

PLANNING COMMITTEE

NOTICE AND AGENDA

For a meeting to be held in the Penn Chamber at Three Rivers House, Northway, Rickmansworth, WD3 1RL on Thursday 23 February 2023 at 7.30pm

Members of the Planning Committee:-

Councillors:

Steve Drury (Chair)
Sara Bedford
Ruth Clark
Philip Hearn
Lisa Hudson
Raj Khuroya

Matthew Bedford (Vice-Chair)
Stephen King
Chris Lloyd
David Raw
Stephanie Singer

*Joanne Wagstaffe, Chief Executive
14 February 2023*

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

Details of the procedure are provided below:

For those wishing to speak:

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

Members of the public are entitled to speak on an application from the published agenda for the meeting either in support of the application or against. Those who wish to speak can arrive on the night from 7pm to register with the Committee Manager. One person can speak in support of the application and one against.

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

For those wishing to observe:

Members of the public are welcome to attend the meetings. If you wish to observe you can arrive on the night from 7pm.

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

Recording and reporting the Council's meetings is subject to the law and it is the responsibility of those doing the recording and reporting to ensure compliance. This will include the Human

Rights Act, the Data Protection Legislation and the laws of libel and defamation.

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

1. APOLOGIES FOR ABSENCE

2. MINUTES

(Pages 7
- 14)

To confirm as a correct record the Minutes of the Planning Committee meeting held on 19 January 2023.

3. NOTICE OF OTHER BUSINESS

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

4. DECLARATIONS OF INTEREST

To receive any declarations of interest.

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

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

5. 22/1309/RSP - PART RETROSPECTIVE: ALTERATIONS TO RAISED REAR PATIO AND REAR GARDEN LEVELS INCLUDING ADDITION OF PLANT ROOM, BOUNDARY TREATMENT AND INSTALLATION OF PRIVACY SCREENS AT SANDLEWOOD, 7A WOLSEY ROAD, MOOR PARK, HERTS, HA6 2HN

(Pages
15 - 30)

Recommendation: That Part Retrospective Planning Permission be granted.

6. 22/1507/FUL - PARTIAL DEMOLITION OF NO.51 AND SUB-DIVISION OF REAR GARDENS OF NO.51 AND NO.49 AND CONSTRUCTION OF TWO STOREY DETACHED DWELLING WITH ASSOCIATED ACCESS ROAD AND BOUNDARY TREATMENT AT THE HAWTHORNS, 51 BATCHWORTH LANE, NORTHWOOD, HA6 3HE

(Pages
31 - 60)

Recommendation: That Planning Permission be refused

7. 22/1830/FUL – CONSTRUCTION OF TWO BEDROOM DETACHED DWELLING TO REAR OF 4 SCOTS HILL ACCESSED VIA WINDMILL DRIVE WITH ASSOCIATED ACCESS, PARKING AND LANDSCAPING, BOUNDARY TREATMENTS INCLUDING TIMBER FENCE AT 4 SCOTS HILL, CROXLEY GREEN, HERTFORDSHIRE, WD3 3AD.

(Pages
61 - 94)

Recommendation: That Planning Permission is granted following completion of a Section 106 agreement to secure an affordable housing financial contribution.

8. **22/1994/FUL - REARRANGEMENT OF INTERNAL FLOOR PLAN LAYOUT; ALTERATIONS TO REAR FENESTRATION INCLUDING PROVISION OF JULIET BALCONY TO THE REAR AND REPOSITIONING OF DOOR, WINDOW AND DORMER TO THE REAR; PROVISION OF INTERNAL STAIRCASE AT CHELSEA HOUSE, 10 ASTONS ROAD, MOOR PARK, HERTFORDSHIRE, HA6 2LD** (Pages 95 - 128)

Recommendation: That Planning Permission be Granted.

9. **22/2250/FUL - SUBDIVISION OF THE SITE AND THE CONSTRUCTION OF 2NO. TWO STOREY DETACHED DWELLINGS WITH ROOFLIGHTS AND ASSOCIATED ACCESSES, PARKING, LANDSCAPING AND ANCILLARY WORKS AT NORTH VIEW FARM, BELL LANE, BEDMOND, HERTFORDSHIRE, WD5 0QT** (Pages 129 - 160)

Recommendation: That Planning Permission be Granted subject to the completion of a Section 106.

10. **OTHER BUSINESS - IF APPROVED UNDER ITEM 3 ABOVE**

11. **EXCLUSION OF PRESS AND PUBLIC**

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

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

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

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

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

- Application file(s) referenced above
- Three Rivers Core Strategy (adopted October 2011)
- Development Management Policies LDD (adopted July 2013)
- Site Allocations Local Development Document (SALDD) (adopted November 2014)
- The Community Infrastructure Levy (CIL) Charging Schedule (adopted February 2015)
- Supplementary Planning Documents and Guidance
- National Planning Policy Framework and National Planning Practice Guidance
- Government Circulars
- The Wildlife and Countryside Act 1981 (as amended)
- Town and Country Planning Act 1990 (as amended)
- Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990
- Planning and Compulsory Purchase Act 2004
- The Natural Environment and Rural Communities Act 2006

- The Conservation of Habitats and Species Regulations 2010
- The Localism Act (November 2011)
- The Growth and Infrastructure Act (April 2013)
- Town and Country Planning (Development Management Procedure) (England) Order 2015
- Town and Country Planning (General Permitted Development) (England) Order 2015
- Croxley Green Neighbourhood Plan (Referendum Version December 2018)
- Chorleywood Neighbourhood Development Plan (Referendum Version August 2020)

General Enquiries: Please contact the Committee Team at
committeeteam@threerivers.gov.uk



Three Rivers House
Northway
Rickmansworth
Herts WD3 1RL

PLANNING COMMITTEE

MINUTES

Of a meeting held in the Penn Chamber at Three Rivers House, Northway, Rickmansworth, on Thursday 19 January 2023 from 7.30pm to 8.45pm

Councillors present:

Steve Drury (Chair)	Sarah Nelmes (Sub for Cllr Raj
Matthew Bedford (Vice Chair)	Khiroya)
Sara Bedford	Chris Lloyd
Ruth Clark	David Raw
Phillip Hearn	Stephanie Singer
Andrea Fraser (sub for Cllr Lisa Hudson)	

Also in attendance: Councillor Debbie Morris

Officers: Matthew Roberts, Adam Ralton & Lorna Attwood

COUNCILLOR STEVE DRURY IN THE CHAIR

PC 84/22 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Lisa Hudson and Raj Khiroya with the named substitutes being Councillors Andrea Fraser and Sarah Nelmes. There was also an apology for absence from Councillor Stephen King.

PC 85/22 MINUTES

The minutes from the Planning Committee Meeting- held on 15 December 2022 and the reconvened Planning Committee meeting on 5 January 2023 were agreed and signed by the Chair.

PC 86/22 URGENT BUSINESS

There was no urgent business.

PC 87/22 DECLARATIONS OF INTEREST

The Chair read out the following statement to the Committee:

“All Members are reminded that they should come to meetings with an open mind and be able to demonstrate that they are open minded. You should only come to your decision after due consideration of all the information provided, whether by planning officers in the introduction, by applicants/agents, by objectors or by fellow Councillor’s. The Committee Report in itself is not the sole piece of information to be considered. Prepared speeches to be read out are not a good idea. They might suggest that you have already firmly made up your mind about an application before hearing any additional information provided on the night and they will not take account information provided at Committee. You must always avoid giving the impression of having firmly made up your mind in advance no matter that you might be pre-disposed to any particular view.”

The Chair advised that the Liberal Democrats Councillors on the Committee wished to declare a non pecuniary interest in Items 5 and 8. Members of the Committee are not personal friends of the Councillor who was acting as an agent on these applications and do not feel there is any conflict of interest.

With regards to Item 7 there were a number of members who did not attend the reconvened meeting on 5 January. Therefore Councillors Ruth Clark and Stephanie Singer were asked not to take part in the discussion or vote on this item. Furthermore, The Chair, Councillor Steve Drury and Councillor Andrea Fraser would take part in the discussion having attended the site visit but would not vote on the item as they had not attended the reconvened meeting on 5 January 2023.

PC 88/22

22/1162/FUL - Erection of polytunnels and associated infrastructure at WOODOAKS FARM, DENHAM WAY, MAPLE CROSS, HERTFORDSHIRE, WD3 9XQ

The Planning Officer advised that there were no updates.

In accordance with Rule 35(b) a member of the public spoke in the support of the application.

Councillor David Raw said that although the Conservation Officer had no objections, they had raised a few concerns and wanted to hear the Officers thoughts. The Planning Officer said that there was a listed barn approximately 150 yards from the polytunnels and the effect on the listed building had to be considered. There was a limit as to where the polytunnels could go due as the enterprise was to operate on only part of the wider agricultural unit. The report set out that the polytunnels were at a significant distance from the listed barn and were not considered to be unacceptably harmful to its setting.

Councillor Sarah Nelmes was aware of the farm structure and commented that polytunnels were on a flat part as there were steep slopes on this site and this seemed to be the most appropriate place for them. This was a sustainable business which created biodiversity and moved to accept the Officers recommendation seconded by Councillor Chris Lloyd.

Councillor Philip Hearn supported the proposal. With regards to Condition 4, if the polytunnels were not used for 12 months or more they and the toilet block would be removed. The Councillor wondered why the tarmac planings were not included in that. The Planning Officer advised that if the enterprise ceased then

the track would not be used and over time that would morph into the landscape. As the laying of the track would be a large undertaking its removal would be relatively unreasonable.

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

RESOLVED:

That the decision be delegated to the Director of Community and Environmental Services to consider any representations received and that planning permission be GRANTED in accordance with the Officer recommendation and the conditions and informatives set out in the officer report.

PC 89/22 22/1507/FUL - Partial demolition of no.51 and sub-division of rear gardens of no.51 and no.49 and construction of two storey detached dwelling, garage and access road including new vehicular crossover at THE HAWTHORNS, 51 BATCHWORTH LANE, NORTHWOOD, HA6 3HE

The Planning Officer gave an update to say that Hertfordshire Fire and Rescue had no objection subject to the use of a sprinkler system.

Ward Councillor Debbie Morris spoke against the application and supported the Officers recommendation for refusal but wished to add a third reason for refusal: that this was a form of backland development which differed significantly from the existing forms of backland and infill development in the vicinity. In the Officers report, four developments were identified which were said to inform the current character of the area. These were all developments of multiple homes unlike in this application where a single home was proposed. These developments were in no way similar to this proposal and this application should be refused as a backland development which would introduce a novel form of development to the area and would be harmful to the character.

The Planning Officer said that with reference to the comments made by Councillor Morris it was considered that these developments did somewhat inform the character of the area. This development would be subject to a separate access which would run alongside the existing access to the listed building which had four detached dwellings behind it. Due to the position of this particular dwelling, where you would read it from the street it would be viewed in conjunction with those dwellings and the listed building. It could be argued that there were some similarities with the other developments although the proposed development would only be served by one dwelling unlike the developments mentioned that contained multiple dwellings. The Planning Officer said in terms of character it would be quite hard to justify and defend.

Councillor Matthew Bedford believed the area was full of backland development and was surprised that the recommendation was to refuse planning permission. The Councillor asked Officers to clarify the point regarding the listed building and show on the plans where it would sit in relation to the proposed building. The Planning Officer presented the plans on screen and said that the development would be highly evident from the listed building, both

from the access track with Upland Court, from neighbouring vantage points and from the gardens of the listed building and by virtue of its scale concluded that it would be harmful.

Councillor Sarah Nelmes asked for clarification about the route to the four houses behind Upton Court and if it was the same route to the proposed dwelling. The Planning Officer replied that there would be a new access drive adjacent to Upton Court which would be enclosed by a fence and would be parallel to the access drive to Upton Court.

Councillor David Raw asked about the gable roof and if the planning application did not include this, would Officers be more sympathetic. The Planning Officer responded that the Committee must assess the application that was in front of them.

Councillor Philip Hearn said that it was important to preserve the openness of the listed building. It would be difficult to assess how the development would affect the listed building. It was suggested that a site visit could be considered to assist with the decision.

The Planning Officer presented the plans on screen to show Members where the listed building was situated.

Councillor Sara Bedford asked if the trees shown on the site plan were being removed. The Planning Officer pointed out to Members on the plans which trees would be removed.

Councillor Philip Hearn proposed that a site visit take place. This was seconded by Councillor Sara Bedford.

The Planning Officer said there was a second reason for refusal. This should be considered in case the recommendation is altered following the site visit. The second reason for refusal referred to the southern elevation where there was a small gable obscurely glazed first floor window. Whilst obscure it was close to the boundary and slightly raised, therefore overlooking was second reason.

Councillor Sara Bedford said the site visit would allow Members to look at the two reasons for refusal.

Councillor Andrea Fraser asked if the Committee would also need to consider the third reason Councillor Debbie Morris had suggested regarding backland development. The Planning Officer said the site visit should clarify this aspect. The backland developments were gated so Members may have trouble accessing them but they could walk along Batchworth Lane which would give them a sense of the areas character.

Councillor Matthew Bedford said it should not make a difference if it was one house or several.

The alternative proposal for a site visit was then put to a vote.

