE JUNIOR MIXED INFANTS SCHOOL, GOSFORTH LANE, SOUTH OXHEY, WATFORD, HERTFORDSHIRE, WD19 7RE (DCES)**

Parish: Watford Rural

Ward: South Oxhey

Expiry of Statutory Period: 30.09.2021 (Agreed Extension) Case Officer: Claire Westwood

Recommendation: That Outline Planning Permission be GRANTED subject to conditions.

Reason for consideration by the Committee: Called in by 3 Members of the Planning Committee unless Officers' are minded to refuse because; "The development is a significant one in a sensitive location. There has been significant public interest in proposals on the site and there is concern about flooding".

1 Relevant Planning History

- 1.1 18/1296/OUT - Outline Application: Erection of up to 70 dwellings (Use Class C3) and a 75 bed care home (Use Class C2), with associated new access (appearance, landscaping, layout and scale reserved). Permitted 14.09.2018.
- 1.2 20/1677/FUL - Variation of Conditions 1 (Reserved Matters), 3 (Reserved Matters), 4 (Affordable Housing), 5 (Construction Management Plan), 7 (SUDS Residential), 8 (SUDs Care Home), 9 (SUDs Management), 10 (Site Waste Management Plan), 12 (Tree Protection), 13 (Fire Hydrants) of planning permission 18/1296/OUT: (Outline Application: Erection of up to 70 dwellings (Use Class C3) and a 75 bed care home (Use Class C2), with associated new access (appearance, landscaping, layout and scale reserved)) to allow phasing of the development. Permitted 22.10.2020.
- 1.3 20/2783/DIS - Discharge of Conditions 7 (Surface Water Drainage), 10 (Archaeological Written Scheme of Investigation), 11a (Tree Protection), 12a (Fire Hydrants) and 14 (Woodland Management Plan) pursuant to planning permission 20/1677/FUL. Determined.
- 1.4 21/0180/NMA - Non-material amendment to planning permission 20/1677/FUL: Amendments to Conditions 3, 4, 6, 7, 8, 9, and 11 to ensure phasing requirements can be implemented during the care home phase of development. Permitted 15.02.2021.
- 1.5 20/2807/AOD - Approval of Details: Details pursuant to Condition 1 of Planning Permission 20/1677/FUL comprising layout, scale, appearance and landscaping of the Care Home phase including associated infrastructure such as access routes and drainage and demolition of existing vacant buildings. Permitted 23.03.2021.
- 1.6 21/1296/NMA - Non-Material Amendment to planning permission 20/2807/AOD: Amendments to landscaping plan. Permitted 09.06.2021.
- 1.7 21/1297/DIS - Discharge of Condition 11a (Tree Protection Plan) pursuant to planning permission 20/1677/FUL. Discharged.

2 Description of Application Site

- 2.1 The site is on the south side of Gosforth Lane, South Oxhey. It was previously in education use and accommodated Little Furze JMI School, however the school was closed in December 2004 and the site has been vacant since.
- 2.2 The former Little Furze School site extends to 3.61ha and is surrounded by woodland to the south, east and west, with Gosforth Lane forming the northern boundary. The woodland to the east, as well as land to the south and west of the former school site form part of Oxhey Woods which is designated as a Local Nature Reserve, a Local Wildlife Site, and Publicly Accessible Open Space and is part of the Metropolitan Green Belt. The former school site is allocated within the Site Allocations document as a housing site (reference H(27)) with an indicative capacity of 75 dwellings. The allocated site area was also removed from the Green Belt on adoption of the Site Allocations document.
- 2.3 The application site (red lined area) extends to 2.46ha and includes the residential parcel of the site, as well as the primary access road and spur road. The access road, spur road and attenuation areas to the north of the site are likely to be delivered as part of the recently approved Care Home development on the site.
- 2.4 To the north east part of the site are the former school buildings which comprise a number of single and two storey buildings with flat roof forms which have a staggered footprint. Surrounding the building is tarmac hardstanding. Further hardstanding to the north of the buildings is provided for a parking area accessed via a crossover from Gosforth Lane at the north east of the site. A second crossover approximately 28m to the west serves a service road which runs towards the western part of the site where it is understood that there was previously a second school building, now demolished. There is a pedestrian access at the north west of the site. There are further areas of hardstanding to the south east of the school buildings which were used for play. The remainder of the site is grass and scrub with some trees and larger vegetation.
- 2.5 Land levels fall steeply from the south towards the north of the site reducing by approximately 28m, and generally fall across the site towards the west although there are raised man-made terraces at the west of the site.
- 2.6 Beyond the north of the site are residential dwellings to the north side of Gosforth Lane which are generally two storey terraced properties finished in brick or render, some of which have implemented extensions and alterations including the provision of roof level accommodation.

3 Description of Proposed Development

- 3.1 This application seeks outline planning permission for the erection of up to 70 dwellings (Use Class C3) with associated new access from Gosforth Lane. The matters of appearance, landscaping, layout and scale are all reserved matters.
- 3.2 An indicative site plan has been submitted with the application and demonstrates how the access would be provided to the north-east of the site from Gosforth Lane. The indicative site plan also shows how the site could be developed, however, this is indicative only as the matters of appearance, landscaping, layout and scale are all reserved matters at this stage.
- 3.3 The application is accompanied by:
- Planning, Design and Access Statement
 - Archaeological Statement
 - Archaeological Desk Based Assessment
 - Written Scheme of Investigation
 - Biodiversity Checklist
 - Preliminary Ecological Appraisal

- Flood Risk Assessment
- Phase 1 Geotechnical Investigation
- Transport Assessment
- Tree Survey and Tree Constraints Plan
- Relevant plans including Site Location Plan, Indicative Layout Plan and Indicative Street Scene

4 Consultation

4.1 Consultees

4.1.1 Watford Rural Parish Council: No response received.

4.1.2 Hertfordshire County Council – Highway Authority: [No objection subject to conditions]

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. No development shall commence until full details have been submitted to and approved in writing by the Local Planning Authority to illustrate the following:

- *a swept path analysis for a fire tender (a 8.1m in length for a standard fire tender and 10.1m for an aerial ladder appliance) to illustrate that a fire tender would be able to get to within 45m of all parts of the footprint of the proposed buildings, turn around and egress the site in forward gear.*

Reason: To ensure suitable, safe and satisfactory planning and development of the site in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018).

2. A: Highway Improvements – Offsite (Design Approval)

Notwithstanding the details indicated on the submitted drawings no on-site works above slab level shall commence until a detailed scheme for the necessary offsite highway improvement works as indicated on drawing number 812598 IW XX XX DR C 6015 have been submitted to and approved in writing by the Local Planning Authority.

B: Highway Improvements – Offsite (Implementation / Construction)

Prior to the first use of the development hereby permitted the offsite highway improvement works referred to in Part A of this condition shall be completed in accordance with the approved details.

Reason: To ensure construction of a satisfactory development and that the highway improvement works are designed to an appropriate standard in the interest of highway safety and amenity and in accordance with Policy 5, 13 and 21 of Hertfordshire's Local Transport Plan (adopted 2018).

3. Provision of Internal Access Roads, Parking & Servicing Areas

Prior to the first occupation of the development hereby permitted the proposed internal access roads, on-site car parking and turning area shall be laid out, demarcated, surfaced and drained in accordance with the approved plans and retained thereafter available for that specific use.

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

4. Travel Plan Statement

At least 3 months prior to the first occupation of the approved development a detailed Travel Plan Statement for the site shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highways Authority. The approved Travel Plan Statement shall be implemented for at least 5 years post-occupation.

Reason: To ensure that sustainable travel options associated with the development are promoted and maximised to be in accordance with Policies 3, 5, 7, 8, 9 and 10 of Hertfordshire's Local Transport Plan (adopted 2018).

5. Construction Management Plan

No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Management Plan shall include details of:

- a. Construction vehicle numbers, type, routing;*
- b. Access arrangements to the site;*
- c. Traffic management requirements*
- d. Construction and storage compounds (including areas designated for car parking, loading / unloading and turning areas);*
- e. Siting and details of wheel washing facilities;*
- f. Cleaning of site entrances, site tracks and the adjacent public highway;*
- g. Timing of construction activities (including delivery times and removal of waste);*
- h. Provision of sufficient on-site parking prior to commencement of construction activities;*

Reason: In order to protect highway safety and the amenity of other users of the public highway and rights of way in accordance with Policies 5, 12, 17 and 22 of Hertfordshire's Local Transport Plan (adopted 2018).

Highway Informatives

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

AN) Extent of Highway: Information on obtaining the extent of public highway around the site can be obtained from the HCC website:

www.hertfordshire.gov.uk/services/highways-roads-and-pavements/changes-to-your-road/extent-of-highways.aspx

AN) Agreement with Highway Authority: The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> or by telephoning 0300 1234047.

AN) Travel Plan Statement: Further information is available via the County Council's website at:

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> OR by emailing travelplans@hertfordshire.gov.uk

Comments / Analysis

The current application relates to a residential development of 70 dwellings on the former Little Furze Primary School site, Gosforth Lane, South Oxhey. Gosforth Lane is designated as an unclassified local access road, subject to a speed limit of 30mph and is highway maintainable at public expense.

A Transport Assessment (TA) has been submitted as part of the application.

The site is an allocated housing site (ref. H27) and the overall site will also support a 75-bed elderly persons home.

Highway Access

There are two existing vehicular access points into the site in addition to one existing pedestrian access point. The proposals include alterations to the existing vehicle access arrangements to create one new bellmouth vehicular access with kerb radii of 8m on either side and carriageway width of 6m in addition pedestrian dropped kerbs / tactile paving, the details of which are shown on drawing number 812598 IW XX DR C 6015. These arrangements have previously been approved as part of the previous outline planning application for this site (ref. 18/1296/OUT) and are considered to be acceptable to support a development of this size.

The applicant would ultimately need to enter into a Section 278 Agreement with HCC as Highway Authority in relation to the technical approval of the design and implementation of the highway works including the new/altered access on Gosforth Lane and any works linked to closing off of the existing vehicle accesses (and any necessary highway reinstatement works) including:

- Provision of a new kerbed bellmouth access with a 6m wide access road, 1.8m wide footways on both sides and kerb radii of 8m on either side;
- Tactile paving and pedestrian dropped kerbs on either side of the proposed bellmouth access on Gosforth Lane;
- Reinstatement works (including footway and full height kerbs) associated with the closure of the existing vehicular accesses.

Prior to applying to enter into a Section 278 Agreement with the Highway Authority, the applicant would need to obtain an extent of highway plan (if not previously obtained) to clarify the works which would be within the existing highway. Please see the above conditions and informatives. A Stage 1 Road Safety Audit and Designers Response would also need to be carried out and submitted as part of the Section 278 application.

Internal Site Layout

HCC as Highway Authority would not have an objection to the general layout of the site as shown in the site layout plan (Proposed Site Plan Coloured).

A Section 38 Layout Plan (drawing no. 812598 IW XX DR C 6010) has been included as part of the TA indicating areas to be offered to be dedicated and subsequently adopted as highway. However HCC as Highway Authority would not agree to adopt any of the proposed internal access roads as the route would not be considered to provide a utility and benefit to the wider highway network. However it is recommended that the roads be built to adoptable standards to be in accordance with guidelines as documented in Roads in Hertfordshire: Highway Design Guide.

Furthermore the developer would need to put in place a permanent arrangement for long term maintenance of any of the roads that are not to be dedicated as highway. At the

entrance of each private road, the road name plate would need to indicate that it is a private road to inform purchasers of any potential future maintenance liabilities.

Refuse, Service and Emergency Vehicle Access

A swept path analysis has been submitted as part of the application (drawing no. ST-2392-24) to illustrate that a 11.2m long refuse vehicle would be able to utilise the internal access road network, turn around and egress to the highway in forward gear. The collection method would need to be confirmed as acceptable by Three Rivers District Council waste management.

It is recommended that a swept path analysis for a fire tender (a 8.1m in length for a standard fire tender and 10.1m for an aerial ladder appliance) is submitted as part of the reserved matters application. The proposals would need to illustrate that a fire tender would be able to get to within 45m of all parts of the footprint of the buildings (using access routes of a minimum width of 3.7m, which may be reduced to 3.1 for a gateway/entrance point) and be able to turn around and egress the site in forward gear whilst also not having to reverse more than 20m. This is to ensure that the proposals are in accordance with MfS, RIH and Building Regulations 2010: Fire Safety Approved Document B Vol 1 – Dwellings (and subsequent updates). Hertfordshire Fire & Rescue would also be able to provide more specific advice in relation to this if required at administration.cfs@hertfordshire.gov.uk

Parking

The proposal includes the provision of 139 car parking spaces (152 as part of previous application - 18/1296/OUT). HCC as Highway Authority would not have an objection to the proposed level of on-site car parking. HCC as Highway Authority would however recommend the provision of an appropriate level of electric vehicle charging provision (at least one active charging point per house; at least 20% active provision for all other on-site car parking spaces and passive provision for all other spaces) to promote development in accordance with Hertfordshire's Local Transport Plan and HCC's Sustainability Strategy.

TRDC is the planning authority for the district and therefore ultimately would need to be satisfied with the overall level and type of parking.

Trip Generation & Distribution and Impact on the Surrounding Highway

Baseline traffic flows from 2014 and TemPro growth factors to a 2021 base year have been included in the TA and used to assess the current traffic flows around the site, the approach of which is considered to be acceptable by HCC as Highway Authority. Junctions 9 (Picady) software modelling has then been used to assess the functioning and capacity of the 3 nearby priority t-junctions. The results show that all three junctions function well within capacity with RFC values of well below the recommended 0.85 maximum (at between 0.05 to 0.18 covering both the AM and OM peak).

A trip generation assessment for the proposed elderly people home and 70 residential units has been included as part of the TA, the details of which have been based on trip rate information from the TRICS database. This approach and methods used are considered to be acceptable by HCC as Highway Authority in this respect.

The total number of vehicular trips associated with the proposed uses are estimated to be 38 two-way vehicle movements in the AM peak and 39 two-way vehicle movements in the PM peak, which is significantly less than for the previous use as a primary school. Consequently following assessment of the junction analysis and trip generation, the impact on the operation of the surrounding highway network from the trips generated by

the proposed use(s) would be considered to be acceptable and not a reason to recommend refusal from a highways perspective.

Travel Plan Statement

A Travel Plan Statement would be necessary to be submitted and provided to ensure that the proposals promote and maximise sustainable travel options for future residents and visitors to and from the site and to ensure that the proposals are in accordance with Hertfordshire's Local Transport Plan and the National Planning Policy Framework (NPPF). The request for a travel plan statement is in accordance with the development size thresholds as laid out in appendix A of HCC's Travel Plan Guidance (Mar 2020).

TRDC has adopted the Community Infrastructure Levy (CIL) and therefore contributions towards local transports schemes as outlined in HCC's South West Herts Growth & Transport Plan would be sought via CIL if appropriate.

Conclusion

HCC as Highway Authority considers that the proposal would not have an unreasonable impact on the safety and operation of the surrounding highway. The applicant would need to enter into a Section 278 Agreement with HCC to cover the technical approval of the design, construction and implementation of the necessary highway and access works. Therefore HCC has no objections on highway grounds to the application, subject to the inclusion of the above planning conditions and informatives.

4.1.3 Hertfordshire Fire and Rescue Service Water Officer: [No objection subject to condition]

RE: Fire Hydrants.

I would like to request a condition for the developer should provide and install hydrants here, at no cost to the county or HFRS; this is to ensure all proposed dwellings are within 90m of a fire hydrant, to provide adequate water for fire fighting.

4.1.4 Herts Ecology: [No objection]

Thank you for consulting Hertfordshire Ecology on the above. I apologise for the delay with this reply. We previously commented on outline development proposals at this location (18/1296/OUT on 10/08/2018) and I have the following comments to make now:

An ecology report has been submitted in support of this outline application – Ecological Assessment, April 2021 prepared by ELMAW Consulting. This report partially updates the ecology report from 2018, which covers a wider area of the school site.

This application site comprises the former school building, amenity grassland (former playing fields), introduced shrubs, scrub and scattered trees. It is surrounded on three sides by Oxhey Woods, an extensive broadleaved woodland Local Wildlife Site and partial Local Nature Reserve and ancient woodland site.

I have no reason to object to the principle of development at this site.

I do not anticipate any adverse effects on the adjacent woodland from the proposals during construction; however the Planning, Design & Access Statement recommends a condition for a CEMP, which I endorse to ensure dust, vehicle movements, etc., do not damage the woodland ecology.

The ecology report provides an adequate assessment of the impact of the proposals and is based on appropriate survey methods and effort. The likelihood of an adverse ecological impact is insignificant, but the report suggests reasonable mitigation measures

to ensure that legally protected species (such as nesting birds, slow-worms and hedgehogs) are not harmed.

Notwithstanding this, clarification on progress of previously agreed capture and off-site translocation of slow-worms across the whole school site, and the need for reptile exclusion fencing, should be provided at the Reserved Matters stage of these proposals.

Similarly, this application site includes the school building and the situation regarding the known bat roosts and any subsequent mitigation, compensation and licence application should be clarified at the Reserved Matters stage of these proposals, or before demolition if sooner.

The proposals will result in the loss of amenity grassland, introduced shrubs, scrub and scattered trees, and although these habitats have limited intrinsic ecological value, this loss will have an impact on local biodiversity. I am pleased to see consideration has been given to ensure the development achieves measurable biodiversity net gain of at least 10% in line with Government expectations (in fact 18% for habitats and 335% for hedgerows is quoted in the submitted documents). This uplift includes implementing a Woodland Management Plan for about 2ha of Oxhey Woods, which is welcomed.

The proposed 15m undeveloped buffer bordering the ancient woodland part of Oxhey Woods, and 5-15m buffer for the remaining recent woodland, is also welcomed. Management of the proposed wildflower grassland in these buffer areas should be secured for the long-term to maintain the quality of the habitat.

Overall, several appropriate biodiversity enhancements have been proposed including native-species and wildlife-beneficial tree, shrub and hedgerow planting; a large SUDs detention pond feature with wetland planting, a small pond, species-rich wildflower areas within buffer land, integrated bat boxes within the fabric of the new buildings, log piles, and gaps in fencing (pop-holes) to allow free movements of hedgehogs. Full details of new species planting/sowing are not known or highlighted at this stage. They should, of course, include appropriate species suitable for the relevant habitat (e.g. wet grassland, emergent and aquatic habitats for the ponds).

To bring all these biodiversity aspirations, mitigation, and enhancements together, I advise a Landscape and Ecological Management Plan (LEMP) is submitted at the Reserved Matters stage or by condition (whichever is appropriate) once details of proposed landscaping are known. This LEMP should describe the final measures agreed to deliver biodiversity net gain from the scheme and should complement the existing Management Plan for the site.

Finally, lighting details addressing impact to nocturnal species feeding and foraging along the woodland edge, and especially for any properties (currently 57 and 58) that abut the woodland, should be provided at the appropriate stage of the planning process.

4.1.5 Herts & Middlesex Wildlife Trust: [Advisory comments]

The proposal appears to be capable of delivering a biodiversity net gain but the full Defra metric excel spreadsheet needs to be supplied to enable scrutiny of the habitat and condition assessments. The application should not be determined without this information.

Officer comment: Whilst not mandatory at this time, the applicant has provided the Biodiversity Metric Calculator as requested.

4.1.6 Herts Property Services: [No comments to make]

Hertfordshire County Council's Growth & Infrastructure Unit do not have any comments to make in relation to financial contributions required by the Toolkit, as this development is situated within your CIL zone and does not fall within any of the CIL Reg123 exclusions.

Notwithstanding this, we reserve the right to seek Community Infrastructure Levy contributions towards the provision of infrastructure as outlined in your R123 List through the appropriate channels.

We therefore have no further comment on behalf of these services, although you may be contacted separately from our Highways Department.

4.1.7 Development Plans: [No objection]

The application site is located in South Oxhey, identified as a Key Centre in the Core Strategy (adopted 2011). The application proposes the erection of up to 70 dwellings; the site is allocated for housing in the Site Allocations LDD (adopted 2014) (site H(27)), with an indicative dwelling capacity of 75 dwellings. Policy SA1 of the Site Allocations LDD states that allocated housing sites will be safeguarded for housing development, which the application complies with in its proposals. Policy SA1 also states that proposals should have regard to the phasing strategy of the site; the application site is phased for 2012-2015 and has not yet been developed. Policy SA1 further states that allocated sites should be developed at an overall capacity which accords generally with the dwelling capacity for the site. Policy CP3 of the Core Strategy (adopted 2011) states that the density of development should be considered on its merits, taking into account the need to:

- a) Respect density levels within existing residential areas particularly within areas of special landscape and/or historic value in the District
- b) Promote higher densities in locations that are highly accessible to public transport, services and facilities.

The Spatial Strategy identifies that amongst the Principal Town and other Key Centres, South Oxhey is one of the most sustainable locations in the District; Policy PSP2 of the Core Strategy states that development in the Key Centres should provide approximately 60% of the District's housing requirements over the Plan period. The Spatial Strategy states that in Key Centres, new development will be directed towards previously developed land and appropriate infilling opportunities within the urban areas. The proposal site is located on previously developed land. The Council has also recognised that the northern portion of the application site is classified as previously developed land through its inclusion in the Brownfield Land Register (published 2017). The proposal therefore complies with the Spatial Strategy and the National Planning Policy Framework's (NPPF) core planning principle of encouraging the effective use of previously developed land.

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). 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

These proportions should form the basis for the housing mix of development proposals. The application proposes 48 two-bedroom dwellings, 14 three-bedroom dwellings and 8 four-bedroom dwellings. This signifies a significant overprovision of 2 bedroom dwellings and shortfall in the provision of 3 and 4+ bedroom dwellings. Therefore, the proposal is

not consistent with Policy CP3 in providing the necessary size of dwellings identified in the SHMA (2016). However, it is recognised that the proportions of housing mix may be adjusted for specific schemes to take account of market information, housing needs and preferences and specific site factors. If adjustment to the proportions of the housing mix set out in the SHMA (2016) is sought, sufficient information should be provided on how relevant factors have contributed to the mix of housing proposed.

Policy CP4 of the Core Strategy states that all new development resulting in the net gain of one or more dwellings will be expected to contribute to the provision of affordable housing. Around 45% of all new housing needs to be affordable, unless it can be clearly demonstrated that this is not viable. The application proposes 21 affordable dwellings, meaning that 30% of total housing provision is proposed as affordable. This affordable housing contribution fails to meet the 45% provision requirement set out in Policy CP4. Policy CP4 states that as a guide, the tenure split of affordable housing provision should be 70% social rented and 30% intermediate. Of the 21 affordable dwellings proposed, 71% are proposed as social rented and 29% are proposed as intermediate, complying with the tenure split set out in Policy CP4.

The Affordable Housing Statement accompanying the application proposes to utilise Vacant Building Credit (VBC). VBC reduces the requirement for affordable housing contributions based on the amount of vacant floor space being brought back into use or redeveloped. According to the National Planning Practice Guidance (NPPG) (2016), VBC applies to sites where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building. To qualify for VBC, the vacant building also must not have been abandoned (NPPG, para. 23). The NPPG states that when considering how the vacant building credit should apply to a development, LPAs should have regard to the intention of national policy (the reuse or redevelopment of empty and redundant buildings). In doing so, it may be appropriate for authorities to consider:

- Whether the building has been made vacant for the sole purposes of re-development.
- Whether the building is covered by an extant or recently expired planning permission for the same or substantially the same development.

These circumstances may indicate that VBC is not necessary to bring the vacant or redundant site forward for development, with the intention of national policy being fulfilled as a result. Neither circumstance applies to the application site, indicating that the development is entitled to VBC on this basis.

VBC offers a financial credit which is the equivalent of the gross floorspace of any vacant buildings being brought back into use; this is then deducted from the overall affordable housing contribution calculation. Where there is an overall increase in floorspace in the proposed development (as is the case with this application), the LPA should calculate the amount of affordable housing contributions required from the development as set out in their Local Plan (as stated, Policy CP4 requires that 45% of new housing is affordable). To determine the VBC, the existing floorspace of a vacant building should be credited against the floorspace of the new development (as has been undertaken in the Affordable Housing Statement).

Policy CP12 of the Core Strategy states that there is a requirement to protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space. The indicative levels set out in Appendix 2 of the Development Management Policies LDD are 21sqm for a one bed flat and 10sqm per additional bedroom; the proposals should meet the requirements for amenity space set out in Policy CP12.

The site is adjacent to a wildlife site and a Local Nature Reserve. Policy SA2 of the Site Allocations LDD states that measures to avoid adverse impacts and enhance biodiversity will need to be provided by developers, supported by an adequate ecological survey.

4.1.8 Affinity Water: No response received.

4.1.9 National Grid: [Advisory Comments]

Should you be minded to approve this application please can the following notes be included an informative note for the Applicant.

Considerations in relation to gas pipeline/s identified on site:

Cadent have identified operational gas apparatus within the application site boundary. This may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent assets in private land. The Applicant must ensure that proposed works do not infringe on Cadent's legal rights and any details of such restrictions should be obtained from the landowner in the first instance.

If buildings or structures are proposed directly above the gas apparatus then development should only take place following a diversion of this apparatus. The Applicant should contact Cadent's Plant Protection Team at the earliest opportunity to discuss proposed diversions of apparatus to avoid any unnecessary delays.

If any construction traffic is likely to cross a Cadent pipeline then the Applicant must contact Cadent's Plant Protection Team to see if any protection measures are required.

All developers are required to contact Cadent's Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to.

4.1.10 Landscape Officer: No response received.

4.1.11 Thames Water: [No objection subject to conditions]

Waste Comments:

Thames Water would advise that with regard to FOUL WATER sewerage network infrastructure capacity, we would not have any objection to the above planning application, based on the information provided.

Following initial investigations, Thames Water has identified an inability of the existing SURFACE WATER infrastructure to accommodate the needs of this development proposal. Thames Water would request that the following condition be added to any planning permission. No development shall be occupied until confirmation has been provided that either:- all surface water network upgrades required to accommodate the additional flows from the development have been completed; or - a development and infrastructure phasing plan has been agreed with the Local Authority in consultation with Thames Water to allow development to be occupied. Where a development and infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan. Reason - Network reinforcement works are likely to be required to accommodate the proposed development. Any reinforcement works identified will be necessary in order to avoid flooding and/or potential pollution incidents." The developer can request information to support the discharge of this condition by visiting the Thames Water website at thameswater.co.uk/preplanning. Should the Local Planning Authority consider the above recommendation inappropriate or are unable to include it in the decision notice, it is important that the Local Planning Authority liaises with Thames Water Development Planning Department (telephone 0203 577 9998) prior to the planning application approval.

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.

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.

The applicant is advised that their development boundary falls within a Source Protection Zone for groundwater abstraction. These zones may be at particular risk from polluting activities on or below the land surface. To prevent pollution, the Environment Agency and Thames Water (or other local water undertaker) will use a tiered, risk-based approach to regulate activities that may impact groundwater resources. The applicant is encouraged to read the Environment Agency's approach to groundwater protection (available at <https://www.gov.uk/government/publications/groundwater-protection-position-statements>) and may wish to discuss the implication for their development with a suitably qualified environmental consultant.

Supplementary Comments:

Waste - Thames Water would recommend the developer to further limit the surface water rate.

4.1.12 Environmental Health: [No objection subject to conditions]

Air Quality:

The proposed development meets the stage 1 criteria given in the EPUK/IAQM guidance. Consideration should be given to the potential impacts of neighbouring sources on the site and the impact of the development on the surrounding area. The proposed development may meet the stage 2 criteria. An air quality assessment may be required. The suitability of the site needs to be assessed. It would therefore be preferable for the impacts to be considered at this stage, rather than at a later date to satisfy the requirements of a condition. This would allow us to assess the potential impacts of the development and to evaluate any proposed mitigation measures.

Contaminated Land:

I have reviewed the Ground Investigation prepared by Listers Geo (Report ref. 20.11.036a).

The intrusive investigation identified elevated concentrations of PAHs and TPHs in exceedance of the relevant generic screening criteria at one location (TP03 0.2m bgl). It is expected that the superficial soils across the site generally are to be removed as part of the redevelopment works down to 0.30m and 0.50m bgl with localised additional excavation of soils to significantly greater depths to facilitate the formation of the proposed terraces across the site. TP03 will be beneath a roadway. No remedial measures are considered to be necessary.

The existing structures are yet to be demolished. Sampling beneath the footprint of these structures should be undertaken post demolition. This will allow the site to be fully

characterised and the materials beneath the structures to be assessed, to determine whether they are suitable for reuse.

Based on this, the standard contaminated land condition is recommended on this **and any subsequent applications** for the site.

1. Following demolition of the existing structures and prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

i) A supplementary site investigation, allowing the areas of the site that were previously inaccessible to be investigated (i.e. beneath the existing structures) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site. This should include an assessment of the potential risks to: human health, property (existing or proposed) including buildings, crops, pests, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments.

ii) The site investigation results and the detailed risk assessment (ii) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

iii) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (ii) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

2. Following completion of measures identified in the approved remediation scheme and prior to the first use or occupation of the development, a verification report that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the Local Planning Authority for approval. The approved monitoring and maintenance programme shall be implemented.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

The above must be undertaken in accordance with the Environment Agency's 'Land contamination risk management (LCRM)' guidance, available online at <https://www.gov.uk/government/publications/land-contamination-risk-management-lcrm>.

3. Reporting of Unexpected Contamination: In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared

in accordance with the requirements of condition 1, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 1.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

4.1.12.1 Officer comment: The suggested conditions regarding contaminated land are included below. With regard to air quality, having discussed with the Environmental Health Officer they accept that as the site is allocated for residential development, already benefits from planning permission and the transport report suggests the proposed use would generate less traffic movements than the previous primary school use, it would not be reasonable to require an Air Quality Assessment. It is also noted that it was not a request at the time of the previous application.

4.1.13 Environmental Protection: [No objection]

Verbal comments querying whether the turning was sufficient to accommodate TRDV refuse collection vehicles. As a result vehicle tracking diagrams were requested from the applicant and were provided to demonstrate that refuse vehicles would be able to access and manoeuvre within the site.

4.1.14 HCC Lead Local Flood Authority: [No objection subject to conditions]

4.1.14.1 Initial comments [Objection]

Thank you for consulting us on the above application for Outline Application: Development of up to 70 residential dwellings (Use Class C3) with new access from Gosforth Lane (appearance, landscaping, layout and scale reserved) at Former Little Furze Junior Mixed Infants School, Gosforth Lane, South Oxhey, WD19 7RD.

The Flood Risk Assessment carried out by Flood Risk Assessment carried out by Stomor reference ST2392/FRA-2105, Rev 0, dated May 2021, and the information submitted in support of this application does not currently provide a suitable basis for assessment to be made of the flood risk arising from the proposed development. In order for the Lead Local Flood Authority to advise the relevant local planning authority that the site will not increase flood risk to the site and elsewhere and can provide appropriate sustainable drainage techniques the following information is required as part of the flood risk assessment/surface water drainage strategy:

1. Clarification of proposed drainage strategy.
2. Provision of pre-development calculations.

Overcoming our objection:

To address the above points, please see the below comments:

1. We acknowledge that we have recommended conditions previously for a previous application on this site for both the proposed residential and care home development. However, we understand that this is a new outline application for the residential development only therefore we would expect all details of the proposed surface water drainage system to be provided.

We note that the surface water drainage system for the care home is connected into the system for the residential development (as proposed within this application). As the

system will be receiving surface water discharge from outside of the red line boundary, this should be accounted for within the proposed surface water drainage design in order to confirm sufficient capacity.

We note that a number of the submitted documents (for example the Access Road Proposed Drainage Layout Sheets 1 and 2, ref: 812598-IW-XX-XX-DR-C-6007 (, revision P5, dated: 01.03.2021) and 812598-IW-XX-XX-DR-C-6008 (revision P4, dated: 23.02.2021)) refer to an infiltration basin of 892.5m³ volume however this basin is not referenced as including infiltration on any of the other submitted plans. We will require clarification on whether any of the proposed features will be designed for infiltration. This should be incorporated into all provided calculations and infiltration testing to BRE365 standards should be carried out at the specific locations and depths of the proposed infiltration features. This is in order to provide confirmation of the feasibility of the proposed surface water drainage scheme.

If the design principles are to be altered from those originally proposed for previous applications concerning the care home development, we would expect full re-modelling of the proposed drainage system and the entire network to be updated to reflect this which will include the drainage for the care home as both developments are interconnected.

We understand that Thames Water have provided comments and have highlighted that the applicant should follow the sequential approach with regards to the proposed discharge mechanism before connection to the public sewer network. We are aware that Thames Water have identified upgrades required to the surface water network in order to accommodate the additional flows from the development and have requested that these should be completed prior to occupation.

2. We require the provision of detailed calculations showing existing/proposed surface water storage volumes and flows with initial post development calculations/ modelling in relation to surface water carried out for all rainfall events up to and including the 1 in 100 year including an allowance for climate change.

These calculations should also include the surface water discharge from the neighbouring care home site as we understand this is connected into the proposed drainage system for the residential development.

For further advice on what we expect to be contained within the FRA to support an outline planning application, please refer to our Developers Guide and Checklist on our surface water drainage webpage <https://www.hertfordshire.gov.uk/services/recycling-waste-and-environment/water/surface-water-drainage/surface-water-drainage.aspx> this link also includes HCC's policies on SuDS in Hertfordshire.

Informative to the LPA

The applicant can overcome our objection by submitting information which covers the deficiencies highlighted above and demonstrates that the development will not increase risk elsewhere and where possible reduces flood risk overall and gives priority to the use of sustainable drainage methods.

Please note if the LPA decides to approve details, we wish to be notified for our records should there be any subsequent surface water flooding that we may be required to investigate as a result of the new development.

4.1.14.2 Further comments [No objection subject to conditions]

Thank you for consulting us on the above application for Outline Application: Development of up to 70 residential dwellings (Use Class C3) with new access from Gosforth Lane

(appearance, landscaping, layout and scale reserved) at Former Little Furze Junior Mixed Infants School, Gosforth Lane, South Oxhey, WD19 7RD.

Following a review of the Flood Risk Assessment carried out by Stomor reference ST2392/FRA-2105, Rev 0, dated May 2021 and the additional information provided within the response to the LLFA comments (ref: ST-2392/210716-LLFA Response, dated: 16.07.2021), we can confirm that we the Lead Local Flood Authority (LLFA) have no objection in principle on flood risk grounds and can advise the Local Planning Authority (LPA) that the proposed development site can be adequately drained and can mitigate any potential existing surface water flood risk if carried out in accordance with the submitted drainage strategy.

Following a review of the national Risk of Flooding from Surface Water map, part of the site is predicted to be at risk of surface water flooding in the 1 in 1000 year event (that is an event with a 0.1% chance of occurring in any given year).

The drainage strategy is based on attenuation via porous paving, swales and an attenuation basin and is designed to accommodate a 1:100 + 40% climate change rainfall event. The water will be discharged via a proposed connection to the surface water sewer network at a restricted discharge rate of 15/s.

We therefore recommend the following conditions to the LPA should planning permission be granted.

Condition 1

The development permitted by this planning permission shall be carried out in accordance with the Flood Risk Assessment carried out by Stomor reference ST2392/FRA-2105, Rev 0, dated May 2021 and additional information provided within a response to the LLFA's comments (ref: ST-2392/210716-LLFA Response, dated: 16.07.2021), and the following mitigation measures;

1. Implement drainage strategy based on attenuation and discharge into the Thames Water surface water sewer restricted to 15 l/s for rainfall events up to and including the 1 in 100 year + 40% climate change event as indicated on the Indicative Drainage Strategy drawing (ref: ST-2392-12-A, rev: A, dated 09.04.21).
2. Providing storage to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + climate change event.
3. Implement drainage strategy including porous paving, swales and an attenuation basin.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

Condition 2

No development associated with the care home, approved phased access, or drainage attenuation features associated with the care home phase within the residential land parcel, shall take place until the final design of the drainage scheme for the elderly care has been submitted to, and approved in writing by, the local planning authority. The surface water drainage system will be based on the submitted Flood Risk Assessment carried out by Stomor reference ST2392/FRA-2105, Rev 0, dated May 2021 and additional information provided within a response to the LLFA's comments (ref: ST-2392/210716-LLFA Response, dated: 16.07.2021). The scheme shall also include;

1. Limiting the surface water run-off generated by the critical storm events so that it will not exceed the surface water run-off rate of 15 l/s during the 1 in 100 year event plus 40% of climate change event.
2. Full detailed engineering drawings including cross and long sections, location, size, volume, depth and any inlet and outlet features. This should be supported by a clearly

labelled drainage layout plan showing pipe networks. The plan should show any pipe 'node numbers' that have been referred to in network calculations and it should also show invert and cover levels of manholes.

3. Detailed surface water calculations and modelling for all rainfall events up to and including the 1 in 100 year + climate change event.

4. Provision of half drain down times less than 24 hours for proposed SuDS features.

5. Demonstrate an appropriate SuDS management and treatment train and inclusion of above ground features reducing the requirement for any underground storage.

6. Details of final exceedance routes, including those for an event which exceeds to 1:100 + cc rainfall event.

Reason: To prevent flooding by ensuring the satisfactory storage of and disposal of surface water from the site. www.hertfordshire.gov.uk

Condition 3

Upon completion of the drainage works for each site in accordance with the timing / phasing, a management and maintenance plan for the SuDS features and drainage network must be submitted to and approved in writing by the Local Planning Authority.

The scheme shall include;

1. Provision of complete set of as built drawings for site drainage.

2. Maintenance and operational activities.

3. Arrangements for adoption and any other measures to secure the operation of the scheme throughout its lifetime.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

Informative to the Applicant

We understand from the submitted response to the LLFA comments (ref: ST-2392/210716-LLFA Response, dated: 16.07.2021) that one of the attenuation basins has been incorrectly labelled as an infiltration basin. However, we note that the provided drawings as appendices to this response, for example the Impermeability Plan (ref: 812598-IW-XX-XX-DR-C-6009, rev: P3, dated: 23.02.2021) are still identifying this as an infiltration basin. Therefore, please can we ask that this is corrected if it should be labelled as an attenuation basin.

Informative to the LPA

Please note if the LPA decides to grant planning permission, we wish to be notified for our records should there be any subsequent surface water flooding that we may be required to investigate as a result of the new development.

4.1.14.3 Further comments [No objection subject to conditions]

Thank you for re-consulting us on the above application for Outline Application: Development of up to 70 residential dwellings (Use Class C3) with new access from Gosforth Lane (appearance, landscaping, layout and scale reserved) at Former Little Furze Junior Mixed Infants School, Gosforth Lane, South Oxhey, WD19 7RD.

Following a review of the Flood Risk Assessment carried out by Stomor reference ST2392/FRA-2105, Rev 0, dated May 2021 and the additional information provided within the response to the LLFA comments (ref: ST-2392/210716-LLFA Response, dated: 16.07.2021), we can confirm that we the Lead Local Flood Authority (LLFA) have no objection in principle on flood risk grounds and can advise the Local Planning Authority (LPA) that the proposed development site can be adequately drained and can mitigate any potential existing surface water flood risk if carried out in accordance with the submitted drainage strategy.

Following a review of the national Risk of Flooding from Surface Water map, part of the site is predicted to be at risk of surface water flooding in the 1 in 1000 year event (that is an event with a 0.1% chance of occurring in any given year).

The drainage strategy is based on attenuation via porous paving, swales and an attenuation basin and is designed to accommodate a 1:100 + 40% climate change rainfall event. The water will be discharged via a proposed connection to the surface water sewer network at a restricted discharge rate of 15/s.

We therefore recommend the following conditions to the LPA should planning permission be granted.

Condition 1

The development permitted by this planning permission shall be carried out in accordance with the Flood Risk Assessment carried out by Stomor reference ST2392/FRA-2105, Rev 0, dated May 2021 and additional information provided within a response to the LLFA's comments (ref: ST-2392/210716-LLFA Response, dated: 16.07.2021), and the following mitigation measures;

1. Implement drainage strategy based on attenuation and discharge into the Thames Water surface water sewer restricted to 15 l/s for rainfall events up to and including the 1 in 100 year + 40% climate change event as indicated on the Indicative Drainage Strategy drawing (ref: ST-2392-12-A, rev: A, dated 09.04.21).
2. Providing storage to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + climate change event.
3. Implement drainage strategy including porous paving, swales and an attenuation basin.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

Condition 2

No development associated shall take place until the final design of the drainage scheme has been submitted to, and approved in writing by, the local planning authority. The surface water drainage system will be based on the submitted Flood Risk Assessment carried out by Stomor reference ST2392/FRA-2105, Rev 0, dated May 2021 and additional information provided within a response to the LLFA's comments (ref: ST-2392/210716-LLFA Response, dated: 16.07.2021). The scheme shall also include;

1. Limiting the surface water run-off generated by the critical storm events so that it will not exceed the surface water run-off rate of 15 l/s during the 1 in 100 year event plus 40% of climate change event.
2. Full detailed engineering drawings including cross and long sections, location, size, volume, depth and any inlet and outlet features. This should be supported by a clearly labelled drainage layout plan showing pipe networks. The plan should show any pipe 'node numbers' that have been referred to in network calculations and it should also show invert and cover levels of manholes.
3. Detailed surface water calculations and modelling for all rainfall events up to and including the 1 in 100 year + climate change event.
4. Provision of half drain down times less than 24 hours for proposed SuDS features.
5. Demonstrate an appropriate SuDS management and treatment train and inclusion of above ground features reducing the requirement for any underground storage.
6. Details of final exceedance routes, including those for an event which exceeds to 1:100 + cc rainfall event.

Reason: To prevent flooding by ensuring the satisfactory storage of and disposal of surface water from the site.

Condition 3

Upon completion of the drainage works for each site in accordance with the timing / phasing, a management and maintenance plan for the SuDS features and drainage network must be submitted to and approved in writing by the Local Planning Authority.

The scheme shall include;

1. Provision of complete set of as built drawings for site drainage.
2. Maintenance and operational activities.
3. Arrangements for adoption and any other measures to secure the operation of the scheme throughout its lifetime.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

Informative to the Applicant

We understand from the submitted response to the LLFA comments (ref: ST-2392/210716-LLFA Response, dated: 16.07.2021) that one of the attenuation basins has been incorrectly labelled as an infiltration basin. However, we note that the provided drawings as appendices to this response, for example the Impermeability Plan (ref: 812598-IW-XX-XX-DR-C-6009, rev: P3, dated: 23.02.2021) are still identifying this as an infiltration basin. Therefore, please can we ask that this is corrected if it should be labelled as an attenuation basin.

Informative to the LPA

Please note if the LPA decides grant planning permission, we wish to be notified for our records should there be any subsequent surface water flooding that we may be required to investigate as a result of the new development.

4.1.15 HCC Waste & Minerals Planning Team: [No objection subject to condition]

I am writing in response to the above planning application insofar as it raises issues in connection with minerals or waste matters. Should the District Council be minded to permit this application, a number of detailed matters should be given careful consideration.

Minerals

In relation to minerals, the site falls entirely within the 'Sand and Gravel Belt' as identified in Hertfordshire County Council's Minerals Local Plan 2002 – 2016. The Sand and Gravel Belt', is a geological area that spans across the southern part of the county and contains the most concentrated deposits of sand and gravel throughout Hertfordshire. In addition the site falls close to the sand and gravel Mineral Safeguarding Area within the Proposed Submission Minerals Local Plan, January 2019. It should be noted that British Geological Survey (BGS) data does not identify any superficial sand/gravel deposits in the area on which the application falls.

Adopted Minerals Local Plan Policy 5 (Minerals Policy 5: Mineral Sterilisation) encourages the opportunistic extraction of minerals for use on site prior to non-mineral development. Opportunistic extraction refers to cases where preparation of the site for built development may result in the extraction of suitable material that could be processed and used on site as part of the development. Policy 8: Mineral Safeguarding, of the Proposed Submission document relates to the full consideration of using raised sand and gravel material on site in construction projects to reduce the need to import material as opportunistic use.

Whilst it is identified that there could be minerals present, there are unlikely to be significant mineral (sand and gravel) deposits within the area in question. On this basis, development may give rise to 'opportunistic' use of some limited or poorer quality minerals at the site that could be utilised in the development itself. Examination of these

opportunities would be consistent with the principles of sustainable development. The county council, as the Minerals Planning Authority, would like to encourage the opportunistic use of these deposits within the developments, should they be found when creating the foundations/footings.

Waste

Government policy seeks to ensure that all planning authorities take responsibility for waste management. This is reflected in the County Council's adopted waste planning documents. In particular, the waste planning documents seek to promote the sustainable management of waste in the county and encourage Districts and Boroughs to have regard to the potential for minimising waste generated by development.

The Ministry of Housing, Communities and Local Government (MHCLG) sets out in the *National Planning Policy for Waste (October 2014)* the following:

'When determining planning applications for non-waste development, local planning authorities should, to the extent appropriate to their responsibilities, ensure that:

- the likely impact of proposed, non-waste related development on existing waste management facilities, and on sites and areas allocated for waste management, is acceptable and does not prejudice the implementation of the waste hierarchy and/or the efficient operation of such facilities;*
- new, non-waste development makes sufficient provision for waste management and promotes good design to secure the integration of waste management facilities with the rest of the development and, in less developed areas, with the local landscape. This includes providing adequate storage facilities at residential premises, for example by ensuring that there is sufficient and discrete provision for bins, to facilitate a high quality, comprehensive and frequent household collection service;*
- the handling of waste arising from the construction and operation of development maximises reuse/recovery opportunities, and minimises off-site disposal.'*

This includes encouraging re-use of unavoidable waste where possible and the use of recycled materials where appropriate to the construction. In particular, you are referred to the following policies of the adopted Hertfordshire County Council Waste Core Strategy and Development Management Policies Development Plan Document 2012 which forms part of the Development Plan. The policies that relate to this proposal are set out below:

Policy 1: Strategy for the Provision for Waste Management Facilities. This is in regards to the penultimate paragraph of the policy;

Policy 2: Waste Prevention and Reduction; &

Policy 12: Sustainable Design, Construction and Demolition.

In determining the planning application the District Council is urged to pay due regard to these policies and ensure their objectives are met. Many of the policy requirements can be met through the imposition of planning conditions.

It is encouraging to see that the applicant has reviewed Hertfordshire's Waste Core Strategy and Development Management Policies and is committed to preparing a comprehensive waste minimisation strategy.

Waste Policy 12: Sustainable Design, Construction and Demolition requires all relevant construction projects to be supported by a Site Waste Management Plan (SWMP). This aims to reduce the amount of waste produced on site and should contain information including types of waste removed from the site and where that waste is being taken to.

The SWMP or Circular Economy statement should be set out as early as possible so that decisions can be made relating to the management of waste arising during demolition

and construction so that building materials made from recycled and secondary sources can be used within the development. This will help in terms of estimating what types of containers/skips are required for the stages of the project and when segregation would be best implemented for various waste streams. It will also help in determining the costs of removing waste for a project. The total volumes of waste during enabling works (including demolition) and construction works should also be summarised.

SWMPs should be passed onto the Waste Planning Authority to collate the data. The county council as Waste Planning Authority would be happy to assess any SWMP that is submitted as part of this development either at this stage or as a requirement by condition, and provide comment to the Borough Council.

4.1.16 HCC Archaeology: No response received.

4.1.17 Housing Officer: [Advisory comments]

Policy CP4 of the Adopted Core Strategy requires 45% of new housing to be provided as Affordable Housing, unless it can be clearly demonstrated with financial evidence that this is not viable. As a guide the tenure split should be 70% social rented and 30% intermediate.

The Strategic Housing Market Assessment (2016) sets out the proportions that should form the basis for housing mix in development proposals submitted to Three Rivers District Council. Proposals should broadly be for 40% 1-bed units, 28% 2-bed units, 29% 3-bed units and 2% 4+ bed units. However, identified need for affordable housing based on the current housing register suggests the following preferred mix: 25% 1-bed units, 40% 2-bed units, 30% 3 bed units and 5% 4 + bed units. The main requirement is for 2 bed 4 person units as we have a high requirement for family sized accommodation.

I understand this development is able to make use of the vacant building credit, meaning you will be providing 18 affordable dwellings. It is encouraging to see that you intend to provide the Affordable Housing onsite, please clarify what your proposal is to meet the requirement.

In the first instance social rented housing should be provided, however if this is not viable and Affordable rent is agreed then a lower percentage would be negotiated with a maximum capped at local housing allowance rates.

4.1.18 Herts. Constabulary: [No objection]

I can see that security is mentioned in the Design and Access statement, however owing to the crime in the area I would ask that the entire development is built to the police security standard Secured by Design (SBD). The architects Vincent and Gorbing are familiar with SBD requirements.

Physical Security (SBD)

Layout / Boundary:

Good surveillance throughout the site, 1.8 m close board fencing required to secure garden boundaries for houses.

Communal door sets for flats:

Certificated to BS PAS 24: 2016, or LPS.1175

Access Control to flats:

Audio Visual. Tradespersons release buttons are not permitted under SBD requirements.

Postal delivery for communal dwellings (flats):

Communal post boxes within the communal entrances or through front doors with post office being given access fob.

Individual front entrance doors for houses and flats

Certificated to BS PAS 24:2016

Windows: houses and flats:

Ground floor windows and those easily accessible certificated to BS PAS 24:2016 or LPS 1175 French doors for balconies:

Dwelling security lighting houses and flats:

Communal entrance hall, lobby, landings, corridors and stairwells, and all entrance/exit points. (Dusk to dawn lighting).

Bin stores & Utility store

Secure LPS1175 SR 2 door with fob.

Car Parking:

Its great to see that adequate parking has been provided and is situated in front of dwellings providing good natural surveillance.

Compartmentalisation of Developments incorporating multiple flats.

Larger developments can suffer adversely from anti-social behaviour due to unrestricted access to all floors to curtail this either of the following is advised:

Controlled lift access, Fire egress stairwells should also be controlled on each floor, from the stairwell into the communal corridors.

Dedicated door sets on each landing preventing unauthorised access to the corridor from the stairwell and lift Secured by Design recommends no more than 25 flats should be accessed via either of the access control methods above.

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 316 No of responses received: 2 (objections)

4.2.2 Site Notice: Expired 18.06.2021 Press notice: Expired 19.06.2021

4.2.3 Summary of Responses:

- Flooding risk. Existing problems would be exacerbated.
- Further information regarding parking requested. Surrounding roads already struggle to accommodate the number of cars.
- Parking should be assessed in the evening when situation is at worst.
- Obstruction of driveways and footways.

5 Reason for Delay

5.1 No delay.

6 Relevant Planning Policy, Guidance and Legislation

6.1 National Planning Policy Framework and National Planning Practice Guidance

In 2021 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 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, CP11 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, DM2, DM3, DM4, DM6, DM7, DM8, DM9, DM10, DM11, DM12, 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 and site H(27) are relevant.

6.3 Other

Open Space, Amenity and Children's Playspace Supplementary Planning Document (December 2007).

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 Background

7.1.1 Outline Planning Permission (ref. 18/1296/OUT) was granted on 14 September 2019 for the 'Erection of up to 70 dwellings (Use Class C3) and a 75 bed care home (Use Class C2), with associated new access (appearance, landscaping, layout and scale reserved)'.

7.1.2 When Outline Planning Permission was granted, it was unknown to the applicant whether the Reserved Matters would be submitted in relation to the whole development (care home and residential elements) or whether this would be done in two Phases.

7.1.3 A subsequent application (ref. 20/1677/FUL) was submitted to vary certain planning conditions attached to the Outline Planning Permission to enable the phasing of the development. This was permitted on the 15 February 2021.