On being put to the Committee the motion was declared CARRIED by the Chair the voting being 9 For, 0 Against and 1 Abstention.

RESOLVED:

That the application be DEFERRED for a site visit to ascertain the impact of the proposed dwelling on the listed building and adjacent neighbouring property. Officer to make arrangements with applicant for Saturday 11 February at 8am.

PC 90/22 22/1658/RSP - Part Retrospective: Part demolition of existing single storey side extension and construction of two storey side and rear extension with balcony, two storey rear extension, single storey rear extension with balcony, loft conversion including dormers to front and rear and rooflights, alterations to fenestration and extension and alterations to terrace including landscaping works and alterations to land levels at KEEPERS LEA, OLD SHIRE LANE, CHORLEYWOOD, WD3 5PW

The Chair announced that four Councillors would not be voting on this item due to not having been at the previous Committee and not taking part in the discussion. Therefore, Councillors Ruth Clark, Stephanie Singer, Andrea Fraser and Steve Drury would not vote.

There was no update on this application.

Councillor Sarah Nelmes said following the site visit the only view from the balcony was into a non-habitable room and therefore had no objection and moved the Officers recommendation for Planning Permission to be Granted.

Councillor Sara Bedford said that not all Members had gained access to the balcony as the site could not be accessed at the agreed time and therefore it was quite difficult to make a decision.

Councillor Philip Hearn said that four Councillors had been able to access the balcony. The views of Bullsland Gardens were quite a distance away and it would be difficult to argue that there was overlooking. The neighbouring property was closer but there were no windows that would be overlooked.

Councillor Steve Drury noticed that the balcony was not big enough for one chair let alone a table and chairs. Not much could be seen due to the trees.

Councillor Matthew Bedford asked if permission should be given with a condition to put a solid screen on the side.

Councillor Andrea Fraser said that this balcony did not overlook the neighbour and could not see a screen making a difference.

Councillor Sarah Nelmes motion that Planning Permission be Granted was seconded by Councillor Matthew Bedford.

On being put to the Committee the motion was declared CARRIED by the Chair the voting being 2 For, 0 Against and 4 Abstentions.

RESOLVED:

That Planning Permission be GRANTED in accordance with the Officer recommendation and the conditions and informatives set out in the officer report.

PC 91/22 **22/1974/FUL - Demolition of existing single storey side extension construction of loft conversion including roof extensions and rear and side dormers and front and side rooflights; erection of new vehicular access and gate with associated landscaping works including extension of driveway; internal alterations and alterations to fenestration at MERRY DOWN, COMMONWOOD, SARRATT, WD4 9BA**

The Planning Officer advised there was no update.

Councillor Philip Hearn asked what was the rationale for refusal. Although they were aware that it was within the Green Belt, the Councillor felt that it was off track of the main route and not increasing the footprint of the house and wondered how this was harming the openness of Green Belt. The Planning Officer said there were two reasons. The design and character were one reason; the dormer windows were not proportionate additions to the roof slope that they sat within. The second reason related to the Green Belt and that the proposal was disproportionate over and above the original house. The Officer presented the plans on screen to explain to members how this would result in harm to the Green Belt.

Councillor David Raw agreed with Officers regarding the dormer windows being oversized and wondered if they had applied for permission with gable dormers would that be more in line with the design aspect. The Planning Officer advised they could not comment on what would be acceptable and only on the current proposal.

Councillor Sara Bedford also agreed that the dormers were enormous. There were parts of Green Belt where they would not be out of place, but they would be in Commonwood.

Councillor Philip Hearn wondered if the concern was relating specifically to dormers or the additional floorspace of the house.

Councillor Sara Bedford said if we did not uphold the second reason on the disproportionate size of the additions then every small house in the Green Belt could be doubled or tripled. Councillor Bedford felt that the guidance must be upheld. Councillor Steve Drury agreed.

Councillor Chris Lloyd moved the recommendation to refuse Planning Permission seconded by Councillor Sara Bedford.

On being put to the Committee the motion was declared CARRIED by the Chair with the voting being 7 For, 0 Against and 3 Abstentions.

RESOLVED:

That Planning Permission be REFUSED (in accordance with the reasons set out in the officer recommendation)

PC 92/22 **22/2255/FUL - Installation of 7no. heat pumps with alterations to boundary treatments including timber fence at THREE RIVERS HOUSE, NORTHWAY, RICKMANSWORTH, WD3 1RL**

The Planning Officer said that there had been one further comment received from a member of the public regarding the air source pump and that they were not cost effective unless the building was insulated to the highest standard. The

comment also suggested that the Council's Green policy was being rushed into operation before the technology was proven. Batchworth Community Council had no objection to the proposal. A noise impact assessment had been received and this had been reviewed by the Environmental Health Team. The assessment set out that the equipment did require additional mitigation to meet the required noise reduction levels. The assessment recommended that the proposed timber fence to enclose units either be enhanced with additional timber cladding or replaced by absorptive timber barrier which would look the same. The applicant had confirmed they would provide the absorptive timber barrier. This would absorb some of the noise. Night time noise at one meter from the equipment would be 3 decibels below background noise, therefore the equipment would have no impact. The wording of Condition 3 would be changed to reflect this. This would be maintained while the heat source pumps were in place.

Councillor David Raw asked what the level of background noise was and would it be a constant noise. The Councillor also wondered if the two noises could be added together to make a louder noise. The Planning Officer replied that the typical background noise was 60 decibels in the day and 42 decibels at night. The acoustic fencing would result in there being a noise of 39 decibels, therefore it would not be discernible. It would be continuous but below background noise level.

Councillor Philip Hearn said the public's comments were around the benefits of heat pumps, the judgement should not be made regarding the benefits. Councillor Raw's concerns were understood and from the resident's perspective it could impact the quality of life if the wrong decision was made.

Councillor Sara Bedford stated that two noises could not be added together to make a bigger noise.

Councillor Matthew Bedford asked if Officers could clarify how far away the nearest houses were and why this was proposed for the upper deck of the car park and not the lower one where the sound would be more contained. The Planning Officer said the nearest neighbour was 26 metres from the eastern boundary from the site. They could not comment on why it was being placed on the upper deck of the car park.

Councillor Andrea Fraser asked if monitoring of sound levels could be included going forward to ensure it was keeping to the sound levels mentioned. The Planning Officer said that a condition could not be attached to monitor sound. The equipment should be maintained by the owner to retain the benefits.

Councillor Sara Bedford moved the recommendation as set out in the Officer report that Planning Permission be Granted. This was seconded by Councillor Ruth Clark.

On being put to the Committee the motion was declared CARRIED by the Chair with the voting being 7 For, 1 Against and 2 Abstentions.

RESOLVED:

That Planning Permission be GRANTED (in accordance with the officer recommendation and the conditions and informatives set out in the officer

report) with an amendment to Condition 3 to include acoustic fencing with the condition to read:

Condition C3

Notwithstanding the details on the submitted drawings, prior to the first use of the air source heat pumps hereby approved a 1.8 metre high fencing compound constructed of Jakoustic Absorptive fencing shall be constructed in the location as shown on Drawing No. TR1077-GED-TR-XX-DR-M-0002 Rev P05 and shall be permanently maintained as such thereafter whilst the air source heat pumps are in place.

Reason: In the interests of neighbouring amenity and the character and appearance of the locality in accordance with Policy CP12 of the Local Plan Core Strategy (2011) and Policies DM3 and DM9 of the Development Management Policies LDD (2013).

CHAIR

PLANNING COMMITTEE - 23 FEBRUARY 2023

5. 22/1309/RSP - Part Retrospective: Alterations to raised rear patio and rear garden levels including addition of plant room, boundary treatment and installation of privacy screens at SANDLEWOOD, 7A WOLSEY ROAD, MOOR PARK, HERTS, HA6 2HN

Parish: Batchworth Community Council
Expiry of Statutory Period: 22 September 2022
Extension of Time: 24 February 2023

Ward: Moor Park and Eastbury
Case Officer: Suzanne O'Brien

Recommendation: That Part Retrospective Planning Permission be granted.

Reason for consideration by the Committee: The application has been called in by Batchworth Community Council; for the reasons set out in full in paragraph 4.1.1.

Update:

Members deferred the application at the December Planning Committee to allow officers to seek amendments to the siting of the screening and blocking of access to the rear of the garage. The applicant was advised of the suggested amendments and has advised that they would not provide any further amendments to the siting of the screening already proposed. The Applicant has also advised of the following:

- There was a previous path sited to the rear of the garage serving the existing dwelling prior to the works being undertaken;
- The resiting of the screening as suggested would result in an isolated area and loss of visibility of the garden;
- Happy to ensure that the screens are done using acceptable materials with green creeper planters.

It is therefore confirmed that the plans have not been amended since the December Planning Committee meeting.

The Conservation and Landscape Consultee comments and relevant sections of the report will be updated to take into consideration the comments received as set out in the verbal update at the December Planning Committee meeting.

1 Relevant Planning and Enforcement History

- 1.1 20/2292/FUL - Part single, part two storey rear extension, first floor side extension, loft conversion including increase in ridge height, rear dormer windows to the rear, erection of porch, alterations to fenestration, render to exterior, new rear patio and alterations to driveway - Permitted - 30.12.2020
- 1.2 21/0167/COMP: Enforcement Investigation: Works not in accordance with planning permission 21/1370/FUL including land level alterations and erection of air conditioning units. Pending consideration.
- 1.3 21/1370/FUL - Variation of Condition 2 (Approved Plans) of planning permission 20/2292/FUL: (Part single, part two storey rear extension, first floor side extension, loft conversion including increase in ridge height, rear dormer windows to the rear, erection of porch, alterations to fenestration, render to exterior, new rear patio and alterations to driveway) to include alterations to fenestration - Permitted - 27.07.2021

- 1.4 21/2425/FUL - Variation of Conditions 2 (Approved Plans) and 4 (Materials) of planning permission 21/1370/FUL: To include additional rear dormer, alterations to fenestration and change to materials - Permitted - 10.01.2022
- 1.5 22/0566/RSP - Part Retrospective: Formation and raising of terrace to rear garden and introduction of privacy screen - Withdrawn - 21.04.2022

2 Description of Application Site

- 2.1 The site as a whole consists of a two storey detached dwelling located on the north eastern side of Wolsey Road within the Moor Park Conservation Area. The application site outlined in red on the amended location plan consists of the land to the rear of the dwellinghousing including the patio, plant room and garden; the blue line includes the dwellinghouse and frontage. The dwelling is a modern infill development between No.7 and No.9. The streetscene of Wolsey Road comprises detached dwellings of varied architectural design, located on relatively large plots. The application dwelling is however constructed close to the south eastern boundary. The land levels of the site drop from the front to the rear and the rear amenity space provision contains a number of mature trees.
- 2.2 The neighbouring property to the south east (No.9) is also constructed close to the common boundary. No.9 sits forward of the rear most point of the application dwelling and is set on a similar land level. The neighbouring property to the north west, No.7, is set in a significant distance from the flank boundary, has a similar rear building line to the rear most point of the application dwelling and has a large bay window in the flank elevation facing the application site.
- 2.3 The works in connection with the previous planning permission 21/2425/FUL have been implemented however it is noted that there are a number of aspects that have not been implemented in accordance with the approved plans including external works. The works subject to this application will be discussed in detail later within the report.

3 Description of Proposed Development

- 3.1 This application seeks part retrospective planning permission for alterations to the raised rear patio and rear garden levels including addition of plant room, boundary treatment and installation of privacy screens.
- 3.2 This application seeks approval for the alterations to the garden which have been raised in height, in parts between 0.3m and 0.6m. The alterations to the garden levels cover the full width and depth of the garden and the garden is now laid as grass.
- 3.3 The raised patio to the rear of the main aspect of the dwelling has a maximum depth of 5.3m and width of 14.6m. To the rear of the two storey side projection (previous garage projection) a patio with a depth of 5.2m and width of 4.1m has been constructed; this section is L shaped. The patio has a height of 1.8m above the garden level (not including the lower patio as constructed). A raised plant room adjoins the south eastern elevation of the deeper section of the patio and rear aspect of the shallower section of patio. The plant room has a depth of 3.7m and width of 2.6m and projects a total of 5.1m beyond the rear elevation of the two storey side projection. The plant room has a height of 2.3m and projects 0.5m above the patio as constructed. A 1.8m high screen would be sited along the north west elevation of the patio and a 1.8m screen would be sited between the patio and raised plant room extending from the two storey side projection to the rear of the deeper section of the patio.
- 3.4 The patio is served by two sets of steps sited in line with both flank aspects of the deeper part of the patio. A path with a height of 0.4m and depth of 1m would provide access from

the set of steps to the south east and would allow access to the plant room which has an external door in the rear elevation facing onto the garden.

3.5 Amended plans (which have been re-consulted on for 21 days) have been received which include the following:

- Inclusion of privacy screens along the full depth of the patio along both flanks of the patio;
- Removal of the lower level patio as constructed;
- Changes to the red line to only include the patio area and garden (to ensure any works to the dwelling that have not been carried out in accordance with the approved application are not incorporated as part of this application as works to the dwelling are not currently sought).

4 Consultation

4.1 Statutory Consultation

4.1.1 Batchworth Parish Council: [Object]

On behalf of Batchworth Community Council (BCC) we strongly object to this Retrospective Application and we would ask that this application is called in for a decision by the Planning Committee unless the officers are minded to refuse.

Firstly, we would highlight that in the earlier approved application (20/292/FUL) the extent of the patio was a lot less significant in terms of its depth, height and prominence and we would have raised objections at that time if it had been presented as it is proposed and has been implemented today.

We further note that this "Retrospective Application" still does not take into account the issues raised & commented upon by several parties including ourselves from the withdrawn application 22/0566/RSP and seeks to gain approval to all the unauthorised works that have been undertaken and detailed below.

Accounting for the above BCC strongly objects for the following reasons:

- 1. The raised patio was not included in earlier applications and was not included in the consented scheme. It has now, however, been implemented without discussion or any attempt to seek approval.*
- 2. The planned 1.8 M perplex screen that is to be installed is not fitting or appropriate for the Conservation Area and will create an ugly eye-sore for the neighbours. If the patio had been built as per the consented application, it would not be required.*
- 3. The increased height of the patio also affects the privacy of the neighbours (both sides but in particular #9) who will clearly be able to see anybody standing on it from their houses and in their gardens and in turn can be seen from the elevated position themselves.*
- 4. This situation is made further complex because of the basement being dug out in the adjoining property (#7) and the landfill from that property was not removed off site but spread over the garden of this application property (7A). This has increased the height and levels of the garden throughout, and we would have anticipated that this would require planning consent. It is also likely to have a negative effect on the existing trees and landscaping.*
- 5. The landscaping, hedgerow and trees that were originally located on the side of #7a Wolsey Road have been removed during construction and the hedgerow in #9 Wolsey Road damaged during the works. The concrete structure of the raised patio and associate building now comes to the edge of #9 and is covered with AstroTurf for aesthetics. This is*

likely to have further effect on the hedgerow and trees that are on the side of the boundary with #9.

6. All of this has resulted in a significant reduction of the privacy for #9 compared with the situation prior to construction commencing.

7. The applicants need to be aware that this is unacceptable behaviour and should be forced to revert to the original consented scheme and this application should be refused. This is a breach of a permitted decision and directly ignored the TRDC. If this requires them to remove what has been illegally constructed, then we strongly believe this is the right action that TRDC should take, and BCC would support such action.

8. In speaking to the professional team advising #9 they are of the opinion having undertaken a lot work and research, including on site surveys, that the measurements provided on the drawings submitted provide at best an inaccurate picture or at worst have been set to be deceptive. We are advised that the topographical survey is inaccurate. This clearly needs reviewing and checking.

9. Bi-Fold doors have been installed to the left-hand side of the first floor whereas $\frac{3}{4}$ windows are on the drawings. This we would suspect will allow the applicants to step out and use this area of flat roof for social purposes subject to a balustrade being installed (again overlooking #9).

10. Immediately above the windows, as detailed in the drawings, have been replaced with Patio Doors

11. The as built raised patio now has two sets of steps down to the garden against the one set detailed in the consented scheme.

12. As significant as anything related to this application is the extent of the hard standing that now exists with this application and the works undertaken. The patio is several metres deeper than was consented for.

We are advised it now significantly exceeds 20% against the agreed 15% as detailed with MPCA.

In conclusion there continues to be a clear disregard of the planning process with earlier designs / applications that were refused / withdrawn being added back in at a later date without consent or discussion.

This also shows a disrespect to the law, the process and the TRDC Planning Officers, not to mention neighbours and the community at large by all parties involved including the applicant, professional team and contractor who would have known without any doubt that their actions contravened the consented application. It is also important that we ensure that the applicant, their professional team and contractor (who are largely the same as those at #7 Wolsey Road) adhere to existing decisions, regulations and consents and do not exceed what has been approved and demolish anything beyond what has been agreed and consented.

Finally, we repeat, that BCC would ask that this application is called in for a decision by the Planning Committee unless the Planning Officers are minded to refuse.

4.1.2 Conservation Officer [No objections]

The proposed alterations to the rear of the property would not result in any additional harm to the character and appearance of the Moor Park Conservation Area. I would not raise an objection.

4.1.3 Moor Park 1958 [Object]

The Directors of Moor Park (1958) Limited wish to express the following material objections and our related concerns on one particular aspect of the submitted application as set out below. Thereafter, we raise one additional planning matter.

Our specific concern: We would wish to respectfully remind the Council that, at the time of the original approval (ref 20/2292/FUL) the application included a site layout drawing ref 1360/P/3A that indicated the proposed raised rear patio extending across the entirety of the rear elevation, including a section at the rear of the “retained” single storey extension close to the flank boundary with no. 9 Wolsey Road.

In response to that application, we expressed our planning concerns re the extent of increased plot coverage (in addition to other objections and concerns) and we are aware that the Council secured an amended drawing (ref 1360/P/3B) that reduced the size of the rear patio by specifically removing the whole area of the section of patio at the rear of what was indicated as the “retained” single storey extension.

We note that the delegated report detailing the application particularly mentions, in para 3.7 and 7.2.5, how the patio had been reduced in size and to what benefit. We would ask that the Council very closely considers the reasons why the amendments to the size and location of the patio were secured in the first instance (and the planning principles involved in the process at that time), prior to this latest application being determined. This is on the basis that the current application clearly seeks now not only seeks to reintroduce the previously deleted area of raised patio, (almost as though the original amendment had not been made or was not relevant or did not need to be taken into account), but indeed significantly extends both the depth and width of the patio.

From our perspective, in assessing the material implications of this latest application, we have re-visited the issue of plot coverage and have calculated that the proposed enlargement to the patio results in a total plot coverage, taking into account the enlarged dwelling (as approved), the footprint of the plant room and the entirety of the patio in its latest iteration, of approx 24%, which is clearly well in excess of the 15% maximum in the MPCA.

While we accept that “patios” per se are not referred to in para 3.4 of the MPCA, we nevertheless wish to submit that the raised nature of a large proportion of the patio, plus the extended depth and width elsewhere, as in this latest proposition, reflects a different proposition to the effect of built development on the openness of the plot at the time of the original (and subsequent) approvals.

As a result, and in the interests of maintaining and preserving one of the key aspects that defines the character and appearance of the Moor Park Conservation Area, in terms of the openness and the generally low level of development on individual plots, we would ask that the Council has full regard to the provisions of para 3.4 of the MPCA in the assessment and determination of this latest application. In this regard, and with the aim of reducing the harmful and adverse impact of the proposed overall plot coverage, we respectfully request that the officers seek to negotiate a significant reduction in the width and depth of the patio so as accord with the depth and size at the time of the original approval, and such that the 15% maximum MPCA plot coverage is more closely respected.

Finally, turning to our one additional material planning matter of concern. Although such issues are clearly not specifically covered in the MPCA (and are normally for neighbours to comment on), nonetheless we would request that the Council considers the potential for overlooking and resultant loss of privacy arising from the entirety of the enlarged patio area and from the re-grading of the rear garden area.

Alongside this we also ask the Council to very closely assess the adequacy, suitability, and longevity of both (i) the proposed 1.8m high “privacy screen” and also (ii) the demonstrable effectiveness of the row of ornamental trees that are shown to be planted (presumably for additional screening purposes) in such a restricted and overshadowed location.

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

Additional comments received following reconsultation of the scheme:

We have noted the submission of amended plans in regard to the above proposed development.

We consider that the majority of the planning objections and concerns we have previously raised in regard to this development still remain as material planning considerations that we would ask that the Council still continue to take into account in the assessment and determination of this application.

Insofar as the latest amended drawings are concerned, while we acknowledge (i) the alterations to the proposed roof treatment of the plant room, (ii) the various modifications to the screening details adjacent to both neighbouring properties and (iii) the reduction of the size and extent of the raised patio area, we remain of the view that the proposed development overall still, represents an unacceptably intrusive and unneighbourly form of development that adversely affects the privacy, or perception of privacy, to the occupants of properties on both flanks of the development, by reason of the combination of the elevated nature and rearward projection of the raised patio, and still results in an excessive extent of plot coverage, contrary to para 3.4 of the approved MPCAA, that in our opinion, results in material and harmful intrusion into the open character of the overall plot of the host dwelling, which is an important and inherent characteristic of the Moor Park Conservation Area estate as a whole.

Consequently, we wish to maintain our objections and concerns. We trust the above response, based on what we regard as very relevant and material planning considerations, primarily within the approved MPCAA, will be taken full cognisance of.

4.1.4 Landscape Officer: [No objection]

The Landscape Officer has confirmed that no protected trees have or will be affected by the development and raised no objections to the scheme in terms of impact on trees.

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 9

4.2.2 No of responses received: 8 objections

4.2.3 Site Notice: 14 September 2022

Press notice: 26 August 2022

4.2.4 Summary of Responses:

Adverse effect on trees; Adversely affects Conservation Area; Overdevelopment; Overshadowing; Too close to the boundary; Unauthorised works at No.7A and to the dwelling of 7A which are not shown on the plans; Works are grossly unneighbourly, ill-devised, inappropriate and out of character with the Conservation Area; Would set a precedent if approved; Works should be constructed in accordance with the approved plans; Works as constructed are materially different to the approved plans and majorly breaches planning control; Spoil from No.7 has been tipped onto the application site and the plant room is contrary to the plans; Land level changes has killed off vegetation and tree cover; Blatant disregard for policies, neighbourly good manners and neighbouring amenity; Works should only be in accordance with the approved plans; Overlooking of neighbours; Privacy screen will be visible and affect openness and will affect special quality of the Conservation Area; Loud house parties from the garden and noise problems

from the garden; People are continuing to do what they like within Moor Park; Patio is very high; Gross invasion of neighbours privacy; Enforcement should be taken to prevent others from doing the same; Plans are larger than approved and should be refused on that basis; The amended plans are noted; Amendments do not address plant room, land level changes or inaccuracies and do not overcome concerns; Enforcement action should be duly taken; If approved judicial process will be reviewed; A Councillor (not Planning Committee Member) visited property and notes it should be removed; No screens should be permitted; Application should not be permitted as is not in accordance with approved scheme.

5 Reason for Delay

5.1 Delays in accessing the site and due to amendments to the plans.

6 Relevant Planning Policy, Guidance and Legislation

6.1 Legislation

6.1.1 Planning applications are required to be determined in accordance with the statutory development plan unless material considerations indicate otherwise as set out within S38(6) Planning and Compulsory Purchase Act 2004 and S70 of Town and Country Planning Act 1990).

6.1.2 S72 of Planning (Listed Buildings and Conservation Areas) Act 1990 requires LPAs to have special regard to the desirability of preserving the Conservation Area.

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

6.1.4 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.

Policy / Guidance

6.2 National Planning Policy Framework and National Planning Practice Guidance.

6.2.1 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”.

6.2.2 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 unless there is a clear reason for refusing the development (harm to a protected area).

6.3 The Three Rivers Local Development Plan

6.3.1 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.

- 6.3.2 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, CP9, CP10 and CP12.
- 6.3.3 The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM1, DM3, DM6, DM8 and DM13 and Appendices 2 and 5.
- 6.3.4 The Moor Park Conservation Area Appraisal (adopted 2006)

6.4 Other

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

7 **Planning Analysis**

7.1 Principle of Development

- 7.1.1 Following site inspections as part of the enforcement investigation, it has been noted that the patio and garden have not been carried out in accordance with the approved plans of planning permission 21/2425/FUL and therefore are in breach of planning control (not an offence under the planning acts)..It is also recognised that there are other changes to the extensions (as well as the erection of air conditioning units) which have not occurred in accordance with the relevant planning permission (21/2425/FUL). Importantly, this application **only** considers those alterations to the garden and raised patio. The following assessment is to take into consideration any harm arising from the works as identified on site and as shown on the proposed plans. The assessment will not be based on the differences between the development as constructed and proposed and that of the approved scheme. Notwithstanding this, the main differences between the approved scheme and proposed scheme are set out below for clarity:

- Addition of a plant room to the rear of the patio to the south east;
- The main patio is 0.4m higher than the approved patio; the section to the rear of the two storey projection sits 0.63m higher than the approved;
- The patio sits 1.4m deeper and 2.5m wider than approved.

- 7.1.2 It is noted that comments have been received that the topographical data submitted in support of the application is inaccurate however no evidence has been submitted to demonstrate what these inaccuracies are. As such, the application is assessed on the information submitted and from site visit observations given the works have been carried out and therefore the harm arising from the height and siting of the works to the site can be appreciated on site and have been given full consideration..

7.2 Impact on Heritage Assets, 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 relates to design and states that in seeking a high standard of design, the Council will expect development proposals to 'have regard to the local context and conserve or enhance the character, amenities and quality of an area' and 'conserve and enhance natural and heritage assets.'
- 7.2.2 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. Extensions should not be excessively prominent and should respect the existing character of the dwelling, particularly with regard to the roof form, positioning and style of windows and doors, and materials. Although it is noted that this criteria relates to extensions to a dwelling and the proposal is for a patio etc, the guidance facilitates the assessment of the proposed development.