- 7.1.4 A Reserved Matters application was then submitted to approve the matters reserved by Condition 1(a) of Outline Planning Permission ref. 18/1296/OUT (the “Reserved Matters”), these being Scale, Appearance, Landscaping and Layout of the proposed Care Home development. Details relating to the residential phase were not submitted. The Reserved Matters application was permitted on the 23 March 2021.
- 7.1.5 Condition 1(b) of Outline Planning Permission ref. 18/1296/OUT required the submission of an application for the Reserved Matters relating to the residential phase of the development by 14 September 2021, however, no such application has been submitted within this period. As such, a further Outline Planning application (the current application ref. 21/1271/OUT) has been submitted for the residential phase of the development comprising up to 70 residential dwellings and reflects that previously approved on site.
- 7.2 Outline Nature of Development
- 7.2.1 The application has been submitted in outline with all matters apart from access reserved for future determination. Should Outline Planning Permission be granted, the reserved matters of appearance, landscaping, layout and scale would need to be submitted as formal applications for consideration.
- 7.2.2 The indicative site plan demonstrates how the access would be provided (this is in line with the previous Outline consent), along with the capacity of the site for development. The indicative site plan submitted as part of the application shows how the site could potentially be developed, but approval is not sought for these details within the application and these are taken into account as indicative only. Therefore while the assessment may acknowledge the appearance, landscaping, layout and scale of the development indicated, the detail of these matters would be assessed at a subsequent stage should outline planning permission be granted.
- 7.3 Principle of Development
- 7.3.1 Little Furze School was closed in December 2004. The development would result in the loss of the existing education use from the site. However, the site is allocated for residential development in the Site Allocations document and given the allocation of the site, an objection to the loss of this education use through redevelopment of the site would not be justified. It is also acknowledged, as set out in the planning history (section 1) and background (section 7.1) above, that Outline Planning Permission has been previously granted for the redevelopment of the site.
- 7.3.2 The application site is located in South Oxhey, identified as a Key Centre in the Core Strategy (adopted 2011). The application site is identified as an allocated housing site in the Site Allocations document (reference H(27)). This allocation refers to an indicative capacity of 75 dwellings and phasing of 2012-2015.
- 7.3.3 Policy SA1 of the Site Allocations LDD (adopted November 2014) advises that allocated housing sites will be safeguarded for housing development and the application complies with the policy in this regard. Policy SA1 also states that proposals should have regard to the phasing strategy of the site; the application site was phased for 2012-2015 but has not yet been developed. Policy SA1 further states that allocated sites should be developed at an overall capacity which accords generally with the dwelling capacity for the site.
- 7.3.4 The application proposes the erection of up to 70 dwellings, however, it is acknowledged that planning permission has also been granted for a 75 bed care home on a separate part of the allocated site. As set out in the Three Rivers Housing Land Supply (2020 update), the Council uses a conversion ratio of 1.9 bedrooms in C2 use equating to 1 market dwelling; a 75 bed care home equates to approximately 39 dwellings. Therefore when considering the wider site, the development as a whole would be equivalent to a total of 109 dwellings (34 dwellings higher than the indicative capacity of 75 dwellings

identified for the site). Whilst it is noted that this is higher than the indicative capacity, Outline Planning Permission has been previously granted for a development of the same scale and the site is considered to be able to comfortably accommodate this level of development. This is in accordance with Policies which seek to make efficient use of land.

7.3.5 This amount of development was approved pursuant to Outline Planning Permission (ref. 18/1296/OUT) as since the Development Plans adoption in 2014, detailed survey work had been undertaken which demonstrated to the satisfaction of Officer and Members that the site has capacity for 70 dwellings plus 75 bed care home.

7.3.6 The current Outline Application conforms with the previously approved Outline Planning Permission in this regard.

7.3.7 Policy CP3 of the Core Strategy (adopted 2011) states that the density of development should be considered on its merits, taking into account the need to:

- a) *Respect density levels within existing residential areas particularly within areas of special landscape and/or historic value in the District*
- b) *Promote higher densities in locations that are highly accessible to public transport, services and facilities.*

7.3.8 The Spatial Strategy identifies that amongst the Principal Town and other Key Centres, South Oxhey is one of the most sustainable locations in the District; Policy PSP2 of the Core Strategy states that development in the Key Centres should provide approximately 60% of the District's housing requirements over the Plan period. The Spatial Strategy states that in Key Centres, new development will be directed towards previously developed land and appropriate infilling opportunities within the urban areas. The application site is located on previously developed land. The Council has also recognised that the northern portion of the application site is classified as previously developed land through its inclusion in the Brownfield Land Register (published 2017).

7.3.9 The proposal therefore complies with the Spatial Strategy and the National Planning Policy Framework's (NPPF) core planning principle of encouraging the effective use of previously developed land.

7.4 Housing Mix

7.4.1 Policy CP3 of the Core Strategy (adopted October 2011) advises that new development should provide a range of house types and sizes to reflect the existing and future needs of the Three Rivers population and the characteristics of housing in the area and sets out that proposals should take into account the range of housing needs as identified in the Strategic Housing Market Assessment and subsequent updates.

7.4.2 The Strategic Housing Market Assessment (2016) sets out the proportions that should form the basis for housing mix in development proposals submitted to Three Rivers District Council. Proposals should broadly be for 40% 1-bed units, 28% 2-bed units, 29% 3-bed units and 2% 4+ bed units. However, identified need for affordable housing based on the current housing register suggests the following preferred mix: 25% 1-bed units, 40% 2-bed units, 30% 3 bed units and 5% 4 + bed units. The main requirement is for 2 bed 4 person units as we have a high requirement for family sized accommodation.

7.4.3 Whilst the indicative layout plan is for reference purposes only, the quantum of development shown on this plan is indicated in the table below:

2 bedroom	48 (69%)
3 bedroom	14 (20%)

4 bedroom	8 (11%)
Total	70

7.4.4 Whilst the indicative housing mix would fail to comply with Policy CP3 of the Core Strategy (adopted October 2011), it is acknowledged that the Core Strategy recognises that these proportions may need to be adjusted taking account of market information, housing needs and preferences and specific site factors. To that regard it is acknowledged that the wider site proposals include a care home which would release a range of housing, through providing more appropriate accommodation for people with care needs. Whilst the housing 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).

7.5 Affordable Housing & Vacant Building Credit

7.5.1 Policy CP4 of the Core Strategy states that all new development resulting in the net gain of one or more dwellings will be expected to contribute to the provision of affordable housing. Around 45% of all new housing needs to be affordable, unless it can be clearly demonstrated that this is not viable. As a guide the tenure split should be 70% social rented and 30% intermediate.

7.5.2 The application proposes 18 affordable dwellings, meaning that 26% of total housing provision is proposed as affordable. This affordable housing contribution fails to meet the 45% provision requirement set out in Policy CP4, however, the application proposes to utilise Vacant Building Credit (VBC). This approach reflects that taken at the time of the original Outline Planning Application. VBC reduces the requirement for affordable housing contributions based on the amount of vacant floor space being brought back into use or redeveloped.

7.5.3 The NPPF (paragraph 64) advises that to support the re-use of brownfield land, where vacant buildings are being reused or re-developed, any affordable housing contribution should be reduced by a proportionate amount.

7.5.4 Further guidance is provided in the Planning Practice Guidance, VBC applies to sites where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building. To qualify for VBC, the vacant building also must not have been abandoned. The NPPG states that when considering how the vacant building credit should apply to a development, LPAs should have regard to the intention of national policy (the reuse or redevelopment of empty and redundant buildings). In doing so, it may be appropriate for authorities to consider:

- Whether the building has been made vacant for the sole purposes of re-development.
- Whether the building is covered by an extant or recently expired planning permission for the same or substantially the same development.

7.5.5 As established by the previously approved outline application, neither of these considerations apply to the vacant school building on site, which has been vacant since 2004 when the Little Furze primary school closed.

7.5.6 VBC offers a financial credit which is the equivalent of the gross floorspace of any vacant buildings being brought back into use; this is then deducted from the overall affordable housing contribution calculation. Where there is an overall increase in floorspace in the proposed development (as is the case with this application), the LPA should calculate the amount of affordable housing contributions required from the development as set out in their Local Plan (Policy CP4 requiring that 45% of new housing is affordable). To

determine the VBC, the existing floorspace of a vacant building should be credited against the floorspace of the new development. This has been undertaken in the Planning and Design and Access Statement which has been checked by officers and found to be correct and equates to 13.23 dwellings VBC. 45% of 70 dwellings would equate to 31.5 dwellings, therefore when deducting the VBC allowance (13.23 dwellings), there would be a requirement for 18.27 affordable dwellings. As set out at 7.5.2, 18 affordable dwellings are proposed which would accord with Policy and would be secured via condition on any grant of consent.

7.5.7 Policy CP4 states that as a guide, the tenure split of affordable housing provision should be 70% social rented and 30% intermediate. Of the 18 affordable dwellings proposed, 70% social rented would equate to 13 dwellings and 30% intermediate would equate to 5 dwellings. The tenure split would comply with Policy CP4 of the Core Strategy (adopted October 2011). The affordable housing would be secured via condition on any grant of consent.

7.6 Impact on Character and Street Scene

7.6.1 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”.

7.6.2 Policies CP3 and CP12 of the Core Strategy (adopted October 2011) set out that development should make efficient use of land but should also “have regard to the local context and conserve or enhance the character, amenities and quality of an area”.

7.6.3 In terms of new residential development, Policy DM1 of the Development Management Policies LDD (adopted July 2013) advises that the Council will protect the character and residential amenity of existing areas of housing from 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.)

7.6.4 The Design Criteria at Appendix 2 of the Development Management Policies LDD (adopted July 2013) 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.

7.6.5 Traffic generation, access for service vehicles and impact on residential amenity are considered in the relevant analysis sections below and it is noted that the proposal would not result in tandem development.

7.6.6 Matters of scale, landscaping, layout and appearance are Reserved Matters, and therefore there is no detailed assessment available as part of this application in respect of the potential design of the proposal. However, the surrounding area is residential with groups of houses fronting the roads, with parking to the front.

7.6.7 Existing development within the area is predominantly two-storeys and the indicative details provided indicate that the residential development would be up to three-storeys in height. However, the indicative masterplan also demonstrates generous spacing within and around the site and it is considered that the application site could accommodate a residential development of a design and appearance which would preserve the character of the area.

7.7 Impact on amenity of neighbours

7.7.1 Policy CP12 of the Core Strategy (adopted October 2011) 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 LDD (adopted July 2013) 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.

7.7.2 The site is considered capable of accommodating residential development while protecting the residential amenities of neighbouring properties with a full assessment of the impact of scale, layout, landscaping and appearance to be made as part of any subsequent Reserved Matters application.

7.8 Amenity for future occupiers

7.8.1 The application only provides indicative details of the layout of the site, and therefore a full assessment of the quality of the accommodation and quantum and quality of amenity space cannot be made at this time. However, with regard to the indicative masterplan it is considered that sufficient space would be available to provide acceptable levels of amenity space provision to serve the proposed development. This would be fully considered as part of any subsequent Reserved Matters application.

7.9 Wildlife and Biodiversity

7.9.1 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.

7.9.2 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.

7.9.3 A Preliminary Ecological Assessment (PEA) was submitted and approved pursuant to the previous Outline planning application. The PEA concluded that the relative ecological value of the site is deemed to be of site value only although the adjacent Oxhey Wood Local Wildlife Site is of District value. The redevelopment proposals were not predicted to have any direct impact on the woodland and the creation of a 15 metre woodland buffer was considered to limit any indirect affects as a result of the construction and post-development use of the site. The loss of low value habitats within the site was not considered to have a significant impact on important habitats. The PEA recognised that the redevelopment of the site would have a direct impact on roosting bats and slow worms - both protected species/species groups. However, appropriate mitigation measures were proposed which included the licensed exclusion of bats from the existing school building to ensure none are harmed in the demolition of the building and suitable compensatory

measures to ensure the favourable conservation status of the local bat population is maintained.

- 7.9.4 In relation to reptiles, mitigation measures were proposed to ensure that no reptiles were harmed during the site's redevelopment, a mitigation strategy for translocation was proposed, which involves the complete removal of slow worms from the site. To ensure that nesting birds, hedgehogs and badgers are not harmed as a result of the site's redevelopment, mitigation measures of sensitive avoidance timing or careful hand-searching by a suitably qualified Ecologist were also proposed to be implemented.
- 7.9.5 The current application is submitted with an updated PEA which details the proposed ecological mitigation and enhancement measures. It is noted that to facilitate development of the recently approved care home on the site, slow worm translocation has been undertaken and a bat licence attained for the removal of bats from the school building prior to demolition. The approved Woodland Management Plan also sets out a strategy for coppicing within the adjacent woodland to further enhance the local biodiversity.
- 7.9.6 Whilst not mandatory at this time, in response to the comments from Herts and Middlesex Wildlife Trust, the applicant has submitted the Defra Biodiversity Metric Calculator which demonstrates measurable biodiversity net gain (16%).
- 7.9.7 In summary, subject to conditions the development would not result in harm to biodiversity and protected species and would accord with Policy CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

7.10 Trees and Landscaping

- 7.10.1 To the east of the site is Oxhey Woods Local Nature Reserve. Within this is Abbots Wood which is ancient and semi-natural woodland. Within the application site the grounds are predominantly laid to grass with occasional scattered trees. None of the trees within the site are subject of Tree Preservation Orders.
- 7.10.2 Policy CP12 of the Core Strategy (adopted October 2011) 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".
- 7.10.3 Policy DM6 of the Development Management Policies LDD (adopted July 2013) 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 or deterioration to protected woodland (including ancient woodland), protected trees (including aged or veteran trees) and hedgerows, unless conditions can be imposed to secure their protection.

7.10.4 The application is accompanied by a Tree Survey and Arboricultural Impact Assessment. The proposals seek to retain all trees remote from the dwellings and SuDS attenuation pond. Whilst some tree removal is necessary within the centre of the site, this has been previously accepted as the trees in question are of relatively poor condition/value or are species which are generally not appropriate for retention close to residential development.

7.10.5 Whilst landscaping is a Reserved Matter, the indicative layout shows how the open spaces, woodland buffer and access roads could be landscaped to provide a visually attractive development. The proposed layout provides plenty of scope for new planting which would mitigate for the losses. In addition, a 15 metre buffer zone separating the ancient woodland has been maintained with minimal development, only requiring footpath encroachment. This area will be a wildflower meadow with informal tree groups.

7.11 Highways/Access

7.11.1 Policy CP10 of the Core Strategy (adopted October 2011) sets out that development will need to demonstrate that it provides a safe and adequate means of access and requires development to make adequate provision for all users, including car parking, giving priority to people with mobility difficulties, pedestrians, cyclists and equestrians.

7.11.2 Details of access are provided at this stage and the submitted details and Transport Assessment (TA) have been reviewed by HCC as Highways Authority (HCCHA) who raises no objection subject to conditions.

7.11.3 There are two existing vehicular access points into the site in addition to one existing pedestrian access point. The proposals include alterations to the existing vehicle access arrangements to create one new bellmouth vehicular access with kerb radii of 8m on either side and a carriageway width of 6 metres, in addition to pedestrian dropped kerbs / tactile paving, the details of which are shown on drawing number 812598 IW XX DR C 6015. HCCHA note that these arrangements have previously been approved as part of the previous outline planning application for this site (ref. 18/1296/OUT) and are considered to be acceptable to support a development of this size.

7.11.4 HCCHA comment that the applicant would ultimately need to enter into a Section 278 Agreement with HCC as Highway Authority in relation to the technical approval of the design and implementation of the highway works including the new/altered access on Gosforth Lane and any works linked to closing off of the existing vehicle accesses (and any necessary highway reinstatement works) including:

- Provision of a new kerbed bellmouth access with a 6m wide access road, 1.8m wide footways on both sides and kerb radii of 8m on either side;
- Tactile paving and pedestrian dropped kerbs on either side of the proposed bellmouth access on Gosforth Lane;
- Reinstatement works (including footway and full height kerbs) associated with the closure of the existing vehicular accesses.

7.11.5 HCCHA have no objection to the general layout of the site as shown on the indicative layout plan. They note that a Section 38 Layout Plan (drawing no. 812598 IW XX DR C 6010) has been included as part of the TA indicating areas to be offered to be dedicated and subsequently adopted as highway. However HCCHA would not agree to adopt any of the proposed internal access roads as the route would not be considered to provide a utility and benefit to the wider highway network. However it is recommended that the roads be built to adoptable standards to be in accordance with guidelines as documented

in Roads in Hertfordshire: Highway Design Guide. The developer would need to put in place a permanent arrangement for long term maintenance of any of the roads that are not to be dedicated as highway.

- 7.11.6 With regards to refuse, service and emergency vehicle access, HCCHA note that a swept path analysis has been submitted as part of the application (drawing no. ST-2392-24) to illustrate that a 11.2m long refuse vehicle would be able to utilise the internal access road network, turn around and egress to the highway in forward gear. Further tracking details were requested by TRDC Environmental Protection who raise no objection. However, HCCHA recommended that a swept path analysis for a fire tender (a 8.1m in length for a standard fire tender and 10.1m for an aerial ladder appliance) is submitted as part of the Reserved Matters application.
- 7.11.7 The total number of vehicular trips associated with the proposed uses are estimated to be 38 two-way vehicle movements in the AM peak and 39 two-way vehicle movements in the PM peak, which is significantly less than for the previous use. Consequently following assessment of the junction analysis and trip generation, the impact on the operation of the surrounding highway network from the trips generated by the proposed use(s) would be considered to be acceptable and not a reason to recommend refusal from a highways perspective.
- 7.11.8 A Travel Plan Statement would be necessary to be submitted and provided to ensure that the proposals promote and maximise sustainable travel options for future residents and visitors to and from the site and to ensure that the proposals are in accordance with Hertfordshire's Local Transport Plan and the National Planning Policy Framework (NPPF). The request for a travel plan statement is in accordance with the development size thresholds as laid out in appendix A of HCC's Travel Plan Guidance (Mar 2020).
- 7.11.9 In summary, HCCHA considers that the proposal would not have an unreasonable impact on the safety and operation of the surrounding highway. The applicant would need to enter into a Section 278 Agreement with HCC to cover the technical approval of the design, construction and implementation of the necessary highway and access works. Therefore HCC has no objections on highway grounds to the application, subject to the inclusion of appropriate planning conditions and informatives.
- 7.12 Parking
- 7.12.1 The parking standards indicate that a 2-bedroom dwelling should provide 2 spaces (1 assigned space); a 3-bedroom dwelling should provide 2.25 spaces (2 assigned spaces); and a 4+ bedroom dwelling should provide 3 spaces (3 assigned spaces).
- 7.12.2 Based on the original indicative details provided that detailed 48 x 2-bedroom units; 14 x 3-bedroom units and 8 x 4-bedroom units, the proposed development would generate a total requirement for 151.5 spaces (86 assigned).
- 7.12.3 The indicative site plan indicates that car parking provision for 140 vehicles would be provided which would represent a small shortfall of 11.5 spaces across the development, however, all allocated spaces would be provided. In addition all spaces would comply with HCC emerging guidance in terms of their size (2.5m x 5m). The Planning Design and Access Statement also sets out that all units would benefit from dedicated cycle storage. This would exceed current policy requirements which specify 1 cycle space per 2 flats.
- 7.12.4 Whilst it is noted that this current outline application does not consider matters of site layout which would include the parking provision, and therefore does not represent the final number or layout of parking spaces that may be provided, it is considered that the indicative site layout demonstrates that the site is of sufficient size to accommodate an appropriate level of parking to serve the development.

7.12.5 The parking provision would form part of the consideration of any subsequent Reserved Matters application. However, it is considered that sufficient space could be accommodated within the site to provide adequate parking to serve the development in accordance with Policy CP10 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

7.13 Sustainability

7.13.1 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”.

7.13.2 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.

7.13.3 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.

7.13.4 As this application is for outline permission with appearance, layout, scale and landscaping all matters reserved, an Energy Statement has not been submitted with the application. This would form part of the consideration of any subsequent Reserved Matters application.

7.14 Flood Risk & Sustainable Drainage

7.14.1 Policy CP1 of the Core Strategy (adopted October 2011) sets out that development should avoid areas at risk from flooding. Policy DM8 of the Development Management Policies LDD (adopted July 2013) sets out that in accordance with National Policy, the Council will only permit development if it is demonstrated that there will be no adverse impact on areas at risk of flooding. Development will only be permitted where it would not be subject to unacceptable risk of flooding and would not unacceptably exacerbate the risk of flooding elsewhere. Where practicable, existing flood risks should be reduced. Policy CP1 of the Core Strategy (adopted October 2011) states that there is a need to avoid development in areas at risk from flooding and to minimise flood risk through the use of Sustainable Drainage Systems.

7.14.2 The Lead Local Flood Authority (LLFA) has reviewed the submitted Flood Risk Assessment. Whilst an initial objection was raised, further information has been provided during the application and the LLFA have advised that they raise no objections to the grant of planning permission subject to conditions. They have confirmed that they have no objection in principle on flood risk grounds as the proposed development site can be adequately drained and can mitigate any potential existing surface water flood risk if carried out in accordance with the submitted drainage strategy. As the proposed scheme for Outline permission has yet to provide the final detail and in order to secure the principles of the current proposed scheme, the LLFA recommend a number of planning conditions should planning permission be granted.

- 7.14.3 With regards to foul water sewerage network infrastructure capacity, Thames Water have confirmed that they have no objection. With regards to surface water infrastructure, Thames Water has raised concerns regarding the ability of the existing surface water infrastructure to accommodate the needs of the development and have requested a condition be attached to any grant of consent which requires that the development is not occupied until confirmation has been provided that either (1) all surface water network upgrades required to accommodate the additional flows from the development have been completed, or (2) a development and infrastructure phasing plan has been agreed.
- 7.14.4 Whilst the comments of Thames Water are noted, the LPA do not consider that such condition would be reasonable or meet the necessary tests. It is Thames Water's duty under the Water Industry Act 1991 to ensure that there is adequate foul/surface water drainage infrastructure to accommodate the housing required for the district. The application site is allocated for residential development in the 2014 Site Allocations document and the evidence base is supported by an Infrastructure Delivery Plan dated 2010. Thames Water were consulted on these documents and would therefore have been aware that the site was intended for residential development. Improvements to the strategic foul water and surface water network should have been made to account for these allocated sites. Furthermore, planning permission for residential development was approved in 2018, providing Thames Water further time to prepare for network improvements. It should also be noted that no phasing condition was requested or imposed on this previous planning permission.
- 7.14.5 This view is supported by an appeal decision (APP/Y2810/A/14/2228921) at New Street, Weeden Bec, Northamptonshire. The Planning Inspector received representations from the sewerage undertaker requesting that a foul drainage planning condition was imposed. The Inspector stated that a condition relating to the completion of off-site public sewer improvement works would be unreasonable. The Inspector determined that the timescales involved in completing the residential development would allow the sewerage undertaker sufficient time to necessarily improve the network, pursuant to the statutory framework that applies to the water and sewerage industry. This appeal decision also reaffirms the case law re-established in *Barratt Homes Limited v Dwr Cymru* [2010] which demonstrated that the right to connect to a public sewer is an "absolute right", whereby the undertaker cannot refuse to permit connection on the basis that the additional discharge into the system will overload it. The burden of dealing with such additional discharge falls upon the undertaker in performance of its statutory duties and not the developer.
- 7.14.6 The condition recommended by Thames Water would effectively be a Grampian condition as it requires work on land not controlled by the applicant. The NPPG states that conditions requiring off-site works, not in the applicant's control rarely meet the tests of reasonableness or enforceability. Furthermore, a condition should not be imposed if there is no reasonable prospect of the work being completed before the expiry of the planning consent. The Infrastructure Delivery Plan states that 'network improvements' can take up to three years to complete.

7.15 Contaminated Land

- 7.15.1 The application is accompanied by a Ground Investigation report prepared by Listers Geo (Report ref. 20.11.036a). The Environmental Health Officer notes that the intrusive investigation identified elevated concentrations of PAHs and TPHs in exceedance of the relevant generic screening criteria at one location (TP03 0.2m bgl). It is expected that the superficial soils across the site generally are to be removed as part of the redevelopment works down to 0.30m and 0.50m bgl with localised additional excavation of soils to significantly greater depths to facilitate the formation of the proposed terraces across the site. TP03 will be beneath a roadway. No remedial measures are considered to be necessary. The existing structures are yet to be demolished, Environmental Health have suggested that sampling beneath the footprint of these structures should be undertaken

post demolition. This will allow the site to be fully characterised and the materials beneath the structures to be assessed, to determine whether they are suitable for reuse. As such Environmental Health raise no objection subject to conditions.

7.16 Refuse and Recycling

7.16.1 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

7.16.2 Environmental Protection raised some initial concerns regarding the layout and have queried whether appropriate turning for refuse and recycling vehicles has been provided. As previously noted, this is an outline application with matters including layout, reserved at this stage and the submission of a subsequent Reserved Matters application would enable full consideration of the layout to ensure appropriate turning and manoeuvring space is provided within the site for all vehicles. However, the applicant has provided vehicle tracking diagrams to demonstrate how a refuse vehicle could access and manoeuvre within the site.

7.16.3 To assist in reducing the amount of waste produced on site, a Site Waste Management Plan (SWMP) would be required by condition.

7.17 Heritage Assets

7.17.1 The application is accompanied by an Archaeological Desk-Based Assessment. Whilst no archaeological remains (heritage assets) are known from the site, or from its immediate vicinity, it is considered an area with high potential for prehistoric remains, given its location on the slopes above the River Colne. In addition, the size of the site makes it relatively likely that some unidentified below-ground archaeological remains may lie within at least the southern part of the development area.

7.17.2 The Historic Environment Adviser has not provided comments on this application, however, at the time of the previous Outline application they considered that the proposed development is such that it should be regarded as likely to have an impact on heritage assets with archaeological interest, and as such they recommend appropriate conditions be included on any grant of consent. A subsequent Discharge of Conditions application (20/2783/DIS) was made and the Historic Environment Advisor commented at that time that the Written Scheme of Investigation (WSI) met with their requirements and they therefore raised no objection to the programme of archaeological work commencing.

7.18 Safety & Security

7.18.1 Policy CP12 of the Core Strategy advises that all development in Three Rivers will contribute to the sustainability of the District. This means taking into account the need to, for example promote buildings and public spaces that reduce opportunities for crime and anti-social behaviour. Policy CP12 also requires that development proposals design out opportunities for crime and anti-social behaviour through the incorporation of appropriate measures to minimise the risk of crime and create safe and attractive places.

7.18.2 This is an outline application with details of access provided but all other matters reserved. The Reserved Matters should be designed taking into account the

requirements of Secured By Design as requested by the Crime Prevention Design Advisor.

7.19 Infrastructure Contributions

- 7.19.1 Core Strategy Policies CP8 and CP10 require development to make adequate contribution to infrastructure and services. The Three Rivers Community Infrastructure Levy Charging Schedule is applicable to this scheme and is the mechanism by which contributions would be sought towards infrastructure including education, libraries and sustainable transport.
- 7.19.2 The CIL Charging Schedule advises that the CIL rate per square metre for Area C (which includes the application site) is £0.

8 **Recommendation**

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

C1 Reserved Matters

An application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall commence before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: In pursuance of Section 92(2) of the Town and Country Planning Act 1990 and as amended by the Planning and Compulsory Purchase Act 2004.

C2 Approved Plans – Access Only

The access hereby permitted shall be carried out in accordance with the following approved plans: 1100 Rev PL2. The plans are approved only in so far as they relate to the siting of the access.

Reason: For the avoidance of doubt and in the proper interests of planning in accordance with Policies PSP2, CP1, CP2, CP3, CP4, CP8, CP9, CP10, CP11 and CP12 of the Core Strategy (adopted October 2011), Policies DM1, DM2, DM3, DM4, DM6, DM7, DM8, DM9, DM10, DM11, DM12, DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013) and Policy SA1 of the Site Allocations LDD (adopted November 2014).