- 7.2.3 The site is located within the Moor Park Conservation Area and Policy DM3 of the Development Management Policies LDD sets out that within Conservation Areas, development will only be permitted if the proposal is of a scale and design that preserves or enhances the character and appearance of the area. The Moor Park Conservation Area Appraisal (adopted 2006) states that the bulk and massing of large extensions will also be considered in terms of consistency with the characteristic building form of the Conservation Area.
- 7.2.4 The Moor Park Conservation Area Appraisal states at paragraph 3.4: 'Buildings, including all outbuildings, should not cover more than 15% of the plot area'. The dwelling, higher patio level and plant room would result in a plot coverage of approximately 21% (the dwelling and plant room have a plot coverage of 16.6%). This would result in a greater plot coverage than the 15% as set out within the Appraisal. However, this sum is for completeness and the Appraisal does not stipulate that raised patios should be included within this calculation. The patio does not form or have the appearance of a building and the plant room is ancillary in nature and scale. The overall coverage of the patio and plant room of the site in its entirety is minimal and does not result in an urbanising feature or overdevelopment of the site within the Conservation Area. The site remains largely undeveloped and a sense of openness is maintained which preserves the open spacious character of the Conservation Area, a key characteristic. The plans have been amended detailing that the lower patio area would be removed with the exception of a path providing access to the plant room. This would help to prevent further incursion of built development into the garden. Any planning permission would include a condition detailing that the lower patio area must be removed and replaced with soft landscaping. In light of the works that have occurred at the site and to protect the character of the Conservation Area Classes E (outbuilding) and F (hardstanding) of the General Permitted Development Order will be removed from the site.
- 7.2.5 The Moor Park Conservation Appraisal also states that 'a minimum of 20% of the site frontage at existing building lines must be kept clear of all development along the entire flank elevations, subject to a distance of not less than 1.5m being kept clear between flank walls and plot boundaries'. The patio, plant room and screening would not project any closer to the boundary than that of the existing built form thus would not affect the openness of the site and Conservation Area by virtue of bringing built form closer to the flank boundaries.
- 7.2.6 The development includes a plant room and screening along both flank aspects of the patio that would sit 3.8m above the lower ground level. The plant room and screening would result in the addition of built form projecting deeper into the site than that of the permitted scheme where neither were proposed. The Conservation Area Appraisal states: 'Deep floor plans that entail substantial rearward projection at flank walls, tend to block oblique views of tree and garden back drops from the street past houses on the street frontage. Where this affects the spacious character of the conservation area and gives the impression of space between houses being reduced or gaps being closed up, deep floor plans are unlikely to be acceptable.' The plant room is sited at a height that is not visible from view points along Wolsey Road. Both of the screens would be set in from the boundary and they would be of a height and location that would not be readily apparent or form prominent feature as viewed from Wolsey Road. Thus although the development would result in built form projecting deeper into the site, due to their scale and siting, they would not serve to block any oblique views of tree and garden back drops from the street past houses on the street frontage. The alterations to the land levels are

not apparent from vantage points along the street and do not change the character of the site or surroundings.

7.2.7 In relation to the special character of the Moor Park Conservation Area the Appraisal highlights the features of Moor Park that create its special character:

'The special architectural and historic interest that justifies designation of the Conservation Area derives from the following features:

- Houses built in the 1920s/1930s – 1950s and set back in spacious surroundings
- Many beautiful trees set around wide avenues
- Spectacular views along tree lined roads • Open frontages separating gardens from the estate road verges
- Grass verges and shingle paths
- Attractive roads in differing scales
- Many characteristic original features including chimneys Original 1930s chimney in Wolsey Road

'The existing development has a special visual quality created by large houses situated on individual plots along wide streets with high quality landscaping. The layout is characterised in some areas by open frontages, low walls or hedges separating gardens from the estate road verges, which was a feature of the original design. Existing trees make a special contribution to the character of the area.'

7.2.8 As identified within the previous permissions 7A Wolsey Road was an infill dwelling and not a pre-1958 dwelling; the dwelling is a modern addition where the pre-existing design had a neutral contribution to the overall character and appearance of the Conservation Area. The patio, plant room and alterations to the garden levels do not serve to impact or detract from any of the architectural or historic features as set out above that characterise the Moor Park Conservation Area and does not result in overdevelopment of the plot or impact on views into and out of the site. As such, the development as constructed and proposed would not have an adverse impact on the overall character and appearance of the Moor Park Conservation Area.

7.2.9 The Conservation Officer has raised no objections to the siting, scale, layout or design of the patio, plant room and screening. Thus the development would not serve to detract from the character and appearance of the Moor Park Conservation Area or street scene in accordance with Policies CP1 and CP12 of the Core Strategy, Policies DM1, DM3 and Appendix 2 of the DMP LDD and the Moor Park Conservation Area Appraisal.

7.3 Impact on amenity of neighbours

7.3.1 Policy CP12 of the Core Strategy states that development should 'protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space'. Policy DM1 and Appendix 2 of the Development Management Policies document set out that extensions 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.

7.3.2 The garden levels have been increased by a maximum of 0.6m in parts. As identified on site the alterations to the garden levels do not facilitate overlooking into either neighbouring property and the hedging sited along the boundaries was sufficient to prevent overlooking.

- 7.3.3 The patio level does facilitate a degree of overlooking into the garden and dwelling of No.9 and allows clear views into the garden of No.7 (although it is noted there was limited boundary treatment between the properties at the time of the site visit). To mitigate this privacy screening has been indicated on amended plans along the length of the patio. The privacy screening would be sufficient in design, siting and height to prevent overlooking from the patio into the neighbouring properties thus protecting their privacy. The privacy screening would be sited between the patio and the raised plant room which would also prevent use of the roof of the plant room as a terrace. A condition would be attached to any planning permission as well that the roof of the plant room shall only be accessed for maintenance purposes only.
- 7.3.4 The patio as constructed is of a height and location that does not result in any loss of light or harm to the visual amenities of the neighbouring properties. The plant room projects beyond the rear elevation of the neighbouring properties however it is set at a height that does not result in any loss of light or harm to the visual amenities of both neighbouring properties. The privacy screening along the flank elevations of the patio would bring built form deeper into the site than the dwelling at a height of 3.8m above the lower ground level. No.7 is set in from the common boundary and projects deeper into the site than the application dwelling. The siting, depth and height of the proposed screen would not result in loss of light or harm the visual amenities of No.7. The privacy screen would be visible from the neighbouring garden but would not result in a dominant or obtrusive feature.
- 7.3.5 In relation to No.9 the proposed privacy screen would have a stepped nature with the closest section (sited closer to the host dwelling) being set in approximately 3.8m from the common boundary increasing to 7.4m at the deepest point of the patio. No.9 is set forward of the patio and the privacy screen would therefore be visible from their raised patio, ground floor and first floor windows. However, the fact that a structure would be visible from a neighbouring property does not lead to automatic harm. The screen would be set in a sufficient distance from the common boundary with No.9 where it's siting and height would not result in a dominant or obtrusive feature as viewed from the neighbouring property or result in any loss of light or impact on their visual amenities. Concerns are raised that the proposed screening would affect the openness of the Conservation Area. The views of the screening would be from the rear of the neighbouring properties and not from public vantage points. As discussed in the section above the screen would not be readily apparent from outside of the site along Wolsey Road and would not adversely affect open views thus would not result in any demonstrable harm to the open character of the Conservation Area. It is noted that two sets of stairs have been constructed on either side of the patio. These steps project deeper into the site than that of the screens however they provide access only and in a location that would not permit unacceptable overlooking into the neighbouring properties.
- 7.3.6 It is considered that the garden levels, patio and plant room as constructed do not result in any unacceptable overlooking into the surrounding neighbouring properties and do not result in any loss of light or harm to the visual amenities of No.7 or No.9. The privacy screening would add additional bulk to the rear of the dwelling however due to the set in of the privacy screening from the common boundary with No.9 and that No.9 is also served by a raised terrace to the rear the proposed privacy screening would not result in a dominant or oppressive relationship. The siting of the privacy screening would not result in loss of light or any harm to the visual amenities of either No.7 or No.9. The patio does not result in any unacceptable overlooking into the neighbouring properties to the rear.
- 7.3.7 The development would therefore not result in any demonstrable harm to the residential amenities of the surrounding neighbouring properties in accordance with Policy CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the DMP LDD.

7.4 Wildlife and Biodiversity

- 7.4.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive.
- 7.4.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of applications in accordance with Policy CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the DMLDD. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications that may be affected prior to determination of a planning application.
- 7.4.3 It has not been identified that any protected species have be affected by the development and the works to be carried out would not adversely affect any protected species.

7.5 Trees and Landscaping

- 7.5.1 Policy DM6 of the DMP LDD sets out that development proposals should seek to retain trees and other landscape and nature conservation features, and that proposals should demonstrate that trees will be safeguarded and managed during and after development in accordance with the relevant British Standards.
- 7.5.2 The application site is located within a Conservation Area and as such all trees are protected by virtue of the conservation status of the land. No.7 also contains individually protected trees; the Landscape Officer has confirmed that the development will not have impacted on any protected trees within the application site and neighbouring site.
- 7.5.3 The land levels have resulted in alterations around the two trees within the rear amenity space provision. The land level alterations have resulted in additional spoil being imported onto the site including around the tree. The spoil has been overlaid with grass and still provides a porous layer thus water can still filtrate down to the roots of these trees. It is not considered that the spoil has resulted in compaction of the ground that would adversely affect the trees or the vegetation screens that form the boundary treatments. It has been identified on site that the vegetation screen closer to the dwelling along the common boundary with No.9 has been thinned. However, it was still in situ at the time of the site visits and this area is sited adjacent to existing areas of hardstanding which have not been altered. Thus the works to the land levels did not appear on the site visit to have affected the hedging along the boundaries and the hedge was still in situ. Notwithstanding this, a condition requiring the replacement of any tree or boundary hedging that may die within the next 5 years will be attached to any planning permission.
- 7.5.4 The steps to the north west aspect of the patio are sited closer to the neighbouring protected tree however are considered to be of a scale and location that do not adversely affect this tree.

8 **Recommendation**

- C1 That PART RETROSPECTIVE PLANNING PERMISSION BE GRANTED and has effect from the date on which the development is carried out and is subject to the following conditions: Those part of the development hereby permitted which have not been completed shall be carried out in accordance with the following approved plans: 41950BDLS-01, 1360/P2/1C, 1360/P2/6C, 1360/P2/7B.

Reason: For the avoidance of doubt and in the proper interests of planning and in the interests of the character and appearance of the Conservation Area and the residential amenity of neighbouring occupiers, in accordance with Policies CP1, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011), Policies DM1,

DM3, DM6, DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013) and the Moor Park Conservation Area Appraisal (2006).

- C2 Within 1 month of the date of this decision, elevational details of the design of the 1.8 metre high privacy screens, including their obscenity level, as shown on drawing numbers 1360/P2/6C and 1360/P2/1C shall be submitted to the Local Planning Authority for approval. The privacy screens shall be implemented within 1 month of the date the submitted details were agreed in writing by the Local Planning Authority and the privacy screens shall be permanently maintained thereafter in terms of their design, obscenity level and height.

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).

- C3 Notwithstanding the details on the approved plans (referred to within Condition 1) within 3 months of the date of this decision the concrete lower patio area, as shown on the approved plans as being removed, shall be removed in its entirety and replaced with soft landscaping at the same level as the adjacent grassed amenity space provision as shown on Plan 41950BDLS-01. All resultant materials and debris shall be removed from the application site and wider site (as enclosed in red and blue on drawing number 1360/P2/1C).

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 If any existing trees or hedging along the site boundaries, die, become severely damaged or diseased within five years of the date of this decision 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 scheme has a satisfactory visual impact on the character and appearance of the area 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 Policies DM1, DM3, DM6 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C5 The roof of the plant room hereby permitted shall only be accessed for maintenance purposes. The plant room shall not be accessed for amenity purposes at any time.

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

- C6 Immediately following the date of this decision, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any other revoking and re-enacting that order with or without modification) no

development within the following Classes of Schedule 2 of the Order shall take place.

Part 1

Class E - provision of any building or enclosure

Class F - any hard surface

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 Moor Park Conservation Area, in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM3 of the Development Management Policies LDD (adopted July 2013).

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

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PLANNING COMMITTEE – 23 FEBRUARY 2023

PART I - DELEGATED

6. **22/1507/FUL - Partial demolition of no.51 and sub-division of rear gardens of no.51 and no.49 and construction of two storey detached dwelling with associated access road and boundary treatment at THE HAWTHORNS, 51 BATCHWORTH LANE, NORTHWOOD, HA6 3HE (DCES)**

Parish: Batchworth Community Council
Expiry of Statutory Period: 24.02.2023
Extension of Time: 28.02.2023

Ward: Moor Park and Eastbury
Case Officer(s): David Heighton /
Matthew Roberts

Recommendation: That Planning Permission be Refused.

Reason for consideration by the Committee: Called in three members of the Planning Committee regardless of recommendation due to concerns with the impact on the adjacent Grade II listed building, backland development, size, scale, design and massing of the new dwelling and impact on trees.

Update: This application was presented to members at the January Planning Committee but was deferred for a site visit which took place on 11 February.

Since the January Planning Committee the applicant has altered the drawings, removing the first floor level glazing within the south eastern elevation (facing No.51 Batchworth Lane) and altering the gabled projection to a hipped roof. The report has been updated to reflect the amended plans which includes the removal of the 2nd reason for refusal.