C3 Affordable Housing

With the exception of the demolition, construction of the approved means of access, substation, drainage attenuation features and other ancillary infrastructure associated with the care home development approved by application 20/2807/AOD, no development shall take place until a scheme for the provision of Affordable Housing to be constructed on the site pursuant to the planning permission has been submitted to and approved in writing by the Local Planning Authority. The Affordable Housing shall be provided in accordance with the approved scheme. The scheme shall include:

- i. the numbers, type, size, location and tenure of the Affordable Housing to be constructed on the site which shall not consist of less than 25.7% (rounded up to nearest whole number of units) of the total number of Dwellings permitted, of which 70% shall be constructed and Provided as Social Rented Dwellings and 30% shall be constructed and Provided as Shared Ownership Dwellings;
- ii. the timing of the construction of the Affordable Housing and its phasing in relation to the occupancy of the Market Housing;

- iii. the arrangements for the transfer of the Affordable Housing to an Affordable Housing Provider or the arrangements for the management of the Affordable Housing if those dwellings are not to be transferred to a Affordable Housing Provider;
- iv. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the Affordable Housing; and
- v. the occupancy criteria to be used for determining the identity of occupiers of the Affordable Housing and the means by which such occupancy criteria shall be enforced.
- vi. the timing of the completion of a Nominations Agreement to be entered into formalising the details to be agreed in respect of paragraphs (iv) and (v) above (in any event that Nominations Agreement to be completed prior to first Occupation of the Affordable Housing)
- vii. the arrangements for the use of any Net Proceeds following the sale of an interest in any of the Affordable Housing (in accordance where applicable with Homes and Communities Agency guidance)

The Affordable Housing shall be provided in accordance with the approved scheme. The dwellings constructed shall not be used for any other purpose than as Affordable Housing in accordance with that approved scheme, subject to:

- (A) any rights to acquire pursuant to the Housing Act 1996 or any equivalent statutory provision for the time being in force;
- (B) any right to buy pursuant to the Housing Act 1985 or any equivalent statutory provision for the time being in force;
- (C) where a tenant of a Shared Ownership Dwelling granted a Shared Ownership Lease has purchased the remaining shares so that the tenant owns the entire Shared Ownership Dwelling).
- (D) the restriction upon the use and disposal of the Affordable Housing shall cease to apply to the whole or any part of an Affordable Dwelling (hereafter referred to as the 'Affected Affordable Dwelling') where that whole or part is transferred or leased, pursuant to an event of default by any mortgagee or chargee of the Affordable Housing Provider or the successors in title to such mortgagee or chargee, or by any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925 (hereafter referred to as the "Chargee"), PROVIDED THAT:
 - (i) the Chargee has first given the Council and the Affordable Housing Provider (as appropriate) 4 (four) months prior notice in writing (the "Chargee's Notice") of its intention to exercise any power of sale or lease in respect of any Affected Affordable Dwelling; and
 - (ii) the Chargee has first given the Council or the Affordable Housing Provider the opportunity to complete a transfer of the Affected Affordable Dwelling in order to ensure that it continues to be used for the purposes of Affordable Housing. The Chargee's Notice shall not be a valid Chargee's Notice unless it is accompanied by a conveyancer's certificate signed and dated by the conveyancer and confirming that, at the date of the notice, the Chargee giving the notice is entitled to execute a transfer of the freehold of the Affected Affordable Dwelling and all land required to gain access to the Affected Affordable Dwelling from the public highway; and
 - (iii) the price for the purchase of the Affected Affordable Dwelling by the Council or the Affordable Housing Provider demanded by the Chargee shall not be permitted to exceed the market value of the Affected Affordable Dwelling at the date of the transfer on the valuation assumption that it is to be retained in perpetuity as Affordable Housing.
 - (iv) If the Council or the Affordable Housing Provider is unable to secure the transfer of the Affected Affordable Dwelling to itself under the terms and in the circumstances described above within the said period of 4 (four) months in accordance with sub-paragraph (i) above then the Chargee shall be entitled to dispose of the Affected Affordable Dwelling on the open market not subject to the

condition above that it shall not be used for any other purpose than as Affordable Housing.

Reason: This is a pre commencement condition to meet local housing need within the Three Rivers district and to comply with Policies CP1, CP2, CP3 and CP4 of the Core Strategy (adopted October 2011) and the Affordable Housing SPD (approved July 2011).

C4 Site Waste Management Plan (SWMP)

No development, with the exception of demolition, construction of the approved means of access, substation, drainage attenuation features and other ancillary infrastructure associated with the care home development approved by application 20/2807/AOD, shall commence until a Site Waste Management Plan (SWMP) has been submitted to and approved in writing by the Local Planning Authority. The SWMP should aim to reduce the amount of waste being produced on site and should contain information including types of waste removed from the site and where that waste is being taken to. The development shall be carried out in accordance with the approved SWMP.

Reason: This is a pre commencement condition to promote sustainable development and meet the requirements of Policy CP1 of the Core Strategy (adopted October 2011), Policy DM10 of the Development Management Policies LDD (adopted July 2013) and Policy 12 of the adopted Hertfordshire County Council Waste Core Strategy and Development Management Policies Development Plan Document (2012).

C5 Tree Protection

With the exception of the demolition, construction of the approved means of access, substation, drainage attenuation features and other ancillary infrastructure associated with the care home development approved by application 20/2807/AOD, no operations (including tree felling, pruning, demolition works, soil moving, temporary access construction, or any other operation involving the use of motorised vehicles or construction machinery) shall take place on site in connection with the development hereby approved unless the branch structure and trunks of all trees and hedgerows shown to be retained and all other trees not indicated as to be removed and their root systems have been protected from any damage during site works, in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

The protective measures, including fencing, shall be undertaken in accordance with the approved scheme before any equipment, machinery or materials are brought on to the site for the purposes of development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made. No fires shall be lit or liquids disposed of within 10.0m of an area designated as being fenced off or otherwise protected in the approved scheme.

Reason: This is a pre commencement condition to protect the visual amenities of the trees, area and to meet the requirements of Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

C6 Construction Management Plan

No development, with the exception of demolition, construction of the approved means of access, substation, drainage attenuation features and other ancillary infrastructure associated with the care home development approved by application

20/2807/AOD, shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Management Plan shall include details of:

- a. Construction vehicle numbers, type, routing;
- b. Access arrangements to the site;
- c. Traffic management requirements
- d. Construction and storage compounds (including areas designated for car parking, loading / unloading and turning areas);
- e. Siting and details of wheel washing facilities;
- f. Cleaning of site entrances, site tracks and the adjacent public highway;
- g. Timing of construction activities (including delivery times and removal of waste);
- h. Provision of sufficient on-site parking prior to commencement of construction activities;

Reason: In order to protect highway safety and the amenity of other users of the public highway and rights of way in accordance with Policy CP10 of the Core Strategy (adopted October 2011).

C7 Remediation

Prior to the commencement of development approved by this planning permission, with the exception of demolition, construction of the approved means of access, substation, drainage attenuation features and other ancillary infrastructure associated with the care home development approved by application 20/2807/AOD, the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

i) A supplementary site investigation, allowing the areas of the site that were previously inaccessible to be investigated (i.e. beneath the existing structures) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site. This should include an assessment of the potential risks to: human health, property (existing or proposed) including buildings, crops, pests, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments.

ii) The site investigation results and the detailed risk assessment (ii) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

iii) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (ii) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

Reason: This is a pre commencement condition to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policies DM8 and DM9 of the Development Management Policies LDD (adopted July 2013).

C8 Drainage – Details of Final Design

With the exception of the demolition, construction of the approved means of access, substation, drainage attenuation features and other ancillary infrastructure associated with the care home development approved by application 20/2807/AOD, no development shall take place until the final design of the drainage scheme has been submitted to, and approved in writing by, the Local Planning Authority. The surface water drainage system will be based on the submitted Flood Risk Assessment carried out by Stomor reference ST2392/FRA-2105, Rev 0, dated May 2021 and additional information provided within a response to the LLFA's comments (ref: ST-2392/210716-LLFA Response, dated: 16.07.2021). The scheme shall also include;

1. Limiting the surface water run-off generated by the critical storm events so that it will not exceed the surface water run-off rate of 15 l/s during the 1 in 100 year event plus 40% of climate change event.
2. Full detailed engineering drawings including cross and long sections, location, size, volume, depth and any inlet and outlet features. This should be supported by a clearly labelled drainage layout plan showing pipe networks. The plan should show any pipe 'node numbers' that have been referred to in network calculations and it should also show invert and cover levels of manholes.
3. Detailed surface water calculations and modelling for all rainfall events up to and including the 1 in 100 year + climate change event.
4. Provision of half drain down times less than 24 hours for proposed SuDS features.
5. Demonstrate an appropriate SuDS management and treatment train and inclusion of above ground features reducing the requirement for any underground storage.
6. Details of final exceedance routes, including those for an event which exceeds to 1:100 + cc rainfall event.

Reason: This is a pre-commencement condition to ensure that sufficient capacity is made available to cope with the new development to prevent flooding, and in order to avoid adverse environmental impact upon the community, in accordance with Policies CP1, CP8 and CP12 of the Core Strategy (adopted October 2011) and Policy DM8 of the Development Management Policies LDD (adopted July 2013).

C9 Archaeological Written Scheme of Investigation (WSI)

The development shall take place/commence in accordance with the programme of archaeological works set out in the Written Scheme of Investigation approved pursuant to condition 10 of planning permission 20/1677/FUL (LPA ref. 20/2783/DIS dated 19 February 2021).

The development shall not be occupied/used 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 pursuant to condition 10 of planning permission 20/1677/FUL (LPA ref. 20/2783/DIS dated 19 February 2021) and the provision made for analysis and publication where appropriate.

Reason: To protect 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 NPPF guidance, Policy CP1 of the Core Strategy (adopted October 2011) and Policy DM3 of the Development Management Policies LDD (adopted July 2013).

C10 Travel Plan Statement

At least 3 months prior to the first occupation of the approved development a detailed Travel Plan Statement for the site shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highways Authority.

The approved Travel Plan Statement shall be implemented for at least 5 years post-occupation.

Reason: To ensure that sustainable travel options associated with the development are promoted and maximised to be in accordance with Policy CP10 of the Core Strategy (adopted October 2011).

C11 Highway Improvements – Offsite (Implementation / Construction)

Prior to occupation of the development hereby permitted the offsite highway improvement works as indicated on drawing number 812598 IW XX XX DR C 6015 shall be completed in accordance with the approved details.

Reason: To ensure construction of a satisfactory development and that the highway improvement works are designed to an appropriate standard in the interest of highway safety and amenity and in accordance with Policy CP10 of the Core Strategy (adopted October 2011).

C12 Provision of Internal Access Roads, Parking & Servicing Areas

The details submitted in compliance with Condition 1 shall include details of the proposed internal access roads, on-site car parking and turning areas to be delivered by this development. Prior to the occupation of the development hereby permitted, the internal access roads, on-site car parking and turning areas shall be laid out, demarcated, surfaced and drained in accordance with the approved plans and retained thereafter available for that specific use.

Reason: To ensure construction of a satisfactory development and in the interests of highway safety in accordance with Policy CP10 of the Core Strategy (adopted October 2011).

C13 Swept Paths

The details submitted in compliance with Condition 1 shall include a swept path analysis for a fire tender (a 8.1m in length for a standard fire tender and 10.1m for an aerial ladder appliance) to illustrate that a fire tender would be able to get to within 45m of all parts of the footprint of the proposed buildings, turn around and egress the site in forward gear.

Reason: To ensure suitable, safe and satisfactory planning and development of the site in accordance with Policy CP10 of the Core Strategy (adopted October 2011).

C14 Fire Hydrants

Should they be required, detailed proposals for fire hydrants serving the development as incorporated into the provision of the mains water services for the development, whether by means of existing water services or new mains or extension to or diversion of existing services or apparatus, shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of development. The development shall thereafter be implemented in accordance with the approved details prior to occupation of any building forming part of the development.

Reason: To ensure that there is adequate capacity for fire hydrants to be provided and to meet the requirements of Policies CP1 and CP8 of the Core Strategy (adopted October 2011).

C15 Woodland Management Plan

The woodland shall be managed in accordance with the Woodland Management Plan agreed pursuant to condition 14 of planning permission 20/1667/FUL (LPA ref. 20/2783/DIS dated 19 February 2021).

Reason: In the interest of biodiversity 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).

C16 Ecological Appraisal

The development shall be carried out in full accordance with the Ecological Assessment (Updated April 2021), including mitigation measures, approved pursuant to this application.

Reason: In the interest of biodiversity 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).

C17 Verification Report

Following completion of measures identified in the approved remediation scheme and prior to the first use or occupation of the development, a verification report that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the Local Planning Authority for approval. The approved monitoring and maintenance programme shall be implemented.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policies DM8 and DM9 of the Development Management Policies LDD (adopted July 2013).

C18 Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Condition 7, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Condition 7, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with Condition 7.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policies DM8 and DM9 of the Development Management Policies LDD (adopted July 2013).

C19 In Accordance with Flood Risk Assessment (FRA)

The development permitted by this planning permission shall be carried out in accordance with the Flood Risk Assessment carried out by Stomor reference ST2392/FRA-2105, Rev 0, dated May 2021 and additional information provided

within a response to the LLFA's comments (ref: ST-2392/210716-LLFA Response, dated: 16.07.2021), and the following mitigation measures;

1. Implement drainage strategy based on attenuation and discharge into the Thames Water surface water sewer restricted to 15 l/s for rainfall events up to and including the 1 in 100 year + 40% climate change event as indicated on the Indicative Drainage Strategy drawing (ref: ST-2392-12-A, rev: A, dated 09.04.21).
2. Providing storage to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + climate change event.
3. Implement drainage strategy including porous paving, swales and an attenuation basin.

Reason: To reduce the risk of flooding to the proposed development and future occupants in accordance with Policies CP1, CP8 and CP12 of the Core Strategy (adopted October 2011) and Policy DM8 of the Development Management Policies LDD (adopted July 2013).

C20 Drainage – Management & Maintenance Plan

Upon completion of the drainage works for each site in accordance with the timing / phasing, a management and maintenance plan for the SuDS features and drainage network must be submitted to and approved in writing by the Local Planning Authority.

The scheme shall include;

1. Provision of complete set of as built drawings for site drainage.
2. Maintenance and operational activities.
3. Arrangements for adoption and any other measures to secure the operation of the scheme throughout its lifetime.

Reason: To reduce the risk of flooding to the proposed development and future occupants in accordance with Policies CP1, CP8 and CP12 of the Core Strategy (adopted October 2011) and Policy DM8 of the Development Management Policies LDD (adopted July 2013).

8.2 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.
- 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 applicant and/or their agent and the Local Planning Authority engaged in pre-application discussions which result in a form of development that maintains/improves the economic, social and environmental conditions of the District.
- 14 The applicant is hereby advised to remove all site notices on or near the site that were displayed pursuant to the application.
- 15 The following terms (and those related to them) referred to at Condition 3 shall be defined as set out below:

Affordable Housing means Social Rented Dwellings, Affordable Rented Dwellings and Shared Ownership Dwellings meeting Scheme Design and Quality Standards at costs below those associated with open market housing and which is available to, affordable by and occupied only by those in Housing Need.

Affordable Housing Provider means a registered provider registered with the Homes and Communities Agency (HCA) or other body registered with the HCA under the relevant Housing Act or other body approved by the HCA to receive social housing Grant such Registered Provider in any event to be approved by the Council.

Choice Based Lettings Scheme means the Council's allocations policy which determines the Council's priorities and procedures when allocating accommodation in accordance with the requirements of Section 167 of the Housing Act 1996.

Grant means national affordable housing programme funding allocated by the Homes and Communities Agency.

Homes and Communities Agency (HCA) means the agency of that name established by the Government (pursuant to the Housing and Regeneration Act 2008) which exercises the function of the former Housing Corporation in relation to financial assistance for new affordable homes (or any successor body).

Housing Need means persons who are assessed by the Council as being unable to resolve their housing needs in the private sector market because of the relationship between housing costs and incomes in accordance with the Choice Based Lettings Scheme.

Market Housing means those dwellings constructed on the site pursuant to the planning permission which shall not be Provided as Affordable Housing

Net Proceeds means any receipts or consideration received by a Affordable Housing Provider from the sale of an interest in any of the Affordable Housing following its initial occupation after deduction of the Affordable Housing Provider's reasonable evidenced costs of acquisition, construction and sale of the relevant affordable dwelling and the deduction of any Grant repayable.

Nominations Agreement means a contract to be entered into between the Council and the owner of the Affordable Housing whereby the Council shall have 100% nomination rights in respect of the Affordable Housing on first Occupation and 75% thereafter on re-lets to enable the Council to nominate occupiers

Open Market Value means the value confirmed by a certificate (from a professionally qualified valuer and produced in accordance, where applicable, with the Homes and Communities Agency Capital Funding Guide or successor requirements) that the relevant interest in the dwelling would fetch if sold on the open market by a willing vendor to a willing purchaser

Provided means practically completed, ready for first occupation, fully serviced and subject to a contract with an Affordable Housing Provider for the acquisition of no less than a 125 year leasehold interest

Reasonable Service Charge means a sum that covers the contribution requested from time to time for those services and facilities which are of a nature and to a standard reasonably required in connection with and which directly benefit the relevant Affordable Housing, such sum to be set at a fair and reasonable proportion of the costs relating to the services provided.

Scheme Design and Quality Standards means standards in relation to the internal environment sustainability and external environment of Affordable Dwellings as set out in the Housing Corporation's document entitled 'Design & Quality Standards 2007' or such other replacement design standards as may be issued from time to time.

"Shared Ownership Dwellings" means Affordable Housing occupied subject to a Shared Ownership Lease

"Shared Ownership Lease" means a lease substantially in the form approved or published by the HCA whereby:

- (a) the initial share sold to the leaseholder:
- (i) is a minimum of 25% (twenty five per cent) and a maximum of 75% (seventy five per cent) of the total equity in the unit; and

(ii) is sold for a premium equal to the corresponding percentage of the Open Market Value of the property;
and

(b) (i) the annual rent does not initially exceed 2.75% (two point seven five per cent) of the full Open Market Value (assessed in accordance with the HCA's Capital Funding Guide) of the Registered Providers retained share of the equity in the relevant affordable unit;

(ii) is not at a level which is in conflict with any applicable Homes and Communities Agency successor restrictions relating to charges payable by the tenant; and

and

(c) the tenant:

(i) pays no more than a Reasonable Service Charge (where applicable); and

(ii) may in successive tranches purchase the remainder of the equity in the unit

Social Rented Dwellings means Affordable Housing provided through a Affordable Housing Provider available for rent at Target Rent and subject to a Reasonable Service Charge under an assured tenancy or equivalent.

Target Rent means a rent which does not exceed the guideline rent determined through the national rent regime set from time to time.

16 The development should be built to the police security standard Secured By Design (SBD).

17 Extent of Highway: Information on obtaining the extent of public highway around the site can be obtained from the HCC website:

www.hertfordshire.gov.uk/services/highways-roads-and-pavements/changes-to-your-road/extent-of-highways.aspx

18 Agreement with Highway Authority: The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> or by telephoning 0300 1234047.

19 Travel Plan Statement: Further information is available via the County Council's website at:

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> OR by emailing travelplans@hertfordshire.gov.uk

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PLANNING COMMITTEE – 21 OCTOBER 2021

PART I - DELEGATED

- 12. 21/1542/FUL – Single storey front infill extension, roof extension including hip to gable alterations, insertion of front dormer and rooflights, insertion of rear dormer and insertion of first floor flank windows at WOOD VIEW, 11 GREENBURY CLOSE, CHORLEYWOOD, WD3 5QT.**
(DCES)

Parish: Chorleywood Parish Council.

Ward: Chorleywood North and Sarratt

Expiry of Statutory Period: 23.08.2021 (EOT
28.10.2021)

Case Officer: Freya Clewley

Recommendation: That Planning Permission be Granted.

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

1 Relevant Planning History

- 1.1 No relevant planning history.

2 Description of Application Site

- 2.1 The application site is irregular in shape and contains a detached bungalow located on the south western side of the northern spur to Greenbury Close, Chorleywood. Greenbury Close is accessed via Green Street and is a residential cul-de-sac characterised by detached bungalows of varying architectural styles and designs, many of which have been extended or altered.
- 2.2 The host dwelling is finished in mixed brickwork with a dark tiled hipped roof form. There is an existing single storey conservatory to the western flank of the dwelling, and a single storey flat roofed garage to the eastern flank. There is an existing pitched roof porch to the centre of the front elevation and hardstanding to the application site frontage with space for two vehicles to park. Land levels fall to the rear of the site.
- 2.3 The neighbour to the north west, number 12 Greenbury Close, is set back from the host dwelling and is set in from the shared boundary with the application site. This neighbour has an existing front dormer window, and is orientated such that the rear elevation faces away from the application site.
- 2.4 The neighbour to the east, number 10 Greenbury Close, is set forward from the host dwelling. This neighbour is located on the same land level as the host dwelling and its rear elevation faces south-west. The application dwelling is angled in its plot such that its rear elevation faces south, toward the rear amenity area of No. 10.

3 Description of Proposed Development

- 3.1 Full planning permission is sought for the construction of a single storey front infill extension, and a roof extension including hip to gable alterations, insertion of front dormer and rooflights, rear dormer and first floor flank windows. The proposal would result in a four bedroom dwelling (two additional bedrooms).
- 3.2 The proposed front extension would infill the currently recessed aspect between the front porch and the existing minimal front projection. The extension would have a depth of 0.5m and a width of 2.2m. This element would be incorporated under the main roofslope of the

dwelling and would remain set back from the front wall of the front porch. A window is proposed within the front elevation of the extension.

- 3.3 The proposed roof extension would include hip to gable roof extensions. The hip to gable roof extensions would increase the width of the ridge by 4m to the east and west, with an overall ridge width of 10m. Gable ends would be created to both flank elevations of the host dwelling. A window is proposed within each gable end at first floor level.
- 3.4 The proposal would include the insertion of a pitched roof dormer window within the front roofslope. The dormer would have a width of 1.8m, a depth of 2m and a height of 2.1m. A two-casement window is proposed within the dormer. The dormer would be set down 0.3m from the ridge of the host dwelling. Two rooflights are proposed within the front roofslope of the dwelling, either side of the proposed dormer window.
- 3.5 The proposed rear dormer would have a flat roof form, with a width of 7.4m, a depth of 2.4m and a height of 1.8m. A Juliet balcony with French doors, and an angled window are proposed within the rear elevation of the dormer. It would be set down 1m from the ridge of the host dwelling.
- 3.6 Amended plans were sought and received during the course of the application to reduce the number of front dormers from three to one, replacing two of the originally proposed front dormers with rooflights, alter the proposed roof extensions from hip to Dutch hip extensions to hip to gable extensions, and reduce the width of the rear dormer.

4 Consultation

4.1 Statutory Consultation

4.1.1 Chorleywood Parish Council: [Objection]

*The Committee had Objections with this application on the following grounds and wish to CALL IN, unless the Officer are minded to refuse planning permission.
Should the plans or supporting information be amended by the Applicant, please advise the Parish Council so the comments can be updated to reflect the amended proposal.*

' Development is sited in an area listed within Policy 4 of the Chorleywood Neighbourhood Development Plan and results in the conversion of a bungalow into a multi-level dwelling which would not be suitable for older persons or those with disabilities. As such, it is not compliant with the requirements of policy 4.1 as it would result in a diminishment of the supply of housing suitable for older and disabled persons and there has been no replacement or other increase in such properties in the district to offset this.

' The development would be out of keeping with the current street scene as required under the Design Criteria contained in Appendix 5 of the Development Management Policies.

' The property offers insufficient parking (as defined in Appendix 5 of the Development Management Policies) as only 2 parking spaces are available but 3 are required."

Officer Note: Following receipt of amended plans, the Parish Council were re-consulted on this application. No further comments have been received at the time of drafting this report and any comments received will be verbally reported at the Committee meeting.

4.1.2 National Grid: No response received.

4.1.3 London Underground Infrastructure Protection: [No Objection]

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 5

4.2.2 No of responses received: 1 objection

4.2.3 Site Notice: Expired: 26.07.2021 Press notice: N/A

4.2.4 Summary of Responses:

- Proposed property is described as a chalet bungalow however it is more like a house and out of keeping to other properties in the road.
- Building should be smaller.
- Suggestions that the elevations are inaccurate.
- Frontage would be out of keeping.
- Many bungalows have added a room in their roof, some with dormers, however the proposal is much larger and seems like a conversion from a bungalow to a house on a small plot.

4.2.5 Following receipt of amended plans, neighbours and the Parish Council have been consulted again. No further responses have been received at the time of drafting this report, and any additional responses will be reported verbally at the Committee meeting.

5 Reason for Delay

5.1 Amended plans sought and received, and neighbours and the Parish Council were consulted on the amended plans.

6 Relevant Planning Policy, Guidance and Legislation

6.1 National Planning Policy Framework and National Planning Practice Guidance

In 2021 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.

The Chorleywood Neighbourhood Plan Referendum Version was adopted in August 2020. Relevant policies include: Policies 2 and 4.

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 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 LDD (adopted July 2013) set out that development should not have a significant impact on the visual amenities of the area. Appendix 2 of the DMP LDD outlines that hip to gable extensions are discouraged in the case of semi-detached houses as it is considered that it unbalances the pair and results in a loss of symmetry. In some cases, the roof forms in a street may be uniform and therefore this type of alteration may erode the group value of the street and will not be supported by the Council. Dormer windows should always be subordinate to the main roof. They should be set below the existing ridge level, set in from either end of the roof and set back from the plane of the front or rear wall. The roof form should respect the character of the house if possible. Front dormers may not always be appropriate in the streetscene.
- 7.1.3 Policy 2 of the Chorleywood Neighbourhood Plan (referendum version, August 2020) states that all development should seek to make a positive contribution to the streetscene by way of frontage, building line, scale and design. Policy 4 of the Neighbourhood Plan states that it is recognised that various alterations can be made to properties without the need to apply for planning permission, commonly referred to as permitted development. In areas characterised by groups of bungalows those developments which require the submission of a planning application will be carefully assessed to ensure that the supply of housing suitable for older and disabled people is not diminished. This will usually mean that suitable bungalows will not be converted into multi-level dwellings.
- 7.1.4 The proposed front extension would infill a recessed aspect between the front porch and existing stepped front elevation. This element would have a depth of 0.5m and would not extend beyond the existing porch, and given the scale and design of this element, it is not

considered that the single storey front extension would result in any harm to the character or appearance of the host dwelling, streetscene or wider area.