1 Relevant Planning History of No.49

- 1.1.1 18/1246/FUL: Construction of detached outbuilding to rear. Permitted, not implemented.

1.2 Relevant Planning History of No.51

- 1.2.1 18/1248/FUL: Construction of detached outbuilding to rear. Permitted, not implemented.

1.3 Relevant Planning History combined both Nos.49 and 51

- 1.3.1 21/0254/FUL: Partial demolition of no.51 and subdivision of rear gardens of no.51 and no.49 and construction of two storey detached dwelling, garage and access road including new vehicular crossover. Withdrawn 20.04.2021.

- 1.3.2 21/1839/FUL: Partial demolition of no.51 and subdivision of rear gardens of no.51 and no.49 and construction of two storey detached dwelling, garage and access road including new vehicular crossover. Withdrawn 22.12.2021.

2 Description of Application Site

- 2.1 The application site relates to an 'L' shaped parcel of land incorporating part of No.51 Batchworth Lane (known as The Hawthorns), part of the rear gardens of both No.51 and No.49 Batchworth Lane and part of the adjacent highway including an existing drop kerb. The wider site as enclosed in blue on the Location Plan incorporates the remaining parts of Nos.49 and 51.

- 2.2 No.51 Batchworth Lane is a detached dwelling with an integral garage to the south and a single storey flat roofed extension to the north. The property has a carriage driveway and is bounded by hedging.
- 2.3 No. 49 Batchworth Lane is also a detached dwelling enclosed by mature hedging. It is built on a similar building line to No.51 although due to the topography within the vicinity it is sited on a lower land level than the neighbouring property. There is a natural dip within the garden with the land rising upwards slightly towards the northern boundary.
- 2.4 To the north west of the application site there is a Grade II listed building known as Upland Court which is independently accessed from Batchworth Lane. This building comprises three dwellings (1-3 Upland Court) with a further 4 large detached dwellings (4-7 Upland Court) located beyond. The access drive for the above properties runs parallel with the north eastern boundary of the application site and is on a slightly higher land level.
- 2.5 The application site including the wider site is covered by a Tree Preservation Order (TPO477).

3 Description of Proposed Development

- 3.1 This application seeks full planning permission for the partial demolition of no.51 and subdivision of rear gardens of no.51 and no.49 and the construction of a two storey detached dwelling with associated access road and boundary treatment.
- 3.2 The proposed new dwelling would be located within the rear gardens of both No.49 and 51, accessed via a new driveway which would utilise the existing drop kerb serving No.51. The new driveway would require the removal of the existing flat roofed single storey extension at No.51 and would run parallel with the north eastern boundary to a point where it would open out onto an area of permeable bound gravel to provide a parking area for the new dwelling with two designated spaces shown. A new gated access at 1.8m in height would also be proposed, set back from the front boundary of No.51 by approximately 20m. A new dwarf wall 1.8m including brick piers and metal railings are proposed on the north eastern boundary close to the gated access serving Uplands Court. To demarcate the driveway of No.51 and the access into the new driveway, concrete edging will be used.
- 3.3 As a result of the new driveway the gardens of No.49 and 51 would be reduced in size and enclosed with 1.8m high slatted timber fencing. The resultant gardens of Nos. 49 and 51 would be approximately 21m (No.51) and 22m (No.49) in depth.
- 3.4 The new dwelling would have a gabled roof design incorporating two storeys of accommodation including an integral garage, two bedrooms and various other common household rooms. The dwelling would have a maximum height of approximately 7m, a maximum depth of 9.4m and a maximum width of 14.8m (excluding hipped projection within the southern elevation). The dwelling would be set in from the southern boundary with No.49 by 3.5m and set in from the boundary with No.51 by a minimum of 2.7m (due to gabled projection) and 3.5m. It would be set in from the northern boundary with 1-3 Uplands Court by a minimum of 4.8m increasing to approximately 5m towards the rear.
- 3.5 The dwelling would be finished with brickwork (Heritage Blend) and timber larch cladding with slate tiles applied to the roof. The windows would be dark timber framed with the use of conservation rooflights which are proposed to both roofslopes.
- 3.6 To the south west of the house, there would be a raised patio area (0.5m) and a garden area laid to lawn totalling a depth of 14.5m. New planting is proposed throughout the site.
- 3.7 The application was accompanied by a Design and Access Statement, Heritage Statement, Financial Viability Assessment, Energy Statement and Tree Survey with accompanying tree constraints plan and tree protection plan.

- 3.8 The description of works was amended during the application process removing reference to a proposed garage and new vehicular crossover, neither of which are proposed under this application.
- 3.9 As highlighted above within the update the original plans have been updated to remove first floor level glazing within the south eastern elevation with the gabled projection altered to a hipped roof.
- 3.10 This application follows two previous withdrawn schemes. The key differences between the last withdrawn scheme (21/1839/FUL) and the current development are as follows:
- Removal of detached garage.
 - Change in design of house (removal of crown roof but higher pitched roof).
 - Reduced depth and width.

4 Consultation

4.1 Statutory Consultation

4.1.1 Batchworth Community Council: [Objection]

This is the third application submitted, and it is not vastly different from earlier versions although we note the scale of this application has been reduced a little in terms of height. The others, after significant objections from neighbours and other parties led to them being withdrawn. With the lack of significant change in this application BCC objects to this application for the following reasons:

- 1. Fundamentally the nature of this development has to be deemed development of back land and in an environment / location where it is inappropriate. It is still excessive and should be refused. We are aware that other developments of this nature (back land) have been refused by TRDC and Councillors at Full Council.*
- 2. The design does not fit in with the Three Rivers Heritage and Conservation standards and the Arts and Crafts buildings surrounding it.*
- 3. Any development on this land will encroach on the privacy enjoyed for many years of those living in Upland Court and architecturally will not sit favourably alongside the building.*

4.1.2 Conservation Officer: [Objection]

Numbers 49 and 51 Batchworth Lane are located within the setting of the Grade II listed Upland Court (list entry: 1100871). Upland Court was constructed in 1910 and designed by British architect M.H Baillie Scott.

This is the second consultation within this application. The application also follows two previously withdrawn applications for a similar scheme (ref: 21/0254/FUL & 21/1839/FUL) for the partial demolition of no.51 and subdivision of rear gardens of no.51 and no.49 and construction of two storey detached dwelling with associated landscape works.

As previously advised, a new dwelling in this location would result in harm to the listed building by introducing built form to the remaining green buffer between the listed building and later development. The loss of the green space and encroachment of modern development closer to the listed building would have an adverse impact on the listed building's setting. Such concerns have not been addressed.

Previous advice highlighted that the new development had not been shown in the context of the listed building. The streetscene provided demonstrates that the proposal would be

clearly visible from the private access driveway to the listed building. The ridge of the proposed dwelling would sit higher than the first-floor windows of the listed building; Not only would this have an adverse impact on the otherwise verdant approach to the listed building, but the development would also likely be visible from the listed building and Batchworth Lane. I acknowledge that there is some existing tree screening, but this does not mitigate the visual impact and cannot be guaranteed in perpetuity.

Notwithstanding in principle concerns, the proposed form and appearance poorly relates to local character and distinctiveness. There is limited information on the material detail of the proposed dwelling so I cannot provide fully informed feedback on this aspect. Given the scale and appearance of the proposed dwelling the proposed dwelling would not appear as an ancillary building to Number 51.

The proposal would be contrary to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as well as paragraph 197c, 202 and 206 of the NPPF.

4.1.3 Landscape Officer: [No objection]

The site is covered by a Tree Preservation Order (TPO477) which protects all trees within the area A1. The plans submitted are sufficient to establish that protected trees will not be removed or harmed as a result of the proposed development. However, a condition should be applied that requires the applicant to follow the submitted tree protection method statement, and implement the proposed remedial landscaping plan, including new tree and shrub planting, prior to occupation of the new dwellings.

4.1.4 Hertfordshire County Council Highways Authority (HCC): [No objection, informative recommended in the event of an approval]

Comments/Analysis

It is noted that a previous application with a similar layout was responded to by HCC as the Highway Authority under reference 21/1839/FUL

Site and Surroundings

Batchworth Lane is an unclassified local distributor road subject to a 30mph speed limit which is highway maintainable at public expense. The closest bus stop is located approximately 150m from the site on Sandy Lane and is a stop for 832 and 833 buses to South Oxhey or Garston in the other direction. The nearest train station is an approximate 2.25km walk from the site and is served by the Metropolitan Line to Aldgate, Amersham, Chesham and Watford. Therefore, the Highway Authority are satisfied the site is in a sustainable location enough for an increase by a single dwelling, which is in line with the principles set out in HCC's Local Transport Plan 4 (LTP4).

Access and Parking

The application proposes the access to the new dwelling use an existing dropped kerb which is currently a part of the driveway of 51 Batchworth Lane. This existing access has a suitable visibility splay of 2.4m x 43m, as outlined in Roads in Hertfordshire: Highway Design Guide 3rd Edition Section 4 – Design Standards and Advice. The demolition of the annex at 51 Batchworth Lane creates a driveway for the new dwelling which is 3.2m wide at its smallest, this width is suitable for a car to use the driveway. The gate within the driveway is also set back far enough, minimum 5.5m, from the back edge of highway so that vehicles will not be waiting in the highway for it to open. There have been no collisions close to the existing access within the last 5 years. Ultimately the LPA will have to be satisfied with the parking provision, but HCC would like to comment that the proposed parking provision at the site is for two parking spaces with an additional space being available within a garage. The proposed garage measures approximately 3.3m x 6m, it is noted that for garages to be considered an appropriate parking space, as part of the provision at the site, they should measure a minimum of 3m x 6m. One cycle parking space has been provided within the

garage. An electric vehicle charging point has also been included at the site, any electric vehicle charging should be in line with new building regulations and TRDC emerging standards.

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 collection location and residents should not carry waste for more than 30m to the collection point. It is noted that the 30m carry distance is exceeded at this site considerably, ultimately TRDC as the waste collection authority will have to be satisfied with the waste collection arrangements at the site.

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. This distance is exceeded at the site. However, in a previous application at the site, ref. 21/1839/FUL, Herts Fire and Rescue was consulted on a dwelling in the same location and suggested the use of sprinklers and a 20m reversing distance into the site. As the site plan does not differ greatly from the previous application, it is assumed that Fire and Rescue would still be satisfied with this arrangement as written within the Design and Access Statement. The width of the driveway, approximately 3.7m, is the minimum width a fire vehicle requires to operate, and the 3.2m width of the gate is the absolute minimum pinch point for an emergency vehicle to get through.

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.

4.1.5 Herts Fire & Rescue Service: [No objection]

This matter was referred to HFRS to confirm satisfaction with access for a fire appliance, it was previously agreed that with the installation and maintenance of a suitable sprinkler system then the access arrangements were suitable. It appears from the plans submitted that the access arrangements have not changed and therefore we have no further comments to make at this time.

4.1.6 National Grid: [No comments received. Any comments received will be updated verbally]

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 15 No of responses received: 7 (objections)

4.2.2 Site Notice: Expired 26.01.23 (affects setting of listed building)

Press Notice: Expired 03.02.23 (affects setting of listed building)

4.2.3 Summary of responses:

- Impact upon green surroundings
- Impact heritage asset
- Overdevelopment
- Set a precedent of more backland developments
- Further removal of trees required
- Request that tree line boundary maintained
- Excess traffic generation
- Highway safety
- TPOs already lost
- Overlooks Grade II listed building

- Security risk

4.2.4 The above objections are considered within the following analysis section.

5 Relevant Planning Policy, Guidance and Legislation

5.1 Legislation

5.1.1 Planning applications are required to be determined in accordance with the statutory development plan unless material considerations indicate otherwise (S38(6) Planning and Compulsory Purchase Act 2004 and S70 of Town and Country Planning Act 1990).

5.1.2 S66(1) of Planning (Listed Buildings and Conservation Areas) Act 1990 requires LPAs to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.

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

5.1.4 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.

5.2 National Planning Policy Framework and National Planning Practice Guidance

On 20 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.

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.

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.

5.3 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, CP9, CP10 and CP12.

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

6 Planning Analysis

6.1 Principle of Development

- 6.1.1 The proposed development would result in a net gain of a single dwelling. The application site is not identified as a housing site in the Site Allocations LDD (SALDD) (adopted November 2014); 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 planning policies.
- 6.1.2 Policy CP2 of the Core Strategy (adopted October 2011) 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.
- 6.1.3 The application site falls within a Secondary Centre as defined by the Core Strategy's Place Shaping Policy, PSP3. Policy PSP3 states that development in Secondary Centres will focus development predominantly on sites within the urban area, on previously developed land. Whilst the application site falls outside of the definition of previously developed land within the NPPF, it falls within an existing residential environment and would aid delivery towards the Council's housing supply. As such, there is no in-principle objection to a new dwelling in this location subject to compliance with other material planning considerations.
- 6.1.4 As the Council currently cannot demonstrate a five year supply of housing paragraph 11 of the NPPF is engaged meaning that planning permission should be granted unless either a) the application of policies in this Framework (NPPF) that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or, b) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

6.2 Affordable Housing

- 6.2.1 In view of the identified pressing need for affordable housing in the District, Policy CP4 of the Core Strategy seeks provision of around 45% of all new housing as affordable housing and requires development resulting in a net gain of one or more dwellings to contribute to the provision of affordable housing. This policy requirement and associated evidence is set out further at **Appendix A** of this report. Developments resulting in a net gain of between one and nine dwellings may meet the requirement to provide affordable housing through a financial contribution. Details of the calculation of financial contributions in lieu of on-site provision of affordable housing are set out in the Affordable Housing Supplementary Planning Document. The proposed development would result in a net gain of one dwelling as such a monetary contribution would be required to be sought unless viability demonstrates otherwise.
- 6.2.2 As part of the previous withdrawn application 21/1839/FUL, a viability appraisal was submitted and reviewed by the Council's Independent Viability Consultant in October 2021. On the basis that the current application was validated less than 1 year since the previous report it was agreed that no further assessment was required. The previous assessment had concluded that the scheme, which is not dissimilar to the current proposal, was unable to support an off-site affordable housing payment and remain viable. Since, October 2021 there has been significant inflation rises and the continued increase in material costs.

- 6.2.3 The proposed development has therefore demonstrated that it would not be viable to provide a contribution towards affordable housing and thus meets the requirements of Policy CP4 of the Core Strategy and the Affordable Housing Supplementary Planning Document (approved June 2011).
- 6.3 Design, impact on Heritage assets and character of area
- 6.3.1 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 states that development should 'have regard to the local context and conserve or enhance the character, amenities and quality of an area'.
- 6.3.2 Policy DM1 and Appendix 2 of the Development Management Policies document set out that development should not have a significant impact on the visual amenities of an area.
- 6.3.3 Policy DM3 of the Development Management Policies document states that the Council will preserve the District's listed buildings and will only support applications where any extension or alteration would not adversely affect its character as a building of special architectural or historical interest or its wider setting. Whilst this policy is specific to extensions and/or alterations, it is considered appropriate to use when considering the merits of this application and on the basis that part (a) of Policy DM3 makes reference to applications only being supported where the significance, character and setting of the asset is conserved or enhanced.
- 6.3.4 The application site is located within a built up suburban environment characterised by large detached dwellings within a sylvan setting. That said, within relatively close proximity to the application site there are a number of backland developments which comprise detached dwellings positioned behind houses fronting Batchworth Lane such as Portland Heights and Farrington Place. Further infill residential development has also occurred such as Upland Court and the redevelopment of Valency Drive. As a result, the existence of long access drives and noticeable dwellings behind those fronting Batchworth Lane is very apparent and thus informs the current character of the area.
- 6.3.5 Policy DM1 of the Development Management Policies states 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. Importantly, this policy does not prevent backland development from occurring, only 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 dwellings and streetscape features.
- 6.3.6 It is recognised that the development would be regarded as tandem development, as the new dwelling would be positioned behind Nos.49 and 51. It therefore fails to meet part (i) above. That said, the same policy also refers to the layouts of development subject to maintaining the particular character of the area, thereby allowing a degree of flexibility. In this instance and as highlighted above, there are many examples of tandem developments within the immediate locality which informs the character of the area. Whilst it is acknowledged that eastwards of Farrington Place there is no tandem development, the character of the area is more widely considered and should not be restricted so finely. As highlighted above, the wider area is characterised by detached dwellings including the presence of dwellings behind houses fronting Batchworth Lane with various long driveways evident. The proposal would therefore follow this pattern of development and be in keeping

with the character of the area with regards to plot size and layout. Whilst a new access drive would be evident there would be no alterations to the existing highway with the new driveway and associated gate set back considerably from the front boundary with the highway. Whilst the new access would be visible and read in conjunction with the existing access to Upland Court, given its set back relative to the highway and proposed close boarded fencing between the two driveways it would not appear as a conspicuous feature. Whilst a softer boundary treatment would be preferred adjacent to the front of the access with Uplands Court, the brick pier and railings would not be out of character.

- 6.3.7 Its terms of the dwelling's design and appearance, it would be in keeping with the wider area which comprises a variety of architectural styles.
- 6.3.8 Due to the introduction of the new dwelling and its associate curtilage, the gardens serving Nos.49 and 51 would be reduced in size. Nevertheless, their resultant size would be comparable with other properties in the locality and thus would still be in-keeping.
- 6.3.9 Parts (ii), (iii) and (iv) are considered further later within the report.
- 6.3.10 Notwithstanding the above, the proposed dwelling would sit to the immediate south of Upland Court, a Grade II listed building of Arts and Craft style attributed to M.H Baillie Scott. Due to past modern infill developments, such as 4-7 Upland Court, the listed building is enclosed to the north closely by modern detached dwellings which have eroded its setting, albeit they are sited to the rear of the listed building which mitigates their overall impact. Whilst a relatively dense tree screen exists between the listed building and the application site, this would not screen the proposed dwelling from view from both the listed building and from neighbouring vantage points, especially from the rear garden of No.49 whereby the listed building is highly evident. From within the circulation space to the south of the listed building the absence of substantial built form is highly noticeable and thus provides a green buffer. Whilst the outbuilding within the garden of No.51 is evident, it is a low key ancillary structure. The new dwelling would introduce a far more prominent development, with a tall gabled roof design which would erode the green buffer and appear as an incongruous feature from within and surrounding the listed building.
- 6.3.11 The dwelling would also be highly prominent upon the approach to the listed building from its associated access road by virtue of its size and gabled design. Due to the scale and roof design of the dwelling and its siting relative to the listed building, this would exacerbate the incongruous nature of the development which would ultimately detract from the setting of the listed building. The proposed building would also obscure views of the listed building from Batchworth Lane, which can be glimpsed. When taking the above into account which is supported by the Conservation Officer, it is considered that the scale of the building in conjunction with its design harms the setting of the Grade II listed building and therefore is contrary to Policy DM3 of the Development Management Policies LDD.
- 6.3.12 The development is considered to result in less than substantial harm when applied to paragraph 202 of the NPPF (2021). Whilst the proposed development would result in a new dwelling, it is not considered that this, given the level of harm, would result in sufficient public benefit to outweigh the identified harm.
- 6.3.13 In summary, whilst the development would respond to the character of the area, it would detract from the setting of the Grade II listed building and therefore fails to accord with Policy DM3 of the Development Management Policies LDD and the NPPF (2021).

6.4 Impact on amenity of neighbours

- 6.4.1 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.

- 6.4.2 Due to the location of the dwelling and its relationship with adjacent neighbouring properties it would not result in any loss of light. To the north of the dwelling are the rear gardens of the dwellings forming Upland Court; however, due to the presence of mature protected trees, it is not considered that the dwelling would result in any unacceptable overshadowing.
- 6.4.3 In terms of prospect, the Design Criteria as set out in Appendix 2 states that where the rear of a building looks onto the side of another the distance between them must be sufficient to avoid the flank wall having an overbearing effect. The southern elevation of the proposed dwelling would be separated from the rear building line of No.49 in excess of 24m and a minimum of 23m from No.51. Whilst the dwelling would be on slightly higher ground the design of the flank with a sloping pitched roof, along with the distances are considered to be acceptable as mitigation to avoid the dwelling from appearing unduly prominent to the neighbouring properties.
- 6.4.4 In terms of safeguarding privacy and preventing overlooking, the Design Criteria states 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 onto each other or in other circumstances where privacy needs to be achieved.
- 6.4.5 The proposed window at first floor level serving the guest bedroom within the north eastern facing gabled elevation would face towards the central and rear part of the rear garden serving No.55 Batchworth Lane. The western boundary of No.55 comprises mature trees which are afforded protection via TPO477 which provide a level of certainly over their longevity. Whilst vegetation should not solely be relied upon, given the separation distance between the dwelling and the boundary of No.55 of approximately 20m coupled with the relationship with the neighbouring dwelling and existing vegetation, it is considered that no unacceptable level of overlooking would arise.
- 6.4.6 Within the proposed southern roofslope facing the gardens of Nos.49 and 51 a number of rooflights are proposed serving first floor level accommodation. These rooflights could, in the event of an approval, be conditioned to be positioned above an internal floor height of 1.7m to prevent unacceptable levels of overlooking. Following amended plans the obscurely glazed first floor level window has been removed. As such, there would no longer be first floor level windows within this elevation. As a consequence no overlooking issues would result to No.51.
- 6.4.7 To the northern roofslope, a significant number of rooflights are proposed, both serving ground and first floor level accommodation. It is considered that a condition requiring the first floor level rooflights to be inserted above an internal floor height of 1.7m would be acceptable to prevent overlooking. The ground level rooflights by virtue of their siting would not give rise to overlooking.
- 6.4.8 The proposed first floor level window within the western gabled elevation would face the associated rear garden and the very rear of the garden serving Kirklands, No.47 Batchworth Lane. It is not considered that this relationship would result in an unacceptable level of overlooking.
- 6.4.9 To the rear of the dwelling is a decking patio area which would be approximately 0.5m above the garden level. The patio area would however be set in significantly from the boundary with the proposed boundary treatments of close boarded fencing ensuring that no overlooking would occur. The adjacent garden serving 2 Upland Court is also on a higher land level.

- 6.4.10 Policy DM9 of the Development Management Policies LDD states that planning permission will not be granted for development which has an unacceptable adverse impact on the indoor and outdoor acoustic environment of existing or planned development. On the basis that the development would only result in a net gain of one dwelling it is not considered that the level of activity would result in an unacceptable noise impact on adjacent neighbouring properties through noise and disturbance.
- 6.4.11 For the reasons set out above, the amended proposal would be acceptable, complying with Policy DM1 of the Development Management Policies LDD.
- 6.5 Trees and Landscaping
- 6.5.1 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'.
- 6.5.2 Policy DM6 of the Development Management Policies document 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.
- 6.5.3 The application site and wider site is covered by a tree preservation order (TPO477). The submitted Tree Survey identifies that the development will require the removal of category C trees; Cypresses found in groups G1 and G2. The Cypress trees forming G1 would be removed to facilitate the new driveway while G2 can be found towards north western corner of the application site and would make way for the new parking area/driveway. The removal of these trees is not considered to be unacceptable as they offer little amenity value. To compensate their loss, replacement planting is proposed and specific details regarding their specie type, initial girth height and location could be secured by a planning condition in the event of an approval.
- 6.5.4 The mature line of red Cedars (referred to as G3) is also proposed to be pruned back by 1-1.5m to make space for the building and scaffolding, if permission is granted. The Tree Survey also identifies that the footprint of the proposed building would encroach the root protection area of G3 by a limited amount, although it is recognised that the area close to the trees has a small retaining wall, paths and a concrete slab beneath the outbuilding, all of which would be removed. Therefore, whilst there is a slight incursion of the root protection area of G3, this would not be deemed harmful to the longevity of the trees. The proposed dwelling would be set in by a sufficient distance from the line of trees to prevent future pressure for pruning, whilst also noting that the roof is hipped away from the trees.
- 6.5.5 A tree works application (17/2189/TPO) had previously granted consent to fell 2 dead western red Cedars (referred to as G3 to the rear of No.51), a Hawthorne and 7 Orchard trees in the garden of No.49.
- 6.5.6 The submitted tree protection plan highlights that protective fencing and ground protection would be erected/laid to safeguard the line of red Cedars throughout construction and the mature trees within the north western corner of the new dwelling's garden. These details are considered acceptable and would be conditioned in the event of an approval.
- 6.5.7 In light of the above, subject to conditions relating to replacement planting and tree protection in the event of an approval, the development would not have an unacceptable impact on trees.
- 6.6 Highways, Access and Parking
- 6.6.1 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 and advise that a four or more bedroom dwelling should provide parking for three vehicles.

- 6.6.2 The new dwelling would utilise the existing drop kerb access onto Batchworth Lane which is one of two existing access points serving No.51. No changes are proposed to the drop kerb access which is shared with the access serving Upland Court. The Highway Authority have confirmed that the current access has suitable visibility splays.
- 6.6.3 Concerns have been raised regarding the impact on highway safety; however, it is not considered that the development would materially increase vehicular activity to such an extent that would give rise to any highway safety issues, especially when considering the current access serves a large detached dwelling.
- 6.6.4 Due to the nature of the access, the location of the dwelling would exceed the recommended distance of 45m to enable an emergency vehicle to gain access. However, Herts Fire and Rescue have confirmed that an emergency vehicle would be able to progress 20m down the access with the dwelling fitted with a sprinkler system. This arrangement was considered acceptable under a previous application and has been considered acceptable for this proposal.
- 6.6.5 In terms of parking, Appendix 5 of the Development Management Policies LDD states that a 2 bed dwelling should have 2 spaces per dwelling, one of which should be assigned. The submitted plans show 2 designated parking spaces and a further integral garage space. As such, the development would provide an acceptable level of on-site parking in accordance with Appendix 5.
- 6.6.6 The development would therefore accord with Policy DM10 and Appendix 5 of the Development Management Policies LDD.

6.7 Amenity Space

- 6.7.1 Policy CP12 of the Core Strategy states that development should take into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space and section 3 (Amenity Space) of Appendix 2 of the Development Management Policies document states that a two bedroom dwelling should provide 63sqm of amenity space.
- 6.7.2 The associated garden of the new dwelling would far exceed the requirement level of amenity space.
- 6.7.3 The resultant gardens serving Nos.49 and 51 would both exceed 360sqm of amenity space and thus exceed the required levels of amenity space.