- 7.1.5 The streetscene of Greenbury Close is varied in terms of the architectural styles and designs of the existing bungalows. In addition, many of the existing bungalows have implemented extensions to the roof space, with front and side dormers visible within the streetscene, including at numbers 1, 2, 6, 7, 9, 12 and 15 Greenbury Close. Whilst some of the neighbouring bungalows have retained a hipped roof form, there are gabled roof forms within the streetscene of Greenbury Close, including a gable feature to the front elevation of No. 14 opposite the application site. Therefore, whilst the proposed hip to gable extensions would alter the appearance of the host dwelling, given the existing variation within the streetscene of Greenbury Close, it is not considered that the proposed hip to gable alterations would result in harm to the character or appearance of the host dwelling, streetscene or wider area.
- 7.1.6 The proposal would include the insertion of a front dormer. The front dormer would be of a size and scale which would be proportionate within the front roofslope of the dwelling, set down from the ridge line, set up from the eaves and set in from the flank elevations, and as such, is considered to be a subordinate addition. Furthermore, given the existence of a variety of front dormer windows within the streetscene, it is not considered that the proposed front dormer would result in harm to the character or appearance of the host dwelling, streetscene or wider area. The proposed front rooflights are of a number and scale which would be proportionate, and would not result in any harm in this regard.
- 7.1.7 The proposed rear dormer would have a flat roof form, set down from the ridge, set up from the eaves and set in from the flank elevations of the host dwelling. As such, the rear dormer would be considered to be a subordinate addition within the rear roofslope. In addition, given the siting of this element, and the orientation of the host dwelling, the proposed rear dormer would not be visible from the streetscene of Greenbury Close, thus would not appear prominent. Therefore, it is not considered that the proposed rear dormer would result in any harm to the character or appearance of the host dwelling, streetscene or wider area.
- 7.1.8 The supporting text to Policy 4 of the Chorleywood Neighbourhood Plan outlines that, to protect the retention of bungalows, the policy will both maintain the character of these areas and ensure that the stock of dwellings for older and disabled persons is maintained. Greenbury Close is identified as one of the roads to meet this criteria. The supporting text also notes "It is important to be clear that, in seeking homes that are appropriate for older persons' needs, this does not mean that they must only be appropriate for the needs of older people. They can be designed such that they provide housing to address the needs of all types of people, old and young, but they must be capable of serving the needs of older people if such people choose to live in them". Policy 4.1 states that "in areas characterised by groups of bungalows those developments which require the submission of a planning application will be carefully assessed to ensure that the supply of housing suitable for older and disabled people is not diminished. This will usually mean that suitable bungalows will not be able to be converted into multi-level dwellings". The current application would introduce first floor accommodation to an existing bungalow, resulting in the creation of a chalet-style bungalow which would provide multi-level accommodation. However, it is not considered that the introduction of this multi-level accommodation would diminish the supply of housing suitable for older or disabled people. For example, the property would retain living accommodation (including WC and facilities for cooking and sleeping) on the ground floor, and further internal adjustments could be made without planning permission should additional facilities be required. Therefore, the property would remain capable of serving the needs of older people if such people chose to live in them, as identified as important in the policy's supporting text. There is nothing to suggest that the existing dwelling is particularly suitable for older or disabled people, in the same way that there is no suggestion that the proposed internal layout would not be suitable for older or disabled people.

- 7.1.9 On this basis, it is not considered that the addition of accommodation in the roof space of the existing bungalow would result in any demonstrable harm to the character or appearance of the host building, the street scene or the wider area. Furthermore it is not considered that the proposal would demonstrably diminish the supply of housing for older or disabled people. It is therefore considered that the development would comply with Policies CP1 and CP12 of the Core Strategy, Policies DM1 and Appendix 2 of the Development Management Policies document, the Chorleywood Neighbourhood Plan (referendum version, August 2020) and the NPPF (2021).
- 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.
- 7.2.2 The proposed single storey front extension would not extend beyond the existing front porch, and would be sited centrally to the front elevation of the host dwelling. The front facing window would face the street. As such, given the scale and siting of the proposed extension, it is not considered that this element would result in any harm to neighbouring properties.
- 7.2.3 The proposed hip to gable roof extensions would create a gable end to the eastern and western flank elevations of the dwelling. However, given the spacing maintained between the host dwelling and both neighbouring dwellings, it is not considered that the hip to gable roof extensions would appear overbearing or result in loss of light to any neighbour. A window is proposed within each of the gable ends at first floor level. Given the siting of these windows, a condition would be attached to any granted consent to require these windows to be obscurely glazed and top level opening to prevent unacceptable overlooking from occurring.
- 7.2.4 The proposed front dormer would serve a staircase and would be sited centrally within the front roofslope, and given the scale and siting of this element, facing the street, it would not result in any harm to neighbouring properties.
- 7.2.5 The proposed rear dormer would be contained within the rear roofslope of the dwelling, and would not extend beyond the existing rear elevation of the host dwelling, or neighbouring properties. Therefore, given the siting and scale of the proposed rear dormer, it is not considered that this element would result in any harm to neighbouring amenity.
- 7.2.6 In terms of overlooking, the rear dormer would contain French doors with a Juliet balcony and a window. The French doors would be sited to the western side of the rear dormer, set in 9.9m from the flank boundary with No. 12, and would therefore not result in overlooking to No. 12. This opening would face the rear garden of the application site and the neighbouring property at No. 10 and would be set a minimum of 6.4m from the boundary with No. 10 opposite the window. Whilst this distance is noted, the proposed French doors would not directly face the rear elevation or private amenity space adjacent to the rear elevation of the neighbour at No. 10, and would face towards the rear of neighbouring site. Therefore, it is not considered that the proposed French doors would result in unacceptable overlooking to No.10.
- 7.2.7 The proposed window in the rear dormer structure would be angled away from the neighbour to the east (No. 10) and would face down the garden of the application site. This arrangement has been design as a result of the proximity to the boundary and the orientation of the application plot relative to this neighbour. Given the positioning of the window, it is not considered that this window would result in unacceptable overlooking.

7.2.8 In summary, subject to conditions, the development is considered acceptable in terms of its impact on neighbouring residential amenity in accordance with Policy CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the DMP LDD.

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 The proposed extension would increase the number of bedrooms within the dwelling from two to four, thus there would be a requirement for the dwelling to retain at least 105sqm of amenity space. The application site would retain at least 315sqm of amenity space which would be ample to serve the application dwelling.

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 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 site is not within a conservation area and does not contain any protected trees. No trees of public amenity value would be harmed or removed by virtue of the proposal and the development is 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. The existing dwelling has 2 bedrooms and there is space for 2 cars to park on hardstanding to the frontage.

7.6.2 The proposed development would not alter the existing parking provision serving the host dwelling, however the proposal would facilitate the creation of two additional bedrooms, making the host dwelling a four bedroom dwelling. Appendix 5 of the Development Management Policies document outlines that a four or more bedroom dwelling should provide onsite parking provision for three vehicles.

- 7.6.3 The existing hardstanding to the application frontage can accommodate two vehicles, and there is sufficient space within the application site frontage to create an additional parking space if this is required in the future. It is noted that there is an existing garage, however the garage has an internal width of 2.5m, thus is not considered of a sufficient size to accommodate a vehicle. Therefore, whilst it is acknowledged that the proposal would result in an onsite shortfall of one parking space, it is not considered given the potential for additional spaces to be provided on site and the presence of existing parking controls in this cul-de-sac that the proposed development would result in demonstrable harm to highway safety so as to justify the refusal of planning permission in this regard.

8 Recommendation

- 8.1 That PLANNING PERMISSION BE GRANTED subject to the following 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), TRDC 002 (Block Plan), 1 Rev B, 2 Rev D, 3, 4 Rev C, 5 and 6 Rev D.

Reason: For the avoidance of doubt and in the proper interests of planning in accordance with Policies CP1, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011), Policies DM1, DM6 and DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013) and the Chorleywood Neighbourhood Plan (Referendum Version, August 2020).

- C3 Before the first occupation of the building/extension hereby permitted the windows at first floor level in the flank elevations shall be fitted with purpose made obscured glazing and shall be top level opening only at 1.7m above the floor level of the room in which the window is installed. The windows 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).

- 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 building 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).

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 applicant is hereby advised to remove all site notices on or near the site that were displayed pursuant to the application.
- 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).

- 15 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.

PLANNING COMMITTEE - 21 OCTOBER 2021

PART I - DELEGATED

13. 21/1618/FUL: Change of use from golf course land to residential gardens and erection of open metal fencing at Land at MOOR PARK GOLF COURSE, BATCHWORTH HEATH, MOOR PARK, RICKMANSWORTH, WD3 1QN (DCES)

Parish: Batchworth Community Council
Expiry of Statutory Period: 27.10.2021

Ward: Moor Park and Eastbury
Case Officer: Claire Wilson

Recommendation: That Planning Permission be Refused.

Reason for consideration by the Committee: This application has been called in by three members of the Planning Committee regardless of officer recommendation as it has attracted both support and objections from consultees. It raises issues relating to impact on the Green Belt, Moor Park Conservation Area and the historic listed gardens.

1 Relevant Planning History

- 1.1 No relevant planning history relating to the application site. However, there have been numerous historic applications relating to Moor Park Mansions and the Golf Course.

2 Description of Application Site

- 2.1 The application site is located within the Grade II* Registered Park and Garden of Moor Park.
- 2.2 The application sites consist of three separate parcels of wooded vegetation which provide a buffer between the Golf Course and the residential development of Moor Park. The first parcel is located to the side of no.1 Anson Walk, with the second being to the rear of no.32-26 Astons Road. In addition, a separate parcel is located to the rear and between no.16-20 Astons Road. The woodland comprises mainly of Oak, Beech, Birch & Sycamore, with an understorey of native shrub species, and some Laurel and Rhododendron. The site slopes down from no 1 Anson Walk to the north towards no.20 Astons Road. Astons Road is located at a lower land level to the Golf Course. An existing fence acts as a boundary treatment between the existing rear boundaries of properties on Astons Road, and the adjacent Golf Course.
- 2.3 The rear boundary of the sites are located adjacent to the Moor Park Conservation Area. Parts of the site are also located within the Metropolitan Green Belt, with the areas to the rear of no 16, 20, 26 and 28 Astons Road and to the side of 1 Anson Walk all being within the Green Belt. The areas immediately to the rear of no.32 and 30 Astons Road and the area between no.16 and 20 Astons Road are not located within the Green Belt.
- 2.4 It is noted from the Planning Statement submitted by the applicant that some of the land to the side of No.1 Anson Walk and to the rear of No.30 Astons Road are already in residential use. In addition, it was observed at the time of the site visit, that some children's play equipment including a tyre swing was visible in the woodland, although this would not constitute a change of use of the existing land in itself.

3 Description of Proposed Development

- 3.1 The applicant is seeking full planning permission for the change of use from golf course land to residential gardens and the erection of open metal fencing.

- 3.2 As set out, the land is currently part of the Golf Course but has a wooded character. The applicant is seeking to change the use of the land to garden land for the use of properties fronting Astons Road and Anson Walk. In order to facilitate the proposed change of use, the applicant is proposing to erect a new metal fence which would be erected along the rear of the properties on Astons Road and to the flank boundary of no.1 Anson Walk. This would be a dark coloured metal rail fencing and would be open in character, ranging in height from 1.8-2m. The submitted plan does not indicate that there would be new boundary treatment between no.20 and 16.
- 3.3 An amended Planning Statement has been submitted during the course of the application in order to address concerns from statutory consultees including Historic England. In addition, a location plan was submitted to further indicate areas in control of the applicant.

4 Consultation

4.1 Statutory Consultation

4.1.1 Moor Park 1958: [Objection]

The Directors of Moor Park (1958) Limited wish to raise the following material planning objections, issues and principles in response to this application with a request that they be fully taken into account by the Council in its assessment and determination of the proposed development.

All of the land in question (apart from the narrow finger of land running between what appears nos. 18 and 20 Astons Road) is designated as being within the Metropolitan Green Belt to which both local and national Green Belt planning policies stand to be applied.

The National Planning Policy Framework (NPPF) under the heading of "Protecting Green Belt land" advises that, inter alia:-

"The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are its openness.... "

In addition, the NPPF makes clear that there are five purposes served by the Green Belts; one of which is:- "...to assist in safeguarding the countryside from encroachment....."

The essence of the current application is both (i) to enclose the existing parcels of the Green Belt with approx.. 2m high fencing (irrespective of its design) and (ii) to enable the seven residential curtilages in question to all be extended in a manner that encroaches into the Green Belt. We submit that this a form of urban sprawl that adversely affects the openness of the Green Belt and that is both inappropriate and harmful.

Furthermore, we can see no obvious "very special circumstances" in this case that are of such weight and magnitude as to outweigh the normal application of national and local Green Belt policy. Consequently, we believe that there are good reasons to suggest that the application is contrary to Green Belt policy and therefore material planning grounds exist for permission to be refused.

2. The location of the proposed change of use from golf course to residential gardens falls within land which is both (i) part of the grounds of a Grade I listed building and also (ii) part of the wider landscape of a registered Grade II* Park and Garden of Special Historic Interest. We believe these are material planning considerations that the Council will wish to take fully into account in the assessment and determination of this application. If there are found to be any adverse impact(s) on either (i) or (ii) above we believe that they would be good and reasonable grounds for planning permission to be refused.

3. The location of the land that is proposed to change from golf course to garden curtilages is also on the boundary of the designated Moor Park Conservation Area. As a result the impact of the proposed change of use upon the setting of the Conservation Area is a material planning consideration.

While we acknowledge that the application advises that there is proposed to be (i) no (or minimal) impact on, or direct loss of, trees in the areas of the changes of use of the land and (ii) that the selected fencing is of an open (“see through”) style/ design, we nevertheless wish to register our material concerns on the grounds that if either of these are not able to be achieved, either in the short or long term, (e.g. that trees and general screening vegetation is widely removed and/or that the style of fencing is infilled or replaced with solid fencing in the future), then we consider that the edge of the Conservation Area will be compromised by an unacceptable and inappropriate “urbanising” impact that will be visually harmful and that will thereby adversely affect the setting of the Conservation Area. We believe that this would be a further sound and reasonable ground for objecting to the change of use, and as a basis for the Council to refuse the application.

NOTE - We submit that the above (three) issues are material “in-principle” planning considerations, and we wish to make clear that none of the remaining issues we raise (as below) should be taken, or construed in any way, that undermines the planning issues that we have highlighted above

4. We consider that either a robustly worded planning condition, or preferably a unilateral legal agreement, to be entered into by the applicant and all seven householders, will be necessary to ensure that the height and open style/design of the proposed fencing shall remain as exactly per the application in perpetuity, in order that both the integrity of the openness of the Green Belt and the existing predominantly natural, verdant edge of the Conservation Area along these boundaries can be properly and legally preserved and maintained.

5. We consider that either a robustly worded planning condition, or preferably a unilateral legal agreement, to be entered into by the applicant and all seven householders, will be necessary to ensure that no trees or substantial planting/vegetation can be removed, either as part of the implementation of the change of use nor at any time in the future, without specific and express planning permission, in order to protect the existing landscaping and to reduce the adverse impact of the encroachment of residential curtilages into the adjacent Green Belt.

6. We consider that a robustly worded planning condition will be necessary to introduce (and retain/maintain) planting on the golf course side of the proposed fencing to ensure that the natural features of the existing landscape of the registered Grade II* Park and Garden of Special Historic Interest and the interface between the golf course and the Moor Park Conservation Area is not harmed, undermined or prejudiced by the change of use of the land.

7. We are very conscious that the scale and extent of development within individual plots in the Moor Park Conservation Area is a key planning issue that is covered by the “plot coverage” criteria, as per the provisions and objectives that are set out in paragraph 3.4 of the approved MPCA.

Consequently we wish to express our material objections and concerns over situations that might occur in the future when the individual plots are extended in size in the short term as per the current application, purely in order to create a much larger overall plot that then enables/supports much more extensive residential development (in the form of extensions etc) than would otherwise previously have been allowed under the maximum 15% plot coverage criterion, only then to find that the change of use is subsequently “reversed” at a later date! It is unclear to us how the current planning system can best serve to prevent this

from happening, but nevertheless would wish to bring our concerns to the attention of the Council on this point in its assessment of the change of use application. As a result of the above, we would respectfully invite the Council to counter-act what would undoubtedly be a materially harmful and detrimental outcome in the Conservation Area as a key aspect of its determination of the application.

8. Despite what the applicant highlights in para 5.3.1 of the submitted Planning Statement, we consider that a unilateral legal agreement and/or Section 106 Agreement, to be entered into by the applicant and all seven householders, will be necessary to ensure no building works or indeed the introduction of any other form of residential garden “paraphernalia”, such as garden structures, sheds/shacks, garden rooms, tree houses, football goal posts, swimming pools, clothes lines etc, shall be allowed to be erected, built or placed on any of the land that is subject to this proposed change of use of land. In our opinion, such an agreement needs be more than a “binding (private) covenant” between the current and future private land owners in order that any future breaches are bound, pursuable and/or preventable in planning law by means of formal, local authority enforcement proceedings.

9. Finally, and in addition, we consider that ALL classes and categories of residential permitted development should be removed from all of the land outlined in red by planning condition.

In our opinion, such legal and planning condition safeguards (as referred in paragraphs 4 – 9 above), are required to fully and demonstrably protect and preserve the character and openness of the Green Belt land and the Moor Park Conservation Area in perpetuity.

4.1.2 Batchworth Community Council: [No objection]

Batchworth Community Council is willing to support this transfer subject to the following:

1. In addition to the covenant in the transfer deed that any future development on the original houses is restricted to a maximum of 15% coverage of the original site area prior to the transfer (in line the Conservation Area appraisal)
2. Prior to the transfer taking place that a full tree survey is undertaken and any trees that requiring protection have a TPO placed on them.

4.1.3 Landscape Officer: [Object]

Refusal: The site is located on the Moor Park Golf Course, a Grade II* registered Park and Garden, within the grounds of Moor Park Mansion, Rickmansworth. It comprises of two strips of mixed broadleaved woodland that run north/south along the eastern boundary of Moor Park Golf Course and the neighbouring Moor Park housing estate. The woodland comprises mainly of Oak, Beech, Birch & Sycamore, with an understorey of native shrub species, and some Laurel and Rhododendron. The strip of woodland to the north, has several streams running through it towards the east, and the woodland to the south contains an impressive veteran Oak tree. The woodland forms a vital buffer and screen between the landscaped grounds of the golf course and the housing estate. The canopy and shrub layer of the woodland are integral to creating a verdant backdrop to the Park, preventing intrusive views of built structures to the east.

The submitted plans indicate that the two woodlands would be sub-divided with fencing, and ownership would be transferred to the various properties that back onto the woodland, with each woodland parcel being incorporated into the properties existing garden space. However, the tree/landscape report and supporting information is inadequate and doesn't fully consider the landscape impact of the sub-division of the woodland and the fencing, in the context of the Grade II* registered Park and Garden.

Regardless, the fragmentation of the woodland would be highly damaging to its integrity and importance as a landscape buffer. The various owners are likely to impose different management treatments to their piece of woodland, potentially with trees and scrub removed and cut back; areas of lawn and planting beds created; and garden rooms; sheds, Barbeque areas and other common garden features being installed. Some evidence of this already exists with children's play equipment (a zip line and rope swing) encountered during a site visit. In addition, the proposed fencing would be intrusive, giving the location a feeling of containment, rather than the more open, utopian landscape originally envisaged for the Park.

The local authority has the powers to place a Tree Preservation Order on the woodland, and the appropriate type of TPO would be a Woodland designation. This could very much restrict what residents could do in terms of turning the area into domestic gardens, as all existing, and future tree and shrub species named on the order would be protected from removal. However, the Fragmentation of ownership between neighbouring properties would still risk parts of it being used as domestic garden, and even with a TPO, it would be difficult for the LPA (Local Planning Authority) to police, to prevent degradation of the woodland over the longer term.

Whilst it could be argued that statutory protection by TPO would give the LPA the ability to prevent degradation of the woods, in refusing this planning application the LPA would be exercising those powers to prevent damage. In this case protection of the woodland and the landscape would be most effective by maintaining the woods, unfenced, and in single ownership, rather than by protection by TPO.

In conclusion, the fencing and sub-division of the woodland would lead to the degradation of this vital landscape screen, and result in damage to the Moor Park Grade II* registered Park and Garden.

4.1.4 Historic England: [Object]

Moor Park is a grade II* Registered Park and Garden. Of primary importance to its significance is the surviving elements of historic planting which saw the involvement of the great landscape architects of their day; Lancelot 'Capability' Brown, Humphrey Repton and Thomas Mawson have all either designed or implemented schemes at Moor Park.

In the early 1900's the site was purchased by Lord Leverhume who started to lay out the golf course and sell off areas of land for development. The development around Astons Road has been laid out in a typically 'Metroland' style with large houses set within substantial plots around tree lined wide avenues. The whole creates a sense of openness. The Moor Park Conservation Area Appraisal is adamant that the trees are a positive contributor to the significance of the area as a whole and create a verdant setting for the development.

This 'Metroland' development is sat adjacent to the Registered Park and Garden which was added to the register in June 1987 and the area of land which is the subject of this application, sits wholly within it but outside of the Conservation Area.

Impact of the Proposed Scheme

The applicant's heritage assessment indicates that while within the Registered Park and Garden, the woodland in this area has been encouraged by the Golf Course management to provide screening. The area of the historic perimeter planting now lies underneath development on Astons Road. Historic map evidence available on line would seem to indicate that this is the case, that Astons Road once formed the boundary with the Moor Park Estate. The area which is currently scrub woodland would seem to have been marked as open space with sporadic planting on the OS map of 1864.

This being said, the applicant's heritage statement states that this area of planting contributes to the significance of the grade II* registered park and garden.

It is proposed to erect a 1,8-2m high estate style fence around the boundaries of the proposed gardens which, while rather tall and out of keeping with the scale of estate fencing is an acceptable style. What has not been explored by the application documentation is the impact of residential paraphernalia within a grade II* registered park and garden. The impact of children's toys, formal gardens ie: flower beds, hedging sheds and other items reasonably to be expected within gardens, could have a negative impact upon the character and the significance of the registered park and garden through further intrusion into what would have been the agricultural edge of the former parkland. This has not been adequately covered within the documentation and further consideration needs to be given to this.

Policy Context

- Paragraph 194 of the NPPF states that local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the asset's importance.
- Paragraph 199 of the NPPF states that when considering the impact of a proposed development upon the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater that weight should be).
- Paragraph 200 of the NPPF states that any harm to or loss of significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification.
- Paragraph 202 of the NPPF states that where a development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefit of the scheme.

Historic England's Position

Historic England considers that the documentation provided with the application has not gone far enough in considering the impacts upon the grade II* registered Park and Garden through the implications of this scheme. Granting a change of use of this land to residential curtilage could fundamentally alter its character and significance and result in a further reduction in size of the historic area of parkland thereby introducing possible harm to the grade I listed building at Moor Park Mansion through truncation of its setting. The application does not therefore meet the information requirements as laid down in paragraph 194 of the NPPF.

Moor Park is a Grade II* Registered Park and Garden and as such is recognised as one of our nation's greatest designed landscapes. The impact upon it and presumption in favour of its conservation is required by paragraph 199 of the NPPF. There is as yet no clear justification provided for this scheme which outweighs the possible harm to the Registered Park and Garden thereby not complying with paragraph 200 of the NPPF.

Historic England therefore consider that this application would result in a low level of less than substantial harm to the character and significance of Moor Park Grade II* Registered Park and Garden. It is for your local planning authority to consider the planning balance in line with paragraph 202 of the NPPF.

Recommendation: Historic England has concerns regarding the application on heritage grounds. We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 194, 199, 200 and 202 of the NPPF.

In determining this application you should bear in mind the statutory duty of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas and section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.

Officer Comment: An updated Planning Statement was submitted to address the comments made by Historic England and the following comments were received:

Thank you for your email and the attached documents. We have reviewed these attachments and can confirm that while we appreciate that a removal of permitted development rights would go some way to alleviating the concerns with regards to built environment encroaching into this area, it cannot alleviate the harm from the things that do not require permission such as noise, as per our previous comments.

This is also a concern in terms of cumulative impacts. There has been no evidence provided by the applicant that, in heritage terms justifies the change of use of this land. The disposal of part of this park and garden sets a trend for other back gardens to be extended in the same way. Over time, this erodes the edges of the Registered Park and Garden and gradually decreases its significance.

We therefore maintain our view that there will be a low level of less than substantial harm to the grade II* Registered Park and Garden through this change of use for the reasons given in our previous letter. We consider that your local planning authority should undertake the planning balance as required by paragraph 202 of the NPPF.

4.1.5 Conservation Officer: [Objection]

The application site is within the Grade II* listed Moor Park (list entry: 1000251). The planned landscape was design by Lancelot Brown c 1753. A plan for the pleasure grounds was also produced by Charles Bridgeman c. 1720, although it is not known how much of this plan was executed.

I would raise an in-principle objection to the proposed transfer of land. The proposal would result in part of the historic Park and Garden being incorporated into the rear gardens of residential dwellings along Astons Road.

The proposal would result in a fundamental change in the use of the land and its character which would undermine the significance of the registered Park and Garden through carving off part of its boundary. The boundary of the Grade II* listed park would likely have intentionally been drawn to include all areas of the planned landscape which contribute to the heritage assets significance, resulting in a distinct boundary between Moor Park and the residential development beyond. I give no weight to the argument of the covenant as this would not escape the fundamental harm caused to the heritage asset through the change in the use and character of the land to domestic gardens. The proposal does not consider the environmental impact such as domestic paraphernalia, noise, light and general disturbance.

With regards to the National Planning Policy Framework the level of harm is considered to be 'less than substantial' as per paragraph 202. 'Great weight' should be given to the heritage asset's conservation as per paragraph 199. Any harm to, or loss of, the significance

of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification as per paragraph 200.

Officer Note: An updated Planning Statement has been submitted and the Conservation Officer was re-consulted. The following comments have been received:

This application is for change of use from golf course land to residential gardens and erection of open metal fencing. The application site is within the Grade II* listed Moor Park (list entry: 1000251). The planned landscape was design by Lancelot Brown c 1753. A plan for the pleasure grounds was also produced by Charles Bridgeman c. 1720, although it is not known how much of this plan was executed.

Initial built heritage advice was provided 03/08/2021, additional information has since been provided to further justify the change of land use. This letter contains advice in response to the additional information.

Previous heritage advice raised an in-principle objection to the transfer of land resulting in 'less than substantial' harm to the designated heritage asset making paragraph 202 of the NPPF relevant. Advice stated:

The proposal would result in a fundamental change in the use of the land and its character which would undermine the significance of the registered Park and Garden through carving off part of its boundary. The boundary of the Grade II listed park would likely have intentionally been drawn to include all areas of the planned landscape which contribute to the heritage assets significance, resulting in a distinct boundary between Moor Park and the residential development beyond. give no weight to the argument of the covenant as this would not escape the fundamental harm caused to the heritage asset through the change in the use and character of the land to domestic gardens. The proposal does not consider the environmental impact such as domestic paraphernalia, noise, light and general disturbance.*

The alterations to the boundary of number 30 are not considered to set a precedent to allow for further erosion of the Park and Gardens boundary. The land was obtained without planning consent or conservation advice and is yet to obtain a certificate of lawful development. The proposal would result in cumulative harm to the designated heritage asset through the gradual erosion of the parks boundary. The existing boundary provides a clear and distinct boundary between the Park and Garden and the residential development as part of the Conservation Area. Incorporating sections of domestic gardens within the Historic Park and Garden will not only undermine the boundary of the Conservation Area, it will also fundamentally alter the use of land within the Park and Garden. Both resulting in 'less than substantial' harm to designated heritage assets and detract from the relationship of the heritage assets.

The removal of permitted development rights bears no weight when considering the harm caused to the heritage asset as this cannot mitigate harm caused by visual considerations and the way we experience the asset, such as domestic paraphernalia, lighting and noise.

Additionally, a main approach enters the park off Batchworth Heath and through a Grade II listed entrance arch and two lodges (list entry: 1173387), the properties along Astons Road are located to the east of this pathway. The existing wooded area reinforces the how we can experience and appreciate the historic approach and heritage asset as a pleasure ground and landscape park of an eighteenth-century country house. Encroaching domestic boundaries closer to this historic entrance and driveway will have an adverse impact on the Park's appearance and scale, resulting in harm to the Grade II* listed Park and Garden.

The additional information submitted is limited and does not provide justification for the resulting harm to the heritage asset, contrary to paragraph 200 of the NPPF. All previous

advice remains relevant, which found level of harm to the significance of the heritage asset would be 'less than substantial' as per paragraph 202. The proposal would also fail to preserve or enhance the character and appearance of the Conservation Area, contrary to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

4.1.6 The Gardens Trust: [No objection]

Thank you for consulting The Gardens Trust of which HGT is a member.

Whilst we have no objection in principle to the transfer of the land described in this proposal, we consider that several conditions be attached to this transfer. The land in question is part of the II* registered landscape of Moor Park and setting of Grade I Moor Park Mansion and lies within the green belt.

The conditions required to protect this area should be

1. A survey of the land in this application and the trees, with TPO being applied to any which merit it in the LPAs expert opinion
2. The fence to be kept at the level agreed in the planning permission (if given) and no higher than that in this application.
3. Covenants on the land transferred to prevent any development of this part of the Moor Park landscape. This should include converting this ground to garden ground as opposed to woodland. If these conditions are applied we would have no objections to the land transfer as described in this application.

4.1.7 Herts Ecology: [Objection].

Thank you for consulting Hertfordshire Ecology on the above. I apologise for the delay with this reply. The application site falls within Moor Park Golf Course, which is designated as a Local Wildlife Site (LWS) for its mixed grassland interest; however there are other habitats present including woodlands, scrub, scattered trees, ponds, ditches, etc. The whole golf course was selected as a LWS in 1997 as a management unit and covers 130.52ha. The application site takes up small areas totalling approximately 0.68ha on the eastern side of the LWS.

Of course, there is a presumption in favour of avoiding development on LWSs (within NPPF and the Three Rivers Local Plan) and we support this. Thus, in principle we do not sanction the loss or fragmentation of LWSs as a result of development, including change of use. However, because a very small proportion of this extensive LWS will be affected, the LWS designation on the proposal site does not in itself mean that Herts Ecology recommends refusal in this instance.

The proposal would result in a fundamental change in the use of the land, which would be at the whim of the owners of the residential gardens and could easily result in a loss of biodiversity and introduction of ornamental species and artificial lighting. Although no impact to the LWS within the application site is proposed, there will be a loss in overall area of the LWS. In this respect, there will be a loss affecting a locally designated site (this has been answered No in the Biodiversity Checklist).

The LWS citation describe the site as: Large area of old parkland now used as a golf course. In addition to amenity grassland, the area supports a range of habitats. These include unimproved species-rich neutral grassland in the north, acid grassland with remnant patches of Heather (*Calluna vulgaris*) and Gorse (*Ulex europaeus*) scrub in the south, plus patches of scrub/broadleaf woodland and some scattered veteran Pedunculate Oak (*Quercus robur*). A chalk pit and pond add further habitat diversity. The site is important for orthoptera and bats and other protected species have been recorded. Wildlife Site criteria:

Grassland indicators.

The application site is described by the Arboriculturist as woodland with mature trees and established understory. Native species are listed in the Arboricultural Report. Notwithstanding the above, no ecological survey information has been submitted to describe the site and crucially its connection to the LWS status. Although the habitat surveys we have on file from the 1980s and '90s demonstrate good botanical interest in the grassland, the data is now at least 25 years old; and we have limited specific data for the woodland parts of the LWS.

I advise an ecological survey of the application site (at least, but ideally the whole LWS boundary if possible?) is undertaken, which takes account of the LWS status of the golf course. Recognised Hertfordshire LWS survey guidelines and criteria exist, and further information can be sought from the LWS Officer:

Carol Lodge, Local Wildlife Sites Officer, Herts & Middlesex Wildlife Trust
T: 01727 858901 x235
E: carol.lodge@hmwt.org

The survey should be undertaken during Spring for woodlands (and Summer if grasslands are to be included). Any survey should evaluate the impact of the proposed change of use on the loss of LWS area to domestic garden. If the survey shows that the land affected still merits LWS status or is of other significant interest, a Management Plan should also be provided that describes how the existing interest can be maintained by the homeowners for the foreseeable future. One component of this should seek to ensure the woodland habitat is managed as such and remains as a dark corridor for use by wildlife and could include restrictions on garden lighting. The Management Plan, if required, should be secured by condition.

If the survey shows that the area does not now merit LWS status, then it will be officially removed from the LWS boundary by the LWS Ratification Panel at the next annual winter meeting. This approach will ensure the outcome will be based on sufficient survey data to enable an informed decision to be made.

I note the Planning Statement on page 16 states: "The new boundaries will be strengthened by the planting of additional trees and shrubs within the park." Any new planting within the golf course should be with native species known to thrive in the area, and this should be secured by condition should permission be granted.

I support the advice of others that any trees suitable for TPOs should be secured.

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 13 No of responses received: 1

4.2.2 Site Notice: Expiry: 30 September Press notice: Expiry: 06 August.

4.2.3 Summary of Responses:

- If any change of use from golf course land to residential gardens were to take place, we would wish to see the trees protected by Tree Preservation Orders.

5 Reason for Delay

5.1 To allow the applicant to submit further information to address the concerns of statutory consultees.

6 Relevant Planning Policy, Guidance and Legislation

6.1 National Planning Policy Framework and National Planning Practice Guidance

In July 2021 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 2021 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 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, CP11 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 DM2, DM3, DM6, DM13 and Appendix 5.

The Moor Park Conservation Area Appraisal (2006).

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 Introduction

7.1.1 As set out in the site description, the application sites are made up of woodland to the rear of the properties on Astons Road and to the side of no.1 Anson Walk. The area forms a visual buffer between the built up residential area of Moor Park and the Grade II* Registered Park and Garden beyond.

7.1.2 The Planning Statement submitted by the applicant notes the following at section 7.1.2:

It is also important to note, as set out above, that this change in use of the land has already been implemented to the side of No.1 Anson Walk and to the rear of No.30 Astons Road for 10+ years, therefore is immune to any enforcement action, although a lawful development certificate is yet to be formally obtained by the owners.

7.1.3 Officers acknowledge that some change of use does appear to have taken place in these locations with the fencing having been re-sited. In addition, at the time of the site visit, officer's noted the provision of children's play equipment including a tyre swing within one of the sections of woodland within the application site; however, such equipment would not in itself materially alter the use of the land in planning terms. However, whilst the applicant specifies that the use of such areas is lawful and immune to enforcement action, the Local Planning Authority is not in receipt of any application for a certificate of lawfulness. It is therefore viewed that at the present time that the use of the land as residential curtilage is not lawful and it is not considered that that any weight can be applied to the existing uses at no.30 Astons Road and no.1 Anson Walk.

7.2 Green Belt

7.2.1 Parts of the application sites are located within the Metropolitan Green Belt, with the areas to the rear of no 16, 20, 26 and 28 Astons Road and to the side of 1 Anson Walk all being within the Green Belt. The areas immediately to the rear of no.32 and 34 and the area between no.16 and 20 are not located within the Green Belt.

7.2.2 The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and the essential characteristics of Green Belts are their openness and their permanence. The National Planning Policy Framework sets out that Green Belt serves five purposes:

- o *To check the unrestricted sprawl of large built-up areas;*
- o *To prevent neighbouring towns merging into one another;*
- o *To assist in safeguarding the countryside from encroachment;*
- o *To preserve the setting and special character of historic towns; and*
- o *To assist in urban regeneration by encouraging the recycling of derelict and other urban land.*

7.2.3 Paragraph 147 of the NPPF sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 150 provides further detail on forms of development which may not be considered as inappropriate, stating the following:

Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are:

- a) *mineral extraction;*
- b) *engineering operations;*
- c) *local transport infrastructure which can demonstrate a requirement for a Green Belt location;*
- d) *the re-use of buildings provided that the buildings are of permanent and substantial construction;*
- e) *material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and*
- f) *development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order*

- 7.2.4 Policy CP11 of the Core Strategy relates to Green Belts and is largely reflective of National Policy. Policy DM2 of the Development Management Policies LDD provides further guidance on development within the Green Belt. More specifically, it states the following with regard to extensions to residential curtilages:

The Council will safeguard the countryside from encroachment, therefore proposals which include the extension of the curtilage of a residential property within the Green Belt which involves an incursion into the countryside will not be supported.

- 7.2.5 In this case, the development would constitute a material change of use of the existing land from woodland to residential gardens. The applicant considers that the development would represent an appropriate form of development falling within e) of paragraph 150 of the NPPF; as the proposed change of use would not have an impact on openness nor conflict with the purpose of including land within it. The Planning Statement sets out that the proposed change of use would not result in the erection of any new buildings as there will be binding covenants ensuring that the land will not be built on and only used as a residential garden. In addition, there would not be a cumulative increase in the quantity of boundary treatments as the existing boundary treatments would be removed with new boundary treatment positioned further back into the site than existing. The applicant also states that the proposed areas are not visible from public view.
- 7.2.6 Whilst the above comments by the applicant are noted, the Local Planning Authority considers that the proposed change of use would have an impact on the openness of the Green Belt and would fail to protect the countryside from encroachment, thus conflicting with the purposes of including land within the Green Belt. As such, the proposed development would constitute an inappropriate form of development which is by definition harmful to the Metropolitan Green Belt. At present, the woodland forms a visual buffer between the built form of Astons Road and the open Golf Course beyond. The existing land is not enclosed at present and appears spatially and visually open. Furthermore, areas of woodland and scrub land are common features of the Green Belts and form part of the open countryside, contributing significantly to the character of these rural areas. Consequently, the change of use to residential garden would result in the spread of urbanising development into this important visual buffer. As set out above, the applicant has specified that there would be no buildings within the gardens and it is acknowledged that the Council could seek to remove permitted development rights or enter into a legal agreement to ensure that this would be the case. However, it is likely that the use of the land as gardens would give rise to domestic paraphernalia such as seating areas, lighting and children's play equipment encroaching into these areas and that this would be a reasonable expectation of present and future occupiers of the properties on Anson Walk and Astons Road. It is considered that the provision of domestic paraphernalia within this wooded area would lead to it having a domestic appearance which would be harmful to the openness and rural character of the Green Belt. In addition, the use of this area for gardens would mean that there would be greater maintenance of the land including the reduction of the existing undergrowth which again would result in a more domestic appearance, thus materially altering the character of the land to the detriment of the Green Belt. The additional noise and disturbance which would stem from residential use of this area would also result in harm to the Green Belt. Whilst the applicant specifies that the site is not publically visible, this would not be reason to approve an otherwise unacceptable form of development.
- 7.2.7 The applicant has noted that the provision of boundary treatment would not result in a cumulative increase in built form within this area, as the existing boundary treatment to the rear of the properties on Astons Road would be removed. Whilst the provision of fencing may not be unnecessarily harmful within a woodland setting, it would still create a sense of enclosure and would be further indicative of a domestic use in this location.
- 7.2.8 In summary, it is acknowledged that a material change of use of land can be considered as an exception to inappropriate development so long as it does not result in any harm to the openness of the Green Belt or conflict with the purposes of including land within it. In this

case, however, it is considered that the proposed development would result in an urbanising encroachment into this significant visual buffer. The re-siting of boundary treatment in closer proximity to the open area beyond would result in an urbanising sense of enclosure which would detract from the open character of the Metropolitan Green Belt. The proposed development would thus conflict with one of the key purposes of the inclusion of land within the Green Belt; that is to assist in safeguarding the countryside from encroachment. The proposal would therefore be contrary to Policies CP1 and CP11 of the Core Strategy and Policy DM2 of the Development Management Policies LDD. The NPPF sets out that inappropriate development is by definition harmful to the Green Belt except in very special circumstances. The onus is on the applicant to put forward any very special circumstances that may outweigh the identified harm and this shall be explored in the analysis below.

7.3 Impact on Heritage Assets.

7.3.1 Paragraph 199 of the NPPF states that when considering the impact of a proposed development upon the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater that weight should be). Paragraph 200 of the NPPF goes on to state that any harm to or loss of significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification.

7.3.2 Policy DM3 of the Development Management Policies LDD advises that development affecting heritage assets 'will only be supported where they sustain, conserve and where appropriate enhance the significance, character and setting of the asset itself and the surrounding historic environment'. More specifically in relation to development involving Historic Parks and Gardens, Policy DM3 states the following:

'Planning permission will not be granted for proposals that would cause unacceptable harm to historic parks or gardens (both registered and unregistered), their settings or public views into, out of, or within them'

7.3.3 The site is also located adjacent to the boundary of the Moor Park Conservation Area. Policy DM3 of the Development Management Policies LDD advises that development should 'not harm important views into, out of or within the Conservation area'.

7.3.4 The application site consists of areas of woodland on the edge of the existing Golf Course. The applicant's Heritage Statement sets out these areas have been encouraged by the Golf Course management in order to provide screening. The site is wholly located within the Grade II* Registered Park and Garden of Moor Park which is recognised as one of the nation's greatest designed landscapes. Of primary importance to its significance is the surviving elements of historic planting which saw the involvement of the great landscape architects of their day; Lancelot 'Capability' Brown, Humphrey Repton and Thomas Mawson have all either designed or implemented schemes at Moor Park. In addition, the site is immediately adjacent to the boundary with the Moor Park Conservation Area. Historic England note that the adjacent *'development around Astons Road has been laid out in a typically 'Metroland' style with large houses set within substantial plots around tree lines wide avenues. The whole creates a sense of openness. The Moor Park Conservation Area Appraisal is adamant that the trees are a positive contributor to the significance of the area as a whole and create a verdant setting for the development'*.

7.3.5 It is considered that the existing woodland area is an important landscape feature that forms part of the existing Grade II* Registered Park and Garden. This is acknowledged by the applicant's Heritage Statement which notes that this area of planting contributes to the significance of the Grade II* Registered Park and Garden. Furthermore, the backdrop of the wooded area can be glimpsed from Astons Road and thus is a positive contributor to the setting of the Conservation Area.

- 7.3.6 The proposal would result in a fundamental change of use to the land and would significantly alter its character, thus undermining the significance of the Registered Park and Garden. The Conservation Officer notes that 'the boundary of the Grade II* listed park would likely have intentionally been drawn to include all areas of the planned landscape which contribute to the heritage assets significance, resulting in a distinct boundary between Moor Park and the residential development beyond'. The proposal would thus result in cumulative harm to the designated heritage asset through the gradual erosion of the park's boundary and by fundamentally altering the use of land within the Park and Garden. Furthermore, Historic England raise concern in relation to cumulative impacts, stating that the disposal of this part of the park may set a trend for other gardens to be extended in a similar manor. These changes over time would diminish the significance of this Grade II* Listed Historic Park and Garden.
- 7.3.7 Both Historic England and the Conservation Officer raise significant concern regarding the spread of domestic paraphernalia into the boundaries of the Historic Park. As already outlined above, present and future occupiers of the site may reasonably expect to utilise these new areas by creating seating areas, adding lighting and children's play equipment and generally utilising this additional space for their personal enjoyment. Historic England and the Conservation Officer are unanimous in attaching little weight to the provision of a legal agreement or the removal of permitted development rights, as these cannot alleviate the harm from the things that do not require permission such as noise and general use by residents.
- 7.3.8 As already set out, paragraph 200 of the NPPF states that any harm or loss of significance to a designated heritage asset should require clear and convincing justification. The Planning Statement notes that '*The revenue from the land transfers would generate some much needed revenue for the Club to use on maintaining and enhancing the Mansion and the surrounding park and gardens to the benefit of members, visitors and the public*'. It is acknowledged that Moor Park Mansion requires significant expenditure for its upkeep and that significant finances have been invested historically. The supporting Planning Statement sets out that the Golf Club has experienced a downturn in income streams in recent years through losing existing members; and with annual subscription rates being frozen due to the pandemic. Furthermore, there has been a downturn in income streams from events and weddings for a number of reasons such as couples seeking other alternative venues and a general decline in people getting married. Whilst the Planning Statement does provide some figures, the application has not been accompanied by a detailed financial appraisal which demonstrates that the upkeep of the Mansion is dependent upon the sale of the land. However, notwithstanding this, it is not considered that this alone would require a clear justification for the loss of significance to this nationally important landscape.
- 7.3.9 Paragraph 202 of the NPPF states that where a development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefit of the scheme. In this case, it is not considered that any public benefits have been demonstrated which would outweigh the harm to the heritage assets. As such, the proposal is considered to be unacceptable and would be contrary to Policy CP12 of the Core Strategy and Policy DM3 of the Development Management Policies LDD.
- 7.4 Impact on amenity of neighbours
- 7.4.1 Policy CP12 of the Core Strategy advises 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'
- 7.4.2 In this case, the proposed change of use would result in the creation of further garden space for occupants of dwellings within Anson Walk and Astons Road. The additional garden space would be located to the rear of the existing residential curtilages. Given the size of the existing plots, it is unlikely that the change of use of the existing land would have a

negative impact on the residential amenities of nearby neighbouring dwellings. The proposal would therefore be acceptable in this regard.

7.5 Wildlife and Biodiversity

7.5.1 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.

7.5.2 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. Policy DM6 of the Development Management Policies LDD also advises that

a) Development that would affect a Site of Special Scientific Interest, Local Nature Reserve, Local Wildlife Site or protected species under UK or European law, or identified as being in need of conservation by the UK Biodiversity Action Plan or the Hertfordshire Biodiversity Action Plan, will not be permitted where there is an adverse impact on the ecological, geological or biodiversity interests of the site, unless it can be demonstrated that:

- i) The need for the development would outweigh the need to safeguard the biodiversity of the site, and where alternative wildlife habitat provision can be made in order to maintain local biodiversity; and
- ii) Adverse effects can be satisfactorily minimised through mitigation and compensation measures to maintain the level of biodiversity in the area.

d) Development must conserve, enhance and, where appropriate, restore biodiversity through:

- i) Protecting habitats and species identified for retention
- ii) Providing compensation for the loss of any habitats
- iii) Providing for the management of habitats and species
- iv) Maintaining the integrity of important networks of natural habitats, and
- v) Enhancing existing habitats and networks of habitats and providing roosting, nesting and feeding opportunities for rare and protected species.

7.5.3 Moor Park Golf Course is designated as a Local Wildlife Site (LWS), for its mixed grassland interest, although other habitats are present including woodlands, scrub, scattered trees, ponds and ditches. There is presumption in favour of avoiding development proposals in the LWS and Herts Ecology emphasise that in principle they do not sanction development that would result in the loss or fragmentation of the LWS. However, in this case, Herts Ecology note that because a very small proportion of this extensive LWS would be affected, the designation on the proposal site would not in itself mean that Herts Ecology would automatically recommend refusal of the application in this instance.

7.5.4 The proposed development would result in a material change of use of the land, with Herts Ecology raising concerns that the proposals could easily result in a loss of biodiversity and introduction of ornamental shrubs and landscaping. Herts Ecology also note that the application has not been accompanied by an ecological survey which describes the site or note its connection to the LWS. Due to the designation of the area, Herts Ecology consider that an Ecological Survey of the application site should be undertaken which takes account of the LWS status of the golf course. The survey should be undertaken during Spring for woodlands and Summer if grasslands are to be included. Any survey should clearly

evaluate the impact of the proposed change of use on the loss of the LWS area to domestic garden. If the survey indicates that the land merits its LWS status, a management plan should also be undertaken to demonstrate how the existing interest can be maintained by homeowners. One of the key components of a management plan would be to ensure that the woodland habitat is managed as such and remains as a dark corridor for use by wildlife and this could include restrictions on artificial lighting. Alternatively, if the submitted survey demonstrates that the area does not now merit LWS status, then it would be officially removed from the LWS boundary the LWS Ratification Panel.

7.5.5 In summary, in the absence of an Ecological Survey, it has not been demonstrated that the proposed development would not have an impact on the Local Wildlife Site and that existing biodiversity and wildlife interest would not be adversely affected. As such, the proposal is considered to be contrary to Policy CP9 of the Core Strategy and Policy DM6 of the Development Management Policies LDD.

7.6 Trees and Landscaping

7.6.1 Policy DM6 of the Development Management Policies LDD relates to trees and woodlands and advises the following

- 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 criteria of 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 British 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 or deterioration to protected woodland (including ancient woodland), protected trees (including aged or veteran trees) and hedgerows, unless conditions can be imposed to secure their protection.

7.6.2 Policy DM7 of the Development Management Policies LDD is also relevant and relates to Landscape Character. This states the following:

In all landscape regions, the Council will require proposals to make a positive contribution to the surrounding landscape. Proposals that would unacceptably harm the character of the landscape in terms of siting, scale, design or external appearance will be refused planning permission. The Council will support proposals that:

- i) Lead to the removal or a reduction in the impact of existing structures and land uses that are detrimental to the visual quality of the landscape

7.6.3 The application site consists of two strips of mixed broadleaved woodland that run north/south along the eastern boundary of the existing Moor Park Golf Course, a Grade II* registered Park and Garden. The woodland consists mainly of Oak, Beech, Birch and Sycamore with an understorey of native shrub species. It is acknowledged that the woodlands are not currently protected, with the site falling outside of the Conservation Area. However, the Landscape Officer notes that that the woodland forms a vital buffer and screen between the landscaped grounds of the golf course and the housing estate. The canopy and shrub layer of the woodland are integral to creating a verdant backdrop to the Park, contributing to the overall sylvan character of the locality as well as, preventing intrusive

views of built structures to the east which would be likely to be harmful to the setting of this registered Park and Garden.

7.6.4 The Landscape Officer considers that the fragmentation of the existing woodland would have a significant adverse impact on its integrity and importance as a landscape buffer. It is highly likely that the varying owners would impose different management treatments to their pieces of woodland, which would potentially result in the removal of the existing trees/shrubs which would be to the detriment of the visual amenities of the registered Park and Garden. Owners may seek to introduce areas of lawns and other forms of planting, BBQ and seating areas which would appear inappropriate and incongruous within this woodland setting. It is noted that there is some evidence of this at present, with an existing zip line and rope swing visible during recent site visits. The Landscape Offer also raises significant concern that the introduction of fencing would be intrusive, giving the location a feeling of containment, rather than the more open, utopian landscape originally envisaged for the Park. It is therefore considered that the proposed development would result in significant harm to this important landscape buffer, resulting in the removal of existing trees and shrubs which would result in significant harm to the registered Park and Garden.

7.6.5 As noted above, the woodlands are located outside of the boundaries of the Conservation Area and thus are not afforded protection by virtue of this designation. In addition, the woodlands are not protected through an existing Tree Preservation Order. It is acknowledged that the Local Authority does have the power to impose such an order. The Landscape Officer notes that the designation of a Woodland Order would restrict what residents could do in terms of turning the area into domestic gardens, as all existing, and future tree and shrub species named on the order would be protected from removal. However, the fragmentation of ownership between neighbouring properties would still risk parts of it being used as domestic garden, and even with a TPO, it would be difficult for the Local Planning Authority to police, to prevent degradation of the woodland over the longer term. There would likely be pressure for significant topping, lopping or felling to enable residents to manage their areas of woodland and to enable them to be able to utilise these areas for their private enjoyment. This would be contrary to Policy DM6 of the Development Management Policies LDD. As a result, it is considered that the protection of the woodland and the landscape would be best achieved by maintaining the woods, unfenced, and in single ownership.

7.6.6 In summary, the proposed development would lead to the degradation of the existing woodland, thus resulting in harm to the existing landscape buffer which forms the setting of the Registered Park and Garden. This would be contrary to Policy DM6 of the Development Management Policies LDD.

7.7 Highways, Access and Parking

7.7.1 Policy CP10 of the Core Strategy relates to highways and access and advises that 'all development should be designed and located to minimise the impacts of travel by motor vehicle on the District' and that all development should provide a safe and adequate means of access. In addition, Policy DM13 of the Development Management Policies LDD advises that development should benefit from sufficient off street car parking provision.

7.7.2 In this case, the proposed development would not result in any alterations to existing vehicular accesses to either the existing residential properties or to the Golf Course. Likewise, there would be no impact to existing car parking provision and the development would not increase the requirement for off street car parking. As such, no objection is raised in this regard.

7.8 Very Special Circumstances

7.8.1 As set out above, it is considered that the proposed development represents an inappropriate form of development which would be by definition harmful to the openness of

the Green Belt. The proposed development would result in actual harm to the openness of the Green Belt by introducing an urbanising form of development into the Green Belt and thus would fail to protect the countryside from encroachment, one of the key purposes of including land within the Green Belt.