6.8 Wildlife and Biodiversity

- 6.8.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive.
- 6.8.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of applications in accordance with Policy CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the DMLDD. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications that may be affected prior to determination of a planning application.
- 6.8.3 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.

- 6.8.4 New soft landscaping is proposed to compensate the loss of trees along with additional hedging. Such measures are considered acceptable and would be secured by condition in the event of an approval.
- 6.9 Sustainability
- 6.9.1 Paragraph 157 of the NPPF states that in determining planning applications, local planning authorities should expect new development to comply with any development plan policies on local requirements for decentralised energy supply.
- 6.9.2 Policy DM4 of the Development Management Policies LDD sets out that development must produce at least 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.
- 6.9.3 The application has been supported by an Energy Statement which sets out that the development would comply with Policy CP4 by incorporating an air source heat pump, enhanced insulation measures with low thermal mass and enhanced thermal bridging detailing. A condition is recommended to be attached to any grant of planning permission to require the dwelling to incorporate the sustainability measures as set out within the Energy Statement prior to occupation.
- 6.10 Waste Management
- 6.10.1 Policy DM10 of the Development Management Policies LDD states 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 development 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 amenities
 - ii) Waste/recycling areas can be easily accessed (and moved) by occupiers and local authority/private waste providers
 - iii) There would be no obstruction of pedestrian, cyclists or driver sight lines
- 6.10.2 Due to the backland nature of the development and the access arrangements, the future occupants would be required to leave all refuse and recycling bins close to the highway, as per the current arrangement at No.51. This would mean transferring bins/rubbish a considerably distance, in excess of 50m. However, no alternative arrangement can be achieved due to the site circumstances. Whilst not ideal, it is not considered that the proposed arrangement would be unacceptable in planning terms and would accord with Policy DM10.
- 6.11 Summary of assessment against Policy DM1, part (a)
- 6.11.1 The above assessment concluded that whilst the proposal would result in tandem development, it would maintain the layout in terms of areas character and thus be acceptable in this regard. The dwelling would not be served by an awkward access, can be accessed by emergency vehicles and would not harm neighbouring amenity. The development would therefore comply fully with part (a) of Policy DM1 of the Development Management Policies LDD.
- 6.12 Titled balance
- 6.12.1 As highlighted above, due to the Council's housing delivery status decisions should apply a presumption in favour of sustainable development as set out by paragraph 11 of the NPPF. The above assessment has concluded that the development would harm the setting

of a Grade II listed building, a designated heritage asset. As this is deemed an asset of particular importance and provides a clear reason for refusing the development, the tilted balance is not engaged.

- 6.12.2 It is recognised that the development, if granted, would contribute towards the Council's housing supply and result in additional minor economic benefits through its construction and from future occupiers contributing to the local economy. These factors would only attract minor weight in favour of the scheme and would not outweigh the identified harm.

7 Recommendation

- 7.1 That PLANNING PERMISSION BE REFUSED for the following reason:

R1: The proposed dwelling by virtue of its siting, design and scale would appear as an incongruous form of development which would unacceptably erode the open and green setting of the Grade II listed building (Upland Court). This harm would constitute less than substantial harm when applied to paragraph 202 of the NPPF (2021) however no public benefits of sufficient weight are considered to exist to outweigh the harm. The development is therefore contrary to Policy DM3 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2021).

- 8.2 Informative:

- I1 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 has considered, in a positive and proactive manner, whether the planning objections to this proposal could be satisfactorily resolved within the statutory period for determining the application. Whilst the applicant and/or their agent and the Local Planning Authority engaged in pre-application discussions, the proposed development fails to comply with the requirements of the Development Plan and does not maintain/improve the economic, social and environmental conditions of the District.

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

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

Background

- 1.1 In November 2014, the Minister of State for Housing and Planning issued a Written Ministerial Statement (WMS) setting out changes to national planning policy. The WMS stated that financial contributions towards affordable housing should no longer be sought on sites of 10 units or less and which have a maximum combined gross floor area of 1,000sqm. National Planning Practice Guidance (NPPG) was amended to reflect this. However on 31st July 2015 the High Court held (*West Berkshire Council v SSCLG* [2015]) that the policy expressed through the WMS was unlawful and the NPPG was changed to reflect this. On 11th May 2016 the Court of Appeal reversed the High Court decision. The NPPG was subsequently amended to reflect the WMS on 19th May 2016.
- 1.2 In light of the above developments, between November 2014 and August 2015 and May 2016 and 1st September 2017 the Council gave greater weight to the WMS policy and associated NPPG guidance in it than to adopted Policy CP4 of its Core Strategy in respect of development proposals for 10 dwellings or less and which had a maximum combined gross floor area of 1000 sq metres. However, having undertaken an analysis of up to date evidence of housing needs (**The Needs Analysis**), officers advised in 2017 that when considering the weight to be given to the WMS in the context of breaches of the adopted development plan policy, the local evidence of housing need contained in the Needs Analysis should generally be given greater weight. On 1st September 2017 the Council resolved to have regard to the Needs Analysis as a consideration of significant weight when considering the relationship between Policy CP4 and the WMS for the purposes of Section 70(2) Town and Country Planning Act 1990 and Section 38(6) Planning and Compulsory Purchase Act 2004 in respect of development proposals of 10 dwellings or less.

- 1.3 On 24th July 2018 a new version of the National Planning Policy Framework¹ (the Framework) was published with immediate effect for development management purposes. Paragraph 63 of the Framework advises that *“Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer).”* Annex 2 of the NPPF defines *“major development”* as *“for housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more.”*
- 1.4 The Council's current affordable housing policy is set out in Policy CP4 of the Core Strategy (adopted in October 2011) and establishes that :
- a) *“...All new development resulting in a net gain of one or more dwellings will be expected to contribute to the provision of affordable housing.”*
- e) *“In most cases require affordable housing provision to be made on site, but in relation to small sites delivering between one and nine dwellings, consider the use of commuted payments towards provision off site. Such payments will be broadly equivalent in value to on-site provision but may vary depending on site circumstances and viability.”*
- 1.5 The supporting text to Policy CP4 summarises the justification for it:
- 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 and as of 31 December 2021, Three Rivers has received small site affordable housing contributions amounting to over **£2.4 million**. Utilising those monies, development is has funded the delivery of 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 The revised National Planning Policy Framework was updated in February 2019 and July 2021 and retains the policies as stated in Paragraph 1.3 of this document.

- 1.8 In addition to the £2.4 million already received, small scale (1-9 unit) schemes have secured to date a further **£2.7million to £4.0million**² 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 2021, 250 planning permissions were granted for minor residential developments which contribute a net dwelling gain. Of those only 13 have been permitted to lapse which is only 5.2% of all such schemes³.
- 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 2021, 215 planning applications for residential development involving a net gain of dwellings were determined⁴ by the Council. Of these, 191 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 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. Data is as of February 2022

³ The Needs Analyses (December 2019 and December 2020) referred to a lapse rate of 9% for minor developments; manual analysis has since demonstrated that a number of sites included in the 9% lapse figure have been subject to subsequent planning applications which were granted approval. Such sites have therefore still come forward for development despite earlier permissions lapsing. The lapse percentage in this Needs Analysis (January 2022) has therefore been revised to exclude application sites which are subject to later approvals which are either outstanding, under construction or complete.

⁴ Includes refused and approved applications. Excludes prior approval developments.

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":

"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 2016⁵, the lowest quartile house price in Three Rivers in 2016, representing the cheapest properties in the District was £325,000.00, making it the **fifth**⁶ most expensive local authority area in England and Wales (excluding London), out of a total of three hundred and three local authority areas (see table 1 below).

Number	Local Authority Name	Lowest Quartile House Prices (2016)
1	Elmbridge	£375,000.00
2	St Albans	£355,000.00
3	Windsor and Maidenhead	£340,000.00
4	Hertsmere	£330,000.00
5	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 2020 was £365,000⁷. The lowest quartile house price of £365,000 places Three Rivers as the **fourth** most expensive local authority area in England and Wales (excluding London), out of a total of three hundred and three local authority areas (see table 2 below). The lowest quartile house price has risen by £40,000 from 2016 to 2020, demonstrating a worsening affordability position.

Number	Local Authority Name	Lowest Quartile House Prices (2020)
1	Elmbridge	£411,250
2	St Albans	£400,000
3	Windsor and Maidenhead	£375,000
4	Three Rivers	£365,000

Table 2.

Lowest quartile earnings in Three Rivers in 2016 were £24,518.00 and £26,983.00 in 2020, 13.3 times worsening to 13.5 below the lowest quartile house prices (ratio of lower quartile

⁵ ONS (2021) *Dataset: House price to residence-based earnings ratio Table 6a*

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

⁶ Note that prior to the formation of the Buckinghamshire Council (now a unitary authority), Three Rivers was the seventh most expensive local authority area as two local authorities in Buckinghamshire ranked higher in lower quartile house price than Three Rivers in 2016 (South Bucks - £370,000.00; Chiltern - £335,000.00).

⁷ Office for National Statistics (2021) *Dataset: House price to residence-based earnings ratio Table 6a*

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

house prices to lower quartile gross annual, residence based earnings⁸). In a mortgage market where lenders are traditionally willing to lend 3.5 times a person's income, clearly a lending requirement at over 13 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 2020 to have a deposit of £270,560.00, or (without such a deposit) to earn £94,440.00 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 ratio⁹ 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 fourth¹⁰ worst affordability ratio in England and Wales (excluding London), as set out in table 3 below, again when compared against three hundred and three local authorities.

Number	Local Authority Name	Median quartile house price affordability ratio ⁸ (2016)
1	Hertsmere	14.23
2	Mole Valley	14.18
3	Elmbridge	13.86
4	Three Rivers	13.77

Table 3.

Over the period 2016 to 2020, the median quartile house affordability ratio in Three Rivers has improved with a decrease from 13.77 in 2016 to 12.92 in 2020 (see table 4 below). Whilst the median affordability ratio has slightly improved (by 0.85), Three Rivers has maintained its position with the fourth worst affordability ratio in England and Wales (excluding London), demonstrating a lack of improvement in Three Rivers' affordability position nationally.

Number	Local Authority Name	Median quartile house price affordability ratio ¹ (2020)
1	Mole Valley	16.84
2	Elmbridge	14.17
3	Epsom and Ewell	13.26
4	Three Rivers	12.92

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 2020 that had risen to 13.53, showing a worsening ratio over the period from 2016 to 2020.

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 Local Housing Needs Assessment (LNHA) (August 2020) is the most recent update to the South West Hertfordshire Strategic Housing Market Assessment January 2016 (SHMA) and estimates the need for affordable housing over the 2020-2036 period. The LNHA splits its analysis between affordable housing to rent and affordable housing to buy.

⁸ Office for National Statistics (2020) *Dataset: House price to residence-based earnings ratio Table 6b*
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

⁹ Affordability ratio statistics are revised annually by the ONS to reflect revisions to the house price statistics and earnings data.

¹⁰ Note that prior to the formation of the Buckinghamshire Council (now a unitary authority), Three Rivers had the fifth worst affordability ratio most expensive local authority area as a local authority in Buckinghamshire ranked higher in median affordability ratio than Three Rivers in 2016 (Chiltern – 14.49).

Affordable Housing Need - To Rent

- 2.7 The South West Hertfordshire Local Housing Needs Assessment (LHNA) (August 2020) found that at that time there were approximately 1,276 households within Three Rivers that were situated in unsuitable housing. Unsuitability is based on the numbers of homeless households and in temporary accommodation, households in overcrowded housing, concealed households and existing affordable housing tenants in need. 57% of these households are estimated to be unable to afford market housing without subsidy, which means the revised gross need is reduced to 727 households¹¹.
- 2.8 In addition to needs arising from those in unsuitable housing, the LNHA also analyses affordable need to rent arising from newly-forming households within the District. The LNHA estimates 800 new households forming per annum in Three Rivers over the period 2020 to 2036. 45% of these newly-forming households are estimated to be unable to afford market housing (to rent) resulting in 360 new households with a need for affordable housing to rent each year over the period 2020 to 2036¹².
- 2.9 The LNHA also considers newly arising need for affordable rent from existing households (i.e. households residing in market accommodation now requiring affordable housing). The LNHA estimates an additional 77 existing households falling into need for affordable rent per year over the period 2020 to 2036¹³.
- 2.10 Taking into account the figures of need noted above and the supply of affordable housing to rent through re-lets, the LNHA calculates the annual affordable housing need to rent over the period 2020 to 2036 as 350 in Three Rivers¹⁴. This need involves households who cannot afford anything in the market without subsidy and is equivalent to 55% of the District's total local housing need requirement calculated by the standard methodology. This indicates the substantial scale of need for this type of affordable housing.

Affordable Housing Need - To Buy

- 2.11 In addition, the LNHA estimates a need of 162 units for affordable home ownership per annum¹⁵ over the period 2020 to 2036, although this is a need which is formed by households identified as being able to afford to rent privately without subsidy.

Total Affordable Housing Need

- 2.12 Combining the need for affordable housing to rent and affordable housing to buy results in the calculation of 512 affordable units per year, equating to approximately 80% of Three Rivers' total local housing need requirement (as calculated by the standard method).