- 7.8.2 In addition to the harm to the Green Belt, it has been demonstrated that the proposed development would result in further significant harm to the Grade II* Registered Park and Garden, to the landscape character of the existing woodland, harm to existing trees and furthermore it has not been demonstrated that the development would not result in harm to the existing designated Local Wildlife Site. The proposed development is therefore viewed to result in a significant level of actual harm and thus would be contrary to Policies CP1, CP9, CP10, CP11, CP12 of the Core Strategy and Policies DM2, DM3, DM6 and DM7 of the Development Management Policies LDD.
- 7.8.3 The NPPF sets out that inappropriate development is by definition harmful to the Green Belt except in very special circumstances, with the onus being placed on the applicant to put forward any very special circumstances. In this case, the applicant states that there are financial justifications for the development. The Golf Club has experienced a loss of income in recent years, and the sale of the land would allow them finance to invest in the upkeep of the existing Mansion 'as well as well as providing the Golf Club with some vital 'breathing space' as they continue to recover from the impacts of the COVID-19 pandemic and the wider ongoing structural changes in golf'. However, whilst the financial constraints on the Club are acknowledged, the Planning Statement has not been accompanied by a full financial appraisal which demonstrates the sale of land is relied upon by the Club for the upkeep of the Mansion. It is acknowledged that the circumstances put forward can be afforded some limited weight as the additional finances would help to maintain the Listed Building. However, it is not considered that this in itself would provide justification to outweigh the harm to the Metropolitan Green Belt and the significant level of harm which would arise from the harm to the Grade II* Registered Park and Garden, the landscape character of the area, the existing trees, and the potential harm to the existing Local Wildlife Site.
- 7.8.4 In summary, it is not considered that the very special circumstances presented would be of sufficient weight to outweigh the harm to the openness of the Metropolitan Green Belt and the other harm identified above. The proposal is therefore viewed to be unacceptable and contrary to Policies CP1, CP9, CP10, CP11 and CP12 of the Core Strategy and Policies DM2, DM3, DM6 and DM7 of the Development Management Policies LDD.

8 Recommendation

8.1 That PLANNING PERMISSION is REFUSED for the following reason(s):

- R1 The proposed change of use to garden land including the erection of fencing would represent an inappropriate form of development resulting in the spread of urbanising development into the Metropolitan Green Belt. The introduction of domestic paraphernalia in this location would have a significant impact on the openness of the Green Belt which would be detrimental to its rural character and would be in conflict with the purposes of including land within the Green Belt. This would be contrary to Policy CP11 of the Core Strategy (adopted October 2011), Policy DM2 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2021).
- R2 The proposed change of use to garden land including the erection of fencing would result in a fundamental change in the use of the land and its character which would undermine the significance of the Grade II* Registered Park and Garden. The introduction of domestic paraphernalia would be detrimental to the character of the land and how this land is experienced. The proposal would result in less than substantial harm to the heritage asset and no public benefits have been presented which outweigh this harm. This would be contrary to Policy CP12 of the Core Strategy

(adopted October 2021), Policy DM3 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2021).

- R3 The proposed development would lead to the degradation of the existing woodland, thus resulting in harm to the existing landscape buffer which forms the setting of the Registered Park and Garden. This would be contrary to Policies DM6 and DM7 of the Development Management Policies LDD (adopted July 2013).
- R4 In the absence of an Ecological Survey, has not been demonstrated that the proposed development would not have an impact on the Local Wildlife Site and that existing biodiversity and wildlife interests would not be adversely affected. As such, the proposal is considered to be contrary to Policy CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

8.2 **Informative:**

- 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.

PLANNING COMMITTEE – 21 OCTOBER 2021

PART I - DELEGATED

14. 21/1742/RSP – Retrospective: Installation of an external electric roller-shutter at 4 ODEON PARADE, HIGH STREET, RICKMANSWORTH, WD3 1EE (DCES)

Parish: Batchworth Community Council
Expiry of Statutory Period: 05.10.2021
(Extension of Time 25.10.2021)

Ward: Rickmansworth Town
Case Officer: Scott Volker

Recommendation: That Retrospective Planning Permission be Refused.

Reason for consideration by the Committee: This application is brought before the Committee as the building is owned by Three Rivers District Council.

1 Relevant Planning History

- 1.1 8/430/75 – New shop front – Permitted August 1975.
- 1.2 8/12A/83 – Replacement fascia – Permitted February 1983.
- 1.3 8/8A/87 - Erection of non-illuminated projecting sign – Refused June 1987.
- 1.4 8/24A/88 – Internally illuminated box sign – Refused September 1988.
- 1.5 98/0904 - Installation of 2 new signs – Permitted December 1998.
- 1.6 99/0044 - Replacement of shopfront – Permitted April 1999.

Relevant Enforcement History

- 1.7 19/0257/COMP - Unauthorised Erection of Roller Shutters – Pending Consideration.

2 Description of Application Site

- 2.1 The application site is a commercial unit on the eastern side of Odeon Parade, fronting Church Street and close to the junction with the High Street. The unit is owned by Three Rivers District Council and is currently shared and occupied by a watch and jewellery store. The frontage is predominantly glazed with an entrance door positioned off-centre. The frontage is painted in anthracite grey with white signage above.
- 2.2 The existing unit is located within a row of other commercial uses. The site is within the Rickmansworth Town Centre Conservation Area.

3 Description of Proposed Development

- 3.1 Retrospective planning permission is sought for the installation of an external electric roller-shutter.
- 3.2 The roller shutter has a height of 2.7 metres and the casing for the shutter is located above the shop front at a height of 3 metres and project 0.3 metres from the principal elevation of the premises. The shutter spans the full width of the shopfront.
- 3.3 The shutter and casing is solid in appearance and is painted in Anthracite Grey RAL 7016 to match the external colourway of the premises.

4 Consultation

4.1 Statutory Consultation

4.1.1 Batchworth Community Parish Council: [No comments to make]

Batchworth Community Council has no comment to make on this application.

4.1.2 Highway Officer: [No objection]

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.

Comments/Analysis

Description of Proposal

Installation of an external electric roller shutter over shop frontage (retrospective).

Site and Surroundings

Odeon Parade, is located on the junction of High Street and Church Street, both of which are unclassified local distributor roads subject to 30mph speed limits which are highway maintainable at public expense.

Clearance

The roller shutter is shown on Drawing Number A3.1 to be 2.775m above the footway, this is an acceptable clearance as demonstrated in Roads in Hertfordshire: Highway Design Guide 3rd Edition Section 4 – Design Standards and Advice Paragraph 1.9, which states that the headroom above the footway must be a minimum of 2.3m.

Conclusion

HCC as Highway Authority has considered the application and are satisfied that the proposal would not have an unreasonable impact on the safety and operation of the adjoining highway footway and therefore, has no objections on highway grounds to this application.

4.1.3 Conservation Officer: [Objection]

Roller shutters are generally considered unacceptable in Conservation Areas. They obscure the entire shop front and require a bulky shutter box resulting in a visually intrusive feature within the street scene. Due their overly prominent and untraditional appearance roller shutters detract from the character and appearance of the street scene, resulting in 'less than substantial' harm to the significance of the Conservation Area. Internal shutters/ lattice screening is considered the most sympathetic option due to the minimal visual impact.

4.1.4 National Grid: No response received.

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 7

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

4.2.3 Site Notice: Posted 17.08.2021 Expired 08.09.2021

Press notice: Published 20.08.2021 Expired 11.09.2021

4.2.4 Summary of Responses: N/A

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 2021 the updated 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 PSP1, CP1, CP7, 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 DM3, DM6 and DM9.

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 Rickmansworth Conservation Area Appraisal and Character Assessment (1993) is also relevant.

7 Planning Analysis

7.1 Introduction

7.1.1 Following a service request to the Council’s planning enforcement team, an enforcement investigation was opened in relation to the unauthorised erection of roller shutters (ref.

19/0257/COMP). This current application has been submitted in an attempt to formalise the breach of planning control by utilising Section 73A of the Town and Country Planning Act 1990 (as amended) which enables an application to be made to the Local Planning Authority for development carried out before the date of the application. The application proposes to retain the development in situ.

7.2 Design and Impact on Street Scene and Heritage Assets

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) states that development should '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'.

7.2.2 Policy DM3 of the Development Management Policies LDD stipulates that within Conservation Areas development will only be permitted if the proposal is of a design and scale that preserves or enhances the character or appearance of the area, and retains and restores, where relevant, traditional features such as shop fronts, walls, railings, paved surfaces and street furniture, and improves the condition of structures worthy of retention.

7.2.3 The Conservation Officer was consulted on the application and stated that roller shutters are generally considered unacceptable in Conservation Areas. Such features obscure the entire shop front and require a bulky shutter box resulting in a visually intrusive feature within the street scene. Due their overly prominent and untraditional appearance roller shutters detract from the character and appearance of the street scene, resulting in 'less than substantial' harm to the significance of the Conservation Area.

7.2.4 In this case, the proposed external roller shutters in situ extend the full width of the shop front and are generally solid in appearance. They appear as a prominent feature within the street scene and are harmful to the character and appearance of the Conservation Area. In addition, they include a shutter box which projects forward of the shop front which is considered visually intrusive feature as expressed by the Conservation Officer.

7.2.5 In the assessment of this application, regard is had to application 17/2211/FUL at 70 High Street, Rickmansworth which proposed '*Change of use from Class A2 (Financial and Professional Services) to Sui Generis for use as a tattoo, body piercing and laser tattoo removal studio with inclusion of external roller shutters*'. The application proposed two options – linked shutters and solid shutters. The application was refused and an appeal was subsequently dismissed insofar as it related to the external roller shutters and the appeal was allowed for the change of use (Appeal Ref: APP/P1940/W/18/3201200). In commenting on the external roller shutters the Inspector commented the following:

18. Both proposed shutter options would introduce harmful external clutter that detracts from the building's historic character and the simple form of its existing shopfront. Although the linked shutter option would be more transparent and therefore less harmful, it would still nonetheless be out-of-keeping with the traditional architectural style of the building. The solid shutter option would be even more harmful in that it would almost entirely screen the attractive ground floor front elevation of the building when the tattoo parlour is shut, which would create a bland and hostile atmosphere at night. In both cases, the development would give the building a defensive appearance and fortress-like character. It would as a consequence appear foreboding in the street scene and have a 'deadening' effect on the vitality and viability of the High Street when the tattoo parlour is shut.

19. Whilst I recognise that the appellant wishes to erect the external shutters to safeguard expensive equipment at the premises, I am satisfied that an acceptable alternative solution to this would be possible through the installation of internal lattice type shutters. These would provide a reasonable degree of security whilst protecting the external

appearance of the building, the conservation area and the setting of the adjacent listed building. The appellant has confirmed their agreement to this and I have accordingly imposed a condition.

- 7.2.6 The proposed shutters would be similar to the above appeal scheme and thus the Inspector's comments in respect of such solid shutters create a *'bland and hostile atmosphere at night'*; *'give the building a defensive appearance and fortress-like character'* and *'appear foreboding in the street scene and have a 'deadening' effect on the vitality and viability of the High Street'* would also be applicable when considering the impacts of this current application. Therefore the proposed roller shutters are not acceptable.
- 7.2.7 The Local Planning Authority also recently served an Enforcement Notice at 88 High Street earlier this year requiring the removal of external shutters. The owner of the premises recently removed the shutters and associated equipment. Enforcement Case Ref: 20/0033/COMP.
- 7.2.8 There are historical examples of roller shutters within the High Street, located at Robert Harris Jewellers (139 High Street) and also most notably located a 2 Odeon Parade located just around the corner from the application site. The shutters at 2 Odeon Parade were granted planning permission under 19/0511/FUL. Whilst these examples are noted they are not considered to set a precedent for further external roller shutters in the Conservation Area. Additionally, it should be noted that the shutters at 2 Odeon Parade replaced a previously existing solid metal shutter which also had bulky mechanism and housing. Furthermore, the frontage of the premises also included internal shutters which were generally solid in appearance. The replacement shutters were seen as an overall improvement to the shop frontage and were considered to improve the appearance of the premises within the Conservation Area. Finally, due to the nature of the occupant of the premises which is a shop with long opening hours this reduced the amount of time that the shutters were to be down.
- 7.2.9 The applicant has advised that external shutters are proposed for safety reasons. Whilst this is acknowledged the matter of security was addressed by the Inspector in the appeal referred to above at para 7.2.5. In light of the above comments by the Inspector it is considered that shutters installed internally and of an appropriate design may be considered more appropriate in this location and would adequately achieve the necessary security. The Conservation Officer also considered that internal shutters/lattice screening would be the most sympathetic option due to the minimal visual impact. There is no evidence or suggestion from the applicant that internal shutters could not be installed at the application site.
- 7.2.10 In conclusion, the proposed external shutters is considered to be a visually intrusive and overly prominent feature within the street scene that would not preserve or enhance the character and appearance of the Rickmansworth Conservation Area. Having regard to paragraph 196 of the NPPF the roller shutter would result in 'less than substantial' harm to the significance of the designated heritage asset. No public benefits are considered to exist to outweigh the identified harm. Therefore the development is contrary to Policies CP1 and CP12 of the Core Strategy, Policy DM3 of the Development Management Policies LDD and the Rickmansworth Conservation Area Appraisal and Character Assessment (1993).

7.3 Impact on Neighbours

- 7.3.1 Policy CP12 of the Core Strategy (2011) advises that development will be expected to protect residential amenity.
- 7.3.2 Due to the scale and positioning of the roller shutters it is not considered that the proposal results in any harm to residential neighbours within the vicinity. The proposal therefore is acceptable in accordance with Policy CP12 of the Core Strategy (adopted October 2011).

7.4 Highways Parking & Access

7.4.1 Core Strategy Policy CP10 requires development to demonstrate that it will provide a safe and adequate means of access.

7.4.2 Given the nature of the proposed development it is not considered that the proposal would result in harm to highway safety or operation. The Highway Officer was consulted on the application and raised no objection to the proposal. Thus the proposed development is considered to be acceptable in accordance with Core Strategy Policy CP10.

7.5 Wildlife and Biodiversity

7.5.1 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.

7.5.2 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 document. 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. A Biodiversity Checklist was submitted with the application and states that no protected species or biodiversity interests will be affected as a result of the application.

8 Recommendation

8.1 That RETROSPECTIVE PLANNING PERMISSION BE REFUSED for the following reason:

R1 The proposed external roller shutters are a very uncharacteristic feature which creates a hostile form of development detracting from the character and appearance of the Rickmansworth Conservation Area however no public benefits are considered to exist which would outweigh the identified harm. As such the development is contrary to Policies CP1 and CP12 of the Core Strategy (adopted October 2011), Policy DM3 of the Development Management Policies LDD (adopted July 2013), The Rickmansworth Town Centre Appraisal (1993) and the NPPF.

8.2 Informative:

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.

PLANNING COMMITTEE – 21 OCTOBER 2021

PART I - DELEGATED

- 15. 21/1745/FUL - Demolition of existing dwelling and construction of 4no. detached two-storey dwellings with roof and basement level accommodation, detached garages, formation of new access drive, alterations to existing access, landscaping works and other ancillary works at GLENWOOD, CHORLEYWOOD ROAD, RICKMANSWORTH, WD3 4ER (DCES)**

Parish: Chorleywood
Expiry of Statutory Period: 17.09.2021
(Extension of time agreed to 28.10.2021)

Ward: Chorleywood North & Sarratt
Case Officer: Tom Norris

Recommendation: That Planning Permission be Granted.

Reason for consideration by the Committee: Called in by Chorleywood Parish Council unless Officers are minded to refuse the application for the reasons set out in full at section 4.1.1 below.

1 Relevant Planning History

- 1.1** No relevant planning history.

2 Description of Application Site

- 2.1** The application site is some 0.8ha in total area and consists of the frontage of the plot of 'Glenwood' and a section of land to the rear comprised of the rear amenity garden of Glenwood and the neighbouring plot to the west which has been subdivided from the plot formerly known as 'Riverdene'. The plot formerly known as Riverdene has been subdivided and developed to provide two dwellings known as Woodhurst and Grovelands.

- 2.2** The site contains a relatively large detached dwelling within the plot of Glenwood, set back from the public highway. The land levels slope upwards towards the dwellings from the highway on this part of Chorleywood Road. The site was previously heavily vegetated to the frontage however has undergone recent clearance to both the front and rear. The site contains TPO trees which predominantly line the southern and north-western flank boundaries.

- 2.3** The wider surroundings of the application site consists of detached dwellings on relatively spacious plots. The site adjoins the dwellings on Lime Tree Walk to its southern and eastern boundaries. The adjacent plots directly to the east contain detached dwellings known as Mayfield House and Walbrook House which front the Chorleywood Road and were constructed following the subdivision of the site formerly known as Mayfield. To the west of the site are two recently constructed dwellings known as Woodhurst and Grovelands which front the Chorleywood Road. A portion of the western site boundary to the rear adjoins the plot of Glaramara, which contains a detached dwelling that is accessed via The Clump.

3 Development description

- 3.1** This planning application proposes the demolition of the existing dwelling and the construction of 4 detached two-storey dwellings with roof and basement level accommodation, detached garages, formation of new access drive, alterations to existing access, landscaping works and other ancillary works.

- 3.2** The site would be subdivided to contain one plot occupying the front section of the site fronting Chorleywood Road and the rear portion of the site would be subdivided into three

plots. It is proposed that the existing vehicular access is amended to contain a new widened access that would assume a relatively similar position to the current vehicular access point. The vehicular access would be positioned centrally within the frontage of Glenwood and run along the western side of the site towards the proposed dwellings at the rear. Each dwelling would have its own driveway off the access road.

- 3.3 The proposed dwelling at Plot 1, which fronts the Chorleywood Road, would be set back some 45m from the public highway and 5.5m from the south-eastern flank boundary. The dwelling would assume a similar position to the existing dwelling and would largely align with the front building line of the adjoining neighbour at Walbrook House.
- 3.4 The dwelling at Plot 1 would have a maximum width of 19.1m and a maximum depth of 22.9m. The dwelling would have hipped roof forms with an eaves height of 6.1m and an overall ridge height of 9.8m. The dwelling would contain loft level accommodation served by front and dormer windows and flank rooflights. The dwelling would also contain basement level accommodation. The dwelling would contain glazing within its front, side and rear elevations at ground and first floor level.
- 3.5 Forward of the dwelling would be an access driveway of some 30m in length from the main access drive and a paved driveway large enough to accommodate at least three cars. There would be a detached garage positioned approximately 8m forward of the dwelling which would have a width of 7.0m, a depth of 6.5m and would have a hipped roof with an eaves height of 2.8m and an overall height of 4.8m. The total plot size of Plot 1 would be some 2500sqm including a rear amenity garden of some 750sqm in area.
- 3.6 The dwellings at Plots 2-4 would be sited on the section of land to the rear of the regular building line of the dwellings on the Chorleywood Road and set back approximately 80m from Chorleywood Road. The dwellings would be arranged in a linear manner however would be staggered such that the dwelling at Plot 4 would be sited some 15m forward of the dwelling at Plot 2. The dwellings themselves would be of an equal scale, all of which would have a maximum width of 18.5m and a depth of 24.5m. The dwellings would have hipped roof forms with an eaves height of 6.1m and an overall ridge height of 9.8m. These dwellings would be spaced 6.5m between one another.
- 3.7 The dwelling at Plot 2 would have a maximum spacing of 16.1m from the boundary with no.21 Lime Tree Walk. There would be a spacing of 5.1m from the dwelling at Plot 4 and the shared boundary with Glaramara. The dwellings would be spaced between 21m and 31m from the rear boundary of the site that adjoins Lime Tree Walk. Forward of each of the dwellings at Plots 2-4 would be paved driveway, large enough to accommodate at least three cars, each with a gated access drive off the main access driveway. Plots 2 and 4 would contain detached garages that would be sited forward of the dwellings, spaced approximately 3.5m from the site boundaries. The garages would have the same dimensions as described for Plot 1.

4 Consultation

4.1 Statutory Consultation

4.1.1 Hertfordshire Highways: [No objection following amended plans]

Hertfordshire Highways were consulted on the original proposal and made the following 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 recommends that permission be refused for the following reasons:

1) *Size of access.* The access from Chorleywood Road into the site is too large. The large vehicle crossover would therefore be considered dangerous by encouraging higher speed entry into the site and creating conflict for pedestrians. There is also a telegraph pole within the area in which the access is to be widened. Therefore, the access is unsafe and infringes upon Policy 5 in LTP4 (Local Transport Plan 4) and paragraph 119(c) in the National Planning Policy Framework (NPPF).

Comments/Analysis

Description of Proposal

Demolition of existing dwelling and construction of 4 detached two-storey dwellings with detached garages, alterations to existing access, landscaping works and other ancillary works.

Highway Impact

New Access

The new access to the site from Chorleywood Road is proposed to be 14.75m according to drawing number 1362/P/1 Rev E. This size vehicle crossover (VXO) is significantly larger than the maximum acceptable VXO which would be 7.2m for a double shared access. In general, the length of crossovers should be kept to a minimum to reduce conflict with, and discomfort for, footway users. An overly wide access could encourage vehicles to enter the site in an unsafe manner at high speeds and would put pedestrians at risk. The long length of the slanted footway the VXO creates would also make the footway particularly dangerous in icy conditions. A 7.2m double dropped kerb shared access is suitable for a development of less than 5 dwellings, as stated in Roads in Hertfordshire: Highway Design Guide 3rd Edition Section 2 – Highway Layout and Strategies Paragraph 8.5.4. A double dropped kerb would need to be built to the guidelines as shown in Roads in Hertfordshire: Highway Design Guide 3rd Edition Section 4 – Design Standards and Advice Figure 4.1.14.1. Furthermore, according to up-to-date satellite imagery, there is a telegraph pole within the area that the plans state the extended VXO will be. This means that the developer would have to contact the utility company and cover all costs involved with the movement of the telegraph pole.

Site and Surroundings Chorleywood Road, the A404, is a classified A main distributor road subject to a 40mph speed limit which is highway maintainable at public expense. HCC considers Chorleywood Road to be traffic sensitive between the hours of 6am and 8pm Monday to Sunday. In terms of sustainability, the closest bus stop to the site is approximately 160m from the site and is a stop for the 103 Chiltern Hundreds bus to High Wycombe or Watford. The nearest train station is Chorleywood which is approximately 3.4km away and is served by Chiltern Railways and the Metropolitan Line with destinations of Watford, Amersham, Chesham, Aylesbury, Aldgate and London Marylebone. Therefore, the Highway Authority are satisfied the site is in a sustainable location, which is in line with the principles set out in HCC's Local Transport Plan 4 (LTP4). There have been no accidents close to the site within the last 5 years.

Parking

Parking is a matter for the LPA, but HCC would like to comment that the garages are of an appropriate size for 2 vehicles, with there being space for 2 standard 2.4m x 4.8m bays, if the resident wished to use them for such purposes. The application proposes that cycle storage shall be within these garages with a separate shed being constructed for the dwelling without a garage. The Design Statement also states that there shall be facilities for electric vehicle charging within these garages. This is in fitting with emerging Three Rivers standards which require 1 active charging point per house; although an active EV charging point would need to be added to the dwelling without a garage to ensure this.

Drainage

The Government's flood risk maps for planning indicate parts of the carriageway to be at a medium risk of surface water flooding: <https://flood-map-for-planning.service.gov.uk/>. Therefore, a drainage solution from the new dwellings which removes the risk of expelling surface water onto Chorleywood Road should be provided to ensure flood risk does not increase.

Refuse and Waste Collection

Manual for Streets Paragraph 6.8.9 states that waste collection vehicles must be able to get within 25m of the bin storage location and residents must not carry bins for more than 30m from a dwelling. Drawing number 1362/P/1 Rev E shows a swept path drawing for a fire truck turning within the site, this also shows that a refuse vehicle would be able to enter the site and turn around. The bin stores are all within 30m from the front of the dwellings.

Emergency Vehicle Access

In accordance with Manual for Streets Paragraph 6.7, the entirety of a dwelling must be within 45m from the edge of the highway so an emergency vehicle can gain access. Drawing number 1362/P/1 Rev E shows a swept path drawing for a fire truck turning within the site, meaning that it can get to an area where all of each dwelling is within 45m. The width of the driveway is also wide enough for an emergency vehicle to enter.

Conclusion

HCC as the Highway Authority have reviewed the supporting documents and drawings and wishes to raise an objection to the application. This is due to severe highway safety concerns as the access proposals are contrary to the design standards contained in Roads in Hertfordshire: Highways Design Guide and Manual for Streets. Once these issues are resolved, the Highway Authority would be in a position to accept the proposal subject to conditions and informatives.”

During the course of the application an amended Site Layout Plan was submitted which amended the access in line with the initial comments of Hertfordshire Highways. This consultee then made the following 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) Prior to the first occupation of the development hereby permitted the vehicular access shall be completed and thereafter retained as shown on drawing number 1362/P/1 F in accordance with details/specifications to be submitted to and approved in writing by the Local Planning Authority in consultation with the highway authority. Prior to use appropriate arrangements shall be made for surface water to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

Reason: To ensure satisfactory access into the site and avoid carriage of extraneous material or surface water from or onto the highway in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018).

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:

AN1) Works within the highway (section 278): The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an

agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the County Council website at: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> or by telephoning 0300 1234047.

AN2) 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.

AN3) 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.

AN4) 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/Analysis

Description of Proposal

Demolition of existing dwelling and construction of 4 detached two-storey dwellings with detached garages, alterations to existing access, landscaping works and other ancillary works.

Site and Surroundings

Chorleywood Road, the A404, is a classified A main distributor road subject to a 40mph speed limit which is highway maintainable at public expense. HCC considers Chorleywood Road to be traffic sensitive between the hours of 6am and 8pm Monday to Sunday. In terms of sustainability, the closest bus stop to the site is approximately 160m from the site and is a stop for the 103 Chiltern Hundreds bus to High Wycombe or Watford. The nearest train station is Chorleywood which is approximately 3.4km away and is served by Chiltern

Railways and the Metropolitan Line with destinations of Watford, Amersham, Chesham, Aylesbury, Aldgate and London Marylebone.

Therefore, the Highway Authority are satisfied the site is in a sustainable location, which is in line with the principles set out in HCC's Local Transport Plan 4 (LTP4). There have been no accidents close to the site within the last 5 years. As stated within the previous response, according to up-to-date satellite imagery, there is a telegraph pole close to the area that the plans state the extended VXO will be. This means that the developer would have to contact the utility company and cover all costs involved with the movement of the telegraph pole, if need be.

Access and Parking

The amended drawing, 1362/P/1 F, shows the dropped kerb altered to be 7.224m, when this kerb is installed it will be done so to exactly 7.2m as per Hertfordshire County Council Residential Dropped Kerbs Terms and Conditions. The visibility splay from the access must be 4.5m x 90m, this splay is clear from the access. There have been no collisions close to the site within the last 5 years.

Parking is a matter for the LPA, but HCC would like to comment that the garages are of an appropriate size for 2 vehicles, with there being space for 2 standard 2.4m x 4.8m bays, if the resident wished to use them for such purposes. The application proposes that cycle storage shall be within these garages with a separate shed being constructed for the dwelling without a garage. The Design Statement also states that there shall be facilities for electric vehicle charging within these garages. This is in fitting with emerging Three Rivers standards which require 1 active charging point per house; although an active EV charging point would need to be added to the dwelling without a garage to ensure this.

Drainage

The Government's flood risk maps for planning indicate parts of the carriageway to be at a medium risk of surface water flooding: <https://flood-map-for-planning.service.gov.uk/>. Therefore, a drainage solution from the new dwellings which removes the risk of expelling surface water onto Chorleywood Road should be provided to ensure flood risk does not increase.

Refuse and Waste Collection

Manual for Streets Paragraph 6.8.9 states that waste collection vehicles must be able to get within 25m of the bin storage location and residents must not carry bins for more than 30m from a dwelling. Drawing number 1362/P/1 Rev E shows a swept path drawing for a fire truck turning within the site, this also shows that a refuse vehicle would be able to enter the site and turn around. The bin stores are all within 30m from the front of the dwellings.

Emergency Vehicle Access

In accordance with Manual for Streets Paragraph 6.7, the entirety of a dwelling must be within 45m from the edge of the highway so an emergency vehicle can gain access. Drawing number 1362/P/1 Rev E shows a swept path drawing for a fire truck turning within the site, meaning that it can get to an area where all of each dwelling is within 45m. The width of the driveway is also wide enough for an emergency vehicle to enter.

Conclusion

HCC as Highway Authority has considered the application and are satisfied that the proposal would not have an unreasonable impact on the safety and operation of the adjoining highway and therefore, has no objections on highway grounds to this application."

4.1.2 Chorleywood Parish Council: [Objection]

"The Committee had Concerns with this application and with to CALL IN the application on the following grounds unless it is refused:-

Should the plans or supporting information be amended by the Applicant, please advise the Parish Council so the comments can be updated to reflect the amended scheme.

The application form is incorrect, the provision of 4 bedroom houses providing at least 6 bedrooms with multiple en-suites is not a self-build development. The proposal is for 3 storey dwellings, it is contrived that the description of development suggests the proposal provides 2-storey dwellinghouses.

The Committee agree with Herts Highways that the access is far too large. The proposal would harm the pedestrian environment along Chorleywood Road.

The proposal fails to follow the pattern of development along Limetree Walk, instead it provides very large houses with a contrived access off Chorleywood Road that would require cars to drive past the amenity space of Plot 1. During the evenings it would result in noise and light spillage that would harm the amenities of both Plot 1 and Woodhurst.

There is limited meaningful private amenity space on the proposed development, in proportion to the house. In fact, the area to the front for car parking is nearly as large as the rear gardens.

There are significant concerns over the inclusion of basements given the sloping nature of the land and topography of the development and the major risk of flooding. No basement impact assessment has been provided in support of the development and as a result the development would harm the natural and built environment.

Concern with the proposed size of the homes and the contrived layout.

The Committee support the neighbours concern with the access, it should be taken from Limetrees Walk as it is a far more logical way of building out the site and completing the pattern of development in the area. It is not understood why the access for the new dwellings isn't taken from Limetrees Walk.

There are strong objections to the lack of contribution this development makes to affordable housing. The application fails to provide affordable housing contribution. It is not supported by a robust viability assessment. It suggests the build cost is high. It is widely known that the cost of digging a basement can amount to 44% of the build cost. The basements should be omitted from the proposal so an appropriate form of development with appropriate contribution towards affordable housing is provided.

It is difficult for key workers and first home buyers to be able to afford a home in Chorleywood Parish resulting in many young people having to leave the Parish. There is no reason why huge iceberg basement should be prioritised over the need to deliver appropriate homes that meet the needs of our residents. This site is entirely capable of providing suitable 2, 3 and 4 bedroom dwellings (without basements) that would meet the needs of those living and working in the area.

Overall, for the reasons set out the proposed development, due to its layout size, scale would be out of character with its surroundings which. The development would be out of keeping in the streetscene or Limetrees Walk and result in harm to the amenities of plot1 and Woodhurst. The proposal fails to provide suitable homes to meet the needs of residents, it fails to provide a basement impact assessment to demonstrate the basements would not harm the natural and built environment in the area and nor does it contribute towards

affordable housing for which there is a pressing need in the District. Owing to its proposed size of the access it would also cause harm to the pedestrian environment. It is contrary to a number of policies in the development plan and NPPF.”

4.1.3 Hertfordshire Ecology: [No response received, any response will be verbally reported at the committee meeting]

4.1.4 Landscape Officer: [No response received, any response will be verbally reported at the committee meeting]

4.1.5 National Grid: [No response received]

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 31

4.2.2 No of responses received: 24 (23 Objection, 1 Neutral)

4.2.3 Site Notice: posted 19.08.2021, expired 10.09.2021 Press notice: Not required

4.2.4 Summary of Responses:

Objections

- Concerns relating to the amount of vehicles entering and exiting the site onto the Chorleywood Road
- Access should be sought from quieter roads to the rear
- The new access will increase traffic
- Accessing the rear plots via Lime Tree Walk should be considered
- The majority of trees on site were cleared prior to the submission of the application and suggest that a condition is imposed for the trees to be replaced
- There will be considerable noise during the course of construction
- The development will impact the privacy of our rear garden

Neutral

- I would like to make it a matter of public record that we would be willing to negotiate access to the rear of Glenwood from Lime Tree Walk

4.2.5 **Officer comments:**

It is noted that Highways did not initially support the proposed development over the width of the proposed access. This was amended during the course of the application and Highways withdrew their objection.

In respect of the comments relating to accessing the rear plots via Lime Tree Walk, the role of the LPA is to assess the acceptability of the development as proposed and would not be able to suggest alternative means of access over land outside the remit of the application site.

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 2021 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 PSP3, CP1, CP2, CP3, CP4, CP7, 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, DM13, Appendix 2 and Appendix 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. Policies SA1 is relevant.

Chorleywood Neighbourhood Development Plan - Referendum Version (2020). Relevant policies include Policies 2 and 3.

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 dwelling to be demolished is not located within a Conservation Area and is not a Listed or Locally Important Building. As such, there are no overriding policy requirements for the retention the existing dwelling.
- 7.2 Principle of Development
- 7.2.1 The proposed development would result in a net gain of three dwellings. 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.
- 7.2.2 Paragraph 119 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.' The land is therefore 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. The application would therefore need to be assessed against all other material planning considerations.
- 7.2.3 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.
- 7.2.4 The application site is within Rickmansworth which is identified as the Principal Town in the Core Strategy. The Spatial Strategy of the Core Strategy advises that new development in the Principal Town will be focused predominately on sites within the urban area, on previously developed land.
- 7.3 Impact on Character and Street Scene
- 7.3.1 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'.
- 7.3.2 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 be 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.)

- 7.3.3 Policy 2 of the Chorleywood Neighbourhood Plan sets out that all developments must demonstrate how they are in keeping with, and where possible enhance, the Special Characteristics of Chorleywood, based on a proportionate site and contextual analysis which includes details of the sustainability of the site and its location for the development. Policy 3 of the plan refers to the efficient use of land and states that applications for development on brownfield land will be encouraged.
- 7.3.4 The application proposal consists of the demolition of the dwelling at Glenwood and the construction of one new dwelling in its place and an additional three new dwellings on land to the rear. The Chorleywood Road is characterised by large detached dwellings of varied architectural design on relatively sizeable plots. The character of the road has evolved in recent years with larger plots being subdivided and multiple dwellings being reconstructed in their place. The proposed plots, and garden sizes, would have a scale which is characteristic of both the immediate vicinity and the Chorleywood Road generally. In terms of the general arrangement of the dwellings, it is considered that the layout is acceptable in that the dwelling at Plot 1 would follow the established building frontage of the Chorleywood Road whilst the dwellings at Plots 2-4 would, although they would not front it, follow the building line of the dwellings on Lime Tree Walk and would provide a continuation to the dwelling at Glaramara. The proposed development would result in a tandem arrangement however, given the relationship with the rear dwellings to the building line of Lime Tree Walk, it is not considered that this would result in harm.
- 7.3.5 Appendix 2 of the Development Management Policies LDD states that at first floor level a minimum distance of 1.5m should be achieved in spacious areas. The proposal would meet this criteria with the dwellings achieving a spacing of at least 5m between their adjoining flank walls and the flank boundaries of the site. The separation of the buildings is considered to achieve acceptably spacious arrangement so as not to appear cramped or unduly prominent and to ensure the spacing reflects that found in the wider area.
- 7.3.6 It is considered that the proposed access driveway would be an acceptable arrangement that would not appear incongruous in the streetscene. The driveway would involve the widening of the existing vehicular access point and would continue past the northern flank of the dwelling at Plot 1 to enable access to the dwellings proposed at the rear. It is considered, given the width of the site, that the drive would not give rise to an awkward arrangement. Factoring in the above considerations collectively, it is considered that the proposed development would provide a layout that would maintain the character of the area.
- 7.3.7 Both the local and wider context of the Chorleywood Road is heavily varied in terms of architectural design and as such, it is not considered that the design of the proposed dwellings would result in any material harm to the visual amenities of the streetscene. The proposed dwellings would be of two storey appearance, with loft accommodation served by dormer windows and rooflights. The dwellings would each contain basement level accommodation however this would not be perceptible from public vantage points. The dwellings would be of relatively similar style to one another however there is variation in terms of design details so they do not appear identical. The dwellings would be relatively large but would contain traditional hipped roof forms with front and rear projections set lower than the main ridge of the dwellings.

- 7.3.8 It is considered that general siting of the dwelling at Plot 1 would be acceptable, and whilst it is noted that the scale of this dwelling would appear slightly wider than the general street scene on this part of Chorleywood Road, it is not considered that it would result in harm by virtue of its scale.
- 7.3.9 The proposed dwellings would all contain front dormers which are not always considered appropriate in the streetscene however, given the varying design of the area and the subordinate nature of the dormers in comparison to the main roof, the dormers are not considered to result in an incongruous or obtrusive feature within the streetscene. Similarly, the dwellings would incorporate a flat roof element which is generally discouraged by Appendix 2 of the Development Management Policies LDD. In this instance however the flat roof elements would be relatively minor and the dwellings would be sited a significant distance back and elevated from the road such that they would be unnoticeable in the street scene. Furthermore, it is noted that there are numerous examples of flat roof elements to dwellings on the Chorleywood Road.
- 7.3.10 The Design Criteria at Appendix 2 states that ridge height will be assessed on their own merits at the time of the planning application and where roof forms are of a uniform style/height and appearance, it is unlikely that an increase in ridge height will be supported by the Council. The indicative streetscene provided indicates that the proposed ridge heights of the dwellings would largely align with those of the Chorleywood Road and Lime Tree Walk and it is not considered that these would result in visual harm or would be prominent within the street scene.
- 7.3.11 The dwellings at Plots 1, 2 and 4 would each contain a detached garage sited forward of them. It is considered that the proposed garages would be acceptable in terms of their general scale and siting and would not harmfully erode the spacious character of the site. Plot 3 would not contain a front garage as the central plot which would contribute to maintaining the central openness of the site when approaching along the access drive at the rear. It is noted that there are plentiful examples of detached garages within plot frontages that are visible from the Chorleywood Road and these would therefore not appear out of character. The proposed site layout plan indicates each dwelling to contain a gated access although no elevational details have been provided of these. The proposal to include gates is not considered to result in harm, given the local character and similar forms of development, and a condition will be included on any permission requiring details of all boundary treatment including gates.
- 7.3.12 It is considered that the proposed development would comply with the Chorleywood Neighbourhood Plan. The proposed development would involve the redevelopment of a current residential site and the design of the scheme is considered to be in keeping with the character and appearance of the area and would not result in harm. The concerns of the Parish Council are noted in relation to the scale of the dwellings however it is considered that a larger quantity of smaller dwellings, as suggested, would be less appropriate in terms of upholding the general character of the area, as discussed above.
- 7.3.13 Overall, the proposed development is considered to maintain appropriate spacing in character with the locality and the scale, bulk and design of the proposed dwellings would not result in material harm to the character or appearance of the streetscene or wider area. The development is therefore considered to be in accordance with Policies CP1, CP3 and CP12 of the Core Strategy and Policies DM1 and DM3 and Appendix 2 of the Development Management Policies LDD and Policies 2 and 3 of the Chorleywood Neighbourhood Plan (2020).

7.4 Housing Mix

- 7.4.1 Policy CP3 sets out that the Council will require housing proposals to take into account the range of housing needs as identified by the Strategic Housing Market Assessment (SHMA) and subsequent updates. The need set out in the Core Strategy is 30% one-bedroom units,

35% two-bedroom units, 34% three-bedroom units and 1% four bedroom and larger units. However, the most recent SHMA (South West Hertfordshire Strategic Housing Market Assessment 2016) advises that in terms of the size of accommodation need to 2036 in Three Rivers, the overall requirement is for approximately 19% 1-bedroom units, 28% 2-bedroom units, 37% 3-bedroom units and 16% 4+ bedroom units.

7.4.2 The SHMA and the Core Strategy recognise that these proportions may need to be adjusted taking account of market information, housing needs and preferences and specific site factors. The nature of the proposed development means that it would provide 100% 4+ bedroom units and would not strictly accord with Policy CP3 of the Core Strategy, however it is considered that a development of this nature would not 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).

7.5 Affordable Housing

7.5.1 **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.

7.5.2 As a net gain of three units, the proposed development would be liable for a commuted sum payment towards affordable housing. This site lies within the “Highest Value Three Rivers” market area where the figure is £1,250 per square metre. The Council have calculated the affordable housing payment requirement to be £2,047,125. This is based on the habitable internal area of the four new dwellings, average adjusted to the proposed net gain of three.

7.5.3 The application has been accompanied by a Viability Assessment which concludes that the proposed development cannot support any element of affordable housing contribution. The applicant’s assessment has been reviewed by the Council’s independent viability consultant, Adams Integra who have reviewed the viability assessment and conclude that the scheme is not able to support an affordable housing payment and remain viable and, should the Council be minded to grant approval, are of the opinion that the applicant should not be required to provide an affordable housing contribution.

7.5.4 In summary, given the findings of Adams Integra, the Council will not be seeking an affordable housing contribution for the proposed development. 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).

7.6 Impact on amenity of neighbours

7.6.1 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. To avoid loss of light and an overbearing impact on neighbours, two storey development at the rear of properties should not intrude a 45 degree splay line drawn across the rear garden. The line should be taken 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.

7.6.2 The proposed dwelling at Plot 1 would not intrude into a 45 degree line of Walbrook House or Woodhurst. Furthermore, a spacing of 5m would be retained between the flank walls of the dwelling at Plot 1 and the boundary with Walbrook House which would further reduce the prominence of the development and any impact to light that may occur. There would be a 15m spacing between the flank of the dwelling at Plot 1 and the boundary with Woodhurst.

- 7.6.3 The proposed dwellings at Plots 2-4 would not intrude into a 45 degree line of either of the existing neighbouring properties or the 45 degree line of one another. Furthermore, significant spacing would be retained between the flank walls of the dwellings and the adjacent flank boundaries which would further reduce the prominence of the development and any impact to light that may occur. The dwellings at Plot 2 and Plot 4 would be spaced at least 5m to the flank boundary with no.21 Lime Tree Walk and Glaramara respectively. The guidance within Appendix 2 of the Development Management Policies LDD regarding the 45 degree line relates solely to development to the rear of properties. However, it is also a useful indicator for development to the front and it is noted that neither dwelling would intrude the 45 degree line to the front of the neighbouring properties either. As such, the proposed development is not considered to result in a significant loss of light or appear overbearing to existing or proposed neighbouring properties.
- 7.6.4 In relation to privacy, Appendix 2 of the Development Management Policies LDD sets out that distances between buildings should be sufficient so as to prevent overlooking, particularly from upper floors. As an indicative figure, 28m should be achieved between the faces of single or two storey buildings backing on to each other. Distances should be greater in situations where there are site level differences involved. Windows of habitable rooms at first floor level should not generally be located in flank elevations. Flank windows of other rooms should be non-opening below 1.7m from the internal floor level and obscure glazed.
- 7.6.5 The proposed dwellings would contain windows to all elevations. It is not considered that the proposed front and rear glazing would detrimentally overlook the rear gardens of adjoining neighbours. It is considered appropriate to attach a condition to any permission granted requiring windows above ground level within the flank elevations to be obscure glazed and non-opening below 1.7m internally.
- 7.6.6 A separation distance of at least 30m would be maintained between the proposed dwellings at Plots 3 and 4 and the rear site boundary. There would be a distance of some 20m from the rear of Plot 2 to the rear boundary however this would adjoin the frontage and public area of Lime Tree Walk. The shorter. There would be a spacing of approximately 45m between the rear elevation of Plot 1 and the front of Plot 2. It is not considered that the proposed development would result in significant harm to the residential amenities of these dwellings.
- 7.6.7 It is not considered that the comings and goings along the proposed access drive, which runs adjacent to the shared boundary with Woodhurst, would cause detrimental harm to the residential amenities of these or any other neighbours. Given the number of dwellings it is considered that the comings and goings would be relatively minimal. Furthermore, any noise impact would be mitigated by the presence of boundary fencing and planting between the access drive and site boundary.
- 7.6.8 Overall, it is not considered that the proposed dwellings would result in any detrimental impact to the residential amenities of existing neighbouring dwellings or one another. The development would therefore 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.

7.7 Trees and Landscaping

- 7.7.1 Policy DM6 of the Development Management Policies 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.
- 7.7.2 The application site contains a number of large, mature trees predominantly positioned to the flank boundaries of the site, some of which are covered by Tree Preservation Orders.

The proposed development would avoid the root protection zones of protected trees within the site. It is considered appropriate to include a condition for details of tree protection measures to be submitted prior to the commencement of the development.

- 7.7.3 It is acknowledged that the site was subject to a relatively significant clearance of trees prior to the submission of the application. This is being investigated by the planning enforcement team however it is acknowledged that none of the trees that were removed were protected. Notwithstanding, it is considered appropriate and reasonable for a hard and soft landscaping scheme to be reserved by condition in order to soften and integrate the proposed development into the character of the wider area.

7.8 Highways, Access and Parking

- 7.8.1 Policy CP10 of the Core Strategy requires development to demonstrate that it will provide a safe and adequate means of access. Policy DM13 and Appendix 5 of the Development Management Policies LDD advises on off street car parking requirements.

- 7.8.2 The access to the site would remain in its existing position however would be subject to widening to accommodate access to more than a single dwelling. Hertfordshire County Highways (HCH) were consulted on the proposed development and initially raised an objection to the width of the access. During the course of the application, the applicant provided an amended site plan which amended the access in line with the comments of Highways. HCH were then consulted on the amended site plan and withdraw their objection to the proposed development. Given the sensitive location of the site, the Council consider it appropriate to include a condition for a Construction Management Plan.

- 7.8.3 Appendix 5 sets out the following parking standards:

- 4+ bedroom dwelling: 3 spaces per dwelling (3 assigned spaces)

- 7.8.4 The proposed dwellings would each be served by a driveways large enough to accommodate at least three parking spaces and would each have an integral garage which provides an additional space. The proposed development is therefore acceptable in accordance with Policy CP10 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies document (adopted July 2013).

7.9 Sustainability

- 7.9.1 Paragraph 152 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 Development Management Policies document states that applications for new residential development will be required to demonstrate that the development will meet a zero carbon standard (as defined by central government). However the government are not pursuing zero carbon at this time and therefore the requirements of DM4 to achieve a 5% saving in CO2 over 2013 Building Regulations Part L would continue to apply.

- 7.9.4 The application is accompanied by an energy statement prepared by DDA. The report confirms that a range of energy efficiency measures are to be incorporated into the building fabric in order to reduce energy demand and confirms that the proposed scheme is to

secure at least a 5% reduction in CO2 emissions below the baseline emission rate based on Part L 2013 edition.

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 Hertfordshire Highways have acknowledged that bin stores would be sited within 30m from the front of the dwellings which is considered to be appropriate for collection by refuse crews. Highways do not raise any objection in relation to the ability of refuse vehicles to enter and exit the site. Details of siting and scale of bin stores have not been provided with the application therefore it is considered reasonable to secure these details by condition.

7.11 Wildlife and Biodiversity

7.11.1 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.

7.11.2 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.

7.11.3 The application has been submitted with a Biodiversity Checklist and Herts Ecology have been consulted as part of the application. It is not considered that the proposed development would result in any harm to protected species. The site was recently cleared of vegetation therefore its ability to support on-site species is limited.

7.12 Tilted Balance

7.12.1 The LPA cannot currently demonstrate a 5 year housing land supply, and therefore Paragraph 11 of the NPPF (2021) is required to be considered. In the context of decision-taking, the NPPF states that if the policies which are most important for determining the application are out-of-date (which includes where the LPA cannot demonstrate a five year supply of deliverable housing sites) then planning permission should be granted unless i) the application of policies in this Framework that protect areas or assets of particular importance provides clear reason for refusing the development proposed or ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

7.12.2 In respect of part (d)(ii) the development is not considered to result in demonstrable harm in any regard and would not conflict with the NPPF in respect of promoting sustainable development. It is recognised that the development would contribute to the shortfall in housing by the provision of three additional houses. It is considered that in relation to paragraph 11 part (d)(ii) of the NPPF there are no adverse impacts that significantly and demonstrably outweigh the benefits of the development.

8 Recommendation

That PLANNING PERMISSION IS GRANTED subject to the following 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: 1362/P/9A, 1362/P/8A, 1362/P/7A, 1362/P/6A, 1362/P/5A, 1362/P/4A, 1362/P/3B, 1362/P/2B, 1362/P/1F, 1362/P/14, 1362/P/13, 1362/P/12B, 1362/P/11B, 1362/P/10

Reason: For the avoidance of doubt and in the proper interests of planning in accordance with Policies PSP1, CP1, CP2, CP3, CP4, CP8, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011), Policies DM1, DM4, DM6, DM10, DM11 and DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013), Policy SA1 of the Site Allocations LDD (adopted November 2014) and Policies 2 and 3 of the Chorleywood Neighbourhood Plan (2020)

- C3 Before any building operations above ground level hereby permitted are commenced, samples and details of the proposed external materials 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 development 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 The development shall not begin until full details of construction vehicle access, movements, delivery hours, on-site parking arrangements for construction workers and wheel washing facilities have been submitted to and approved in writing by the Local Planning Authority. The relevant details shall be submitted in the form of a Construction Management Plan and the approved details shall be implemented throughout the construction programme.

Reason: This is a pre-commencement condition in order to minimise danger, obstruction and inconvenience to users of the highway in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011).

- C5 No operations (including tree felling, pruning, demolition works, soil moving, temporary access construction, or any other operation involving the use of motorised vehicles or construction machinery) whatsoever shall commence on site in connection with the development hereby approved until the branch structure and trunks of all trees shown to be retained and all other trees not indicated as to be removed and their root systems have been protected from any damage during site works, in accordance with a scheme designed in accordance with BS5837:2012, to be submitted to and approved in writing by the Local Planning Authority.

The protective measures, including fencing, shall be undertaken in full accordance with the approved scheme before any equipment, machinery or materials are brought on to the site for the purposes of development, and shall be maintained as approved until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any area fenced in accordance with this

condition and the ground levels within those areas shall not be altered, nor shall any excavation be made. No fires shall be lit or liquids disposed of within 10.0m of an area designated as being fenced off or otherwise protected in the approved scheme.

Reason: This condition is a pre commencement condition to ensure that no development takes place until appropriate measures are taken to prevent damage being caused to trees during construction and to meet the requirements of Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

- C6 Prior to the commencement of works above ground level, a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority, which shall include the location of all existing trees and hedgerows affected by the proposed development, and details of those to be retained, together with a scheme detailing measures for their protection in the course of development.

All hard landscaping works required by the approved scheme shall be carried out and completed prior to the first occupation of the development hereby permitted.

All soft landscaping works required by the approved scheme shall be carried out before the end of the first planting and seeding season following first occupation of any part of the buildings or completion of the development, whichever is sooner.

If any existing tree shown to be retained, or the proposed soft landscaping, are removed, die, become severely damaged or diseased within five years of the completion of development they shall be replaced with trees or shrubs of appropriate size and species in the next planting season (ie November to March inclusive).

Reason: This condition is required to ensure the completed scheme has a satisfactory visual impact on the character and appearance of the area 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).

- C7 Prior to the first occupation of the dwellings hereby permitted the first floor flank windows shall be fitted with purpose made obscured glazing and shall be top level opening only at 1.7m above the floor level of the rooms in which the window is installed. The windows 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).

- C8 Prior to the first occupation of the dwellings hereby permitted details indicating the positions, design, materials and type of all boundary treatments, including gates, to be erected shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall thereafter be erected prior to occupation and only in accordance with the approved details.

Reason: To safeguard the visual amenities of neighbouring properties and the character of the locality 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).

- C9 Prior to the first occupation of the development hereby permitted the vehicular access shall be completed and thereafter retained as shown on drawing number 1362/P/1 F

in accordance with details/specifications to be first submitted to and approved in writing by the highway authority.

Reason: In the interests of highway safety and convenience in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011).

- C10 The development hereby permitted shall be implemented in accordance with the details of the Energy Statement prepared by DDA prior to the occupation of the development and shall be permanently maintained thereafter. No photovoltaics shall be installed unless details have first been submitted to and approved in writing by the LPA.

Reason: To ensure that the development meets the requirements of Policy CP1 of the Core Strategy (adopted October 2011) and Policy DM4 of the Development Management Policies LDD (adopted July 2013) and to make as full a contribution to sustainable development principles as possible.

- C11 Immediately following the implementation of this permission, notwithstanding the provisions of Part 1, Classes A, B, C, D, E & F or Part 2, Class A & C of Schedule 2 to 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 of any of the above classes shall be constructed or placed on any part of the land subject of this permission without such consent as aforesaid.

Reason: To ensure adequate planning control over further development having regard to the visual amenities of the locality, the residential amenity of neighbouring occupiers and to protect the openness of the Green Belt in accordance with Policies CP1, CP9, CP10, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM2, DM6, DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013).

8.1 **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. It is a requirement under Regulation 67 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 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 applicant and/or their agent and the Local Planning Authority engaged in pre-application discussions which result in a form of development that maintains/improves the economic, social and environmental conditions of the District.
- 14 Works within the highway (section 278): The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the County Council website at: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> or by telephoning 0300 1234047.
- 15 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.

- 16 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.

- 17 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.

**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.

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.

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)
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.

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).

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 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

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.

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: 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

¹³ Paragraph 7, Planning Inspectorate Letter, March 2017.

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:**
“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