¹¹ Table 33: Estimated Current Rented Affordable Housing Need, South West Hertfordshire Local Housing Needs Assessment (August 2020)

¹² Table 34: Estimated Level of Rented Affordable Housing Need from Newly Forming Households (per annum 2020-2036), South West Hertfordshire Local Housing Needs Assessment (August 2020)

¹³ Table 35: Estimated level of Housing Need from Existing Households (per annum 2020-2036), South West Hertfordshire Local Housing Needs Assessment (August 2020)

¹⁴ Table 37: Estimated Annual Level of Affordable/Social Rented Housing Need (2020-2036), South West Hertfordshire Local Housing Needs Assessment (August 2020)

¹⁵ Table 42: Estimated Annual Need for Affordable Home Ownership (2020-2036), South West Hertfordshire Local Housing Needs Assessment (August 2020)

Affordable Housing Provision in Three Rivers

- 2.13 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.
- 2.14 Since the start of the plan period from 1 April 2001 to 31st March 2021 (the latest date where the most recent completion figures are available), 4,965 gross dwellings were completed. From this, 1,128 were secured as affordable housing, a total of 22.7%. This percentage is significantly below the Core Strategy target of 45% which means there was a shortfall of 1,107 or 22.3% in order to fulfil the 45% affordable housing requirement up to 31 March 2021. This shortfall only exacerbates the already pressing need for small sites to contribute towards the provision of affordable housing.
- 2.15 In the latest monitoring period of 2020/21 (financial year), 26 sites¹⁶ 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 four major developments (15%) and 22 minor developments (86%). 17 of the 26 schemes contributed to affordable housing provision whilst nine of the 26 schemes did not contribute:
- Four out of the 26 sites provided viability justification, in line with CP4 policy, for the absence of affordable housing provision.
 - Four 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 17 schemes which did contribute, nine made contributions via commuted sums towards off-site provision; all nine schemes were minor developments, demonstrating the important role of small sites in collecting financial payments to be spent on affordable housing provision. Of the remaining eight schemes which contributed via on-site provision in 2020/21, three were major developments and five were minor developments, with four of the five minor developments delivered by Registered Providers (17/2077/FUL, 17/2606/FUL – Three Rivers District Council; 17/0883/FUL – Thrive Homes; 14/1168/FUL – Watford Community Housing Trust). This reflects the pattern of on-site delivery from large schemes, with commuted sums from minor developments, unless delivered by Registered Providers.

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

- 2.16 In 2017/2018 (financial year), there were 67 planning applications determined¹⁷ for net gain residential schemes, of which 57 were small site schemes (85%). In 2018/19 (financial year), there were 50 planning applications determined for net gain residential schemes, of which 46 were small site schemes (92%). In 2019/20 (financial year), there were 60 planning

¹⁶ Sites with completions in 2020/21

¹⁷ Includes refused and approved applications. Excludes prior approval developments.

applications for net gain residential schemes determined, of which 55 were small sites schemes (92%). In 2020/21 (financial year), there were 38 planning applications for net gain residential schemes determined, of which 33 were small site schemes (87%). 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 four financial years.

- 2.17 In terms of numbers of completed dwellings proposed by those small site schemes, between 2011-2021 (financial years) some 384 net dwellings were completed which equates to 38 net dwellings per annum and to 22.2% over the 2011-2021 period. 22.2% 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

- 2.18 As set out at paragraphs 1.7 and 1.8 above, the commuted payments (£2.4 million) 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 February 2022) secured a further **£2.7million - £4.0million** (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

- 2.19 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 2021 there were 250 planning permissions granted for minor (net gain) residential developments in the District. Of those only 13 have lapsed (5.2%)¹⁸. This

¹⁸ See footnote 3.

demonstrates that the application of CP4 has not acted as a brake on small scale residential developments.

Relevant Appeal Decisions

- 2.20 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.
- 2.21 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.
- 2.22 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.
- 2.23 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.
- 2.24 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."*¹⁹
- 2.25 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.

¹⁹ Paragraph 7, Planning Inspectorate Letter, March 2017.

2.26 The Council's stance has been tested on appeal on numerous occasions (26 decisions as at the date of this document) and the Planning Inspectorate have repeatedly concluded (that whilst the NPPF carries considerable weight, it does not outweigh CP4 of the Councils development plan given the acute and substantial need for affordable housing in the District and the important contribution small sites make towards addressing this shortfall. Below are extracts from a few of those decisions:

- **APP/P1940/W/19/3222318, Eastbury Corner, 13 Eastbury Avenue, Northwood, Decision date: 21st June 2019:**
"The Council has however provided robust evidence to demonstrate high affordable housing need locally and that affordability in the District continues to deteriorate. Indeed, needs analysis carried out by the Council highlights the importance of small sites in addressing shortfall and the lack of affordability that exists in the District. I apply substantial weight to this local evidence due to its recentness and the clear conclusions that can be drawn from it. Policy CP4 makes it clear that site circumstances and financial viability will be taken into account when seeking affordable housing provision."
- **APP/P1940/W/19/3221363, The Swallows, Shirley Road, Abbots Langley Decision date: 27th June 2019:**
"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 Councils 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/19/3229038: 124 Greenfield Avenue**

Decision Date 10th December 2019

“Furthermore, windfall sites make up the majority of the proposals in a District which is constrained by the Green Belt and so delivery of affordable housing from these sites is crucial. The submitted evidence supports the proportion of housing proposals which have been on small sites in the last few years. There is no evidence before me that seeking affordable housing on small sites has precluded small windfall sites coming forward – indeed such sites have contributed a significant amount to the affordable housing pot since 2011... Overall, there is substantial evidence of considerable affordable housing need in the District and it has been demonstrated that small sites make an important contribution to affordable housing delivery in the Borough. I attach very significant weight to this consideration. Whilst the Framework is a material consideration of very considerable weight, based on the local circumstances of this case, in this instance the Framework does not outweigh the relevant development plan policy.”

- **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"

- **APP/P1940/W/20/3259397 24 Wyatts Road**

Decision Date 8th February 2021

"...I consider that the specific circumstances within this district together with the updated evidence to support Policy CP4 are sufficient, in this case, to outweigh the guidance of the Framework."

- **APP/P1940/W/20/3260602: 8-10 Claremont Crescent, Croxley Green**

Decision Date 18th February 2021

"The Council's case is that Policy CP4 should continue to apply to all housing developments, notwithstanding its lack of consistency with the more recent Framework. In justifying this position, it has provided robust evidence of a high affordable housing need in the district as well as an independent viability assessment in relation to this appeal. Furthermore, a number of similar appeal decisions, cited by the Council, show that Inspectors have considered development plan policies with lower affordable housing thresholds to outweigh national policy given the local evidence of substantial affordable housing need. Whilst the Framework is a material consideration of very considerable weight, based on the local circumstances of this case, in this instance it does not outweigh the relevant development plan policy. In making this judgement, I have given considerable but not full weight to Policy CP4."

- **APP/P1940/W/20/3244533 2 Canterbury Way**

Decision Date 4th March 2021

"Over the plan period there have been times when the Council have applied Policy CP4 of the CS and times when they have not. I accept that this may have implications for the delivery of non-major sites, perhaps encouraging whether or not developers will bring forward proposals. However, it cannot be the only factor which influences whether or not such sites are brought forward. Furthermore, there is no substantive evidence to suggest that if Policy CP4 of the CS was not applied it would significantly increase the supply of housing in the district. Moreover, Policy CP4 of the CS was subject to an assessment of viability alongside all other requirements through the Local Plan process... Overall, on the basis of the evidence before me I am not convinced that the Council's application of Policy CP4 of the CS is directly discouraging developers from bringing forward small sites due to the need to provide or contribute towards affordable housing or demonstrate that it viably cannot... housing affordability in the district is acute such that, based on the specific circumstances of this case and the evidence presented, I find on balance the proposal should make appropriate provision for affordable housing."

- **APP/P1940/W/20/3260554: Land adjacent to 2 Coles Farm**

Decision Date 15th June 2021

"The appellant's comments regarding the importance of small sites is noted as is the Council's lack of a five-year housing land supply. Despite this, the proposal is required to secure a contribution towards the provision of affordable housing, however, at the point of determination no executable undertaking is before me... The proposal would be contrary to CS Policy CP4 and the Affordable Housing Supplementary Planning Document 2011 which require all new development resulting in a net gain of one or more dwellings to contribute to the provision of affordable housing."

Conclusion

- 2.27 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, December 2020 and February 2022 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 2020 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 2020/2021 (December 2021)
<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 Local Housing Needs Assessment (August 2020)
<https://www.threerivers.gov.uk/eqcl-page/new-local-plan-evidence-base>
5. Office of National Statistics Housing Data 2002-20
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

February 2022

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PLANNING COMMITTEE – Thursday 23 February 2023

22/1830/FUL – Construction of two bedroom detached dwelling to rear of 4 Scots Hill accessed via Windmill Drive with associated access, parking and landscaping, boundary treatments including timber fence at 4 SCOTS HILL, CROXLEY GREEN, HERTFORDSHIRE, WD3 3AD.
(DCES)

Parish: Croxley Green Parish Council
Ward: Dickinsons
Expiry of Statutory Period: 02.03.2023 (Agreed Extension)
Case Officer: Freya Clewley

Recommendation: That Planning Permission is granted following completion of a S106 agreement to secure an affordable housing financial contribution.

Reason for consideration by the Committee: The application was called in by Croxley Green Parish Council due to concerns regarding overdevelopment, lack of amenity space and parking as set out in full at 4.1.1 below.

1 Relevant Planning History

1.1 11/1782/FUL - New shop front windows and doors with refurbished signs – Permitted 07.10.2011.

1.2 12/2281/FUL – Two storey rear extension, single storey rear and side extension – Permitted 04.02.2013.

1.3 18/0970/FUL – Construction of two bedroom detached dwelling to rear of 4 Scots Hill accessed via Windmill Drive – Refused 09.07.2018 for the following reasons:

R1 The proposed development by reason of its siting, scale, design, proposed materials, lack of amenity space and limited soft landscaping would be a cramped, visually prominent and intrusive form of development which would fail to preserve the character, appearance and amenities of the locality and wider Conservation Area contrary to Policies CP1 and CP12 of the Core Strategy (adopted October 2011), Policies DM1, DM3 and Appendix 2 of the Development Management Policies LDD (adopted July 2013) and the Croxley Green Conservation Area Appraisal (1996).

R2 The proposed development by reason of its siting, scale, design and siting of windows would be a visually intrusive and prominent form of development which would result in unacceptable levels of both actual and perceived overlooking to the residential occupiers of number 4 Scots Hill. Furthermore, the proposed development by reason of its size, scale and siting would result in inadequate amenity space in terms of quality and quantity and lack of privacy for future residents which would detrimental to the amenities of the future occupiers of the site, contrary to 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).

R3 In the absence of an agreement under the provisions of Section 106 of Town and Country Planning Act 1990, the development would not contribute to the provision of affordable housing. The proposed development therefore fails to meet the requirements of Policy CP4 of the Core Strategy (adopted October 2011) and the Affordable Housing Supplementary Planning Document (approved June 2011).

Appeal allowed (reference 19/0001/REF / APP/P1940/W/19/3219890) subject to conditions.

- 1.4 20/1343/FUL – Variation of Condition 2 (Approved Plans) of planning permission 18/0970/FUL: (Construction of two bedroom detached dwelling to the rear of 4 Scots Hill accessed via Windmill Drive) to allow alterations to layout including re-siting of garage – Permitted 12.05.2021.

2 Description of Application Site

- 2.1 The application site comprises an area of hardstanding measuring approximately 100sqm to the rear of number 4 Scots Hill opposite the turning head at the end of Windmill Drive, Croxley Green. The area of hardstanding is currently used as an informal area for storage of bins serving the commercial and residential units at number 4 Scots Hill as well as an informal parking area. Number 4 Scots Hill is located to the east of the area of hardstanding and comprises a commercial premises at ground floor level with a residential flat at first floor level. Number 4 Scots Hill is a Locally Important Building and has recently benefitted from a part single, part two storey rear extension.
- 2.2 The area of hardstanding is currently separated from number 4 Scots Hill by close boarded fencing with a high level bricked wall to the north and south flanks of the site with the frontage of the site open to Windmill Drive. To the north of the application site is The Sportsman Public House with a further commercial premise, number 6 Scots Hill, adjoining the southern flank of number 4 Scots Hill. Further to the south of the application site is a block of garages and to the west of the application site are residential dwellings and maisonettes of which the rear amenity space is separated from the application site by the service road and a footpath.
- 2.3 The application site is located within the Croxley Green Conservation Area.

3 Description of Proposed Development

- 3.1 This application seeks full planning permission for the construction of a two bedroom detached dwelling to the rear of 4 Scots Hill accessed via Windmill Drive with associated access, parking and landscaping and boundary treatments including timber fence.
- 3.2 The proposed dwelling would have a maximum depth of 9.4m and a width of 6.9m to the front elevation and 7.8m to the rear elevation, reflecting the splayed nature of the southern flank. The proposed dwelling would have a pitched roof form with a maximum height of 7.6m and an eaves height of 5.7m with a flat roof section measuring approximately 0.9m in width and depth. The proposed dwelling would be set back between 1.5m and 2.5m from the highway. The proposed plot would measure approximately 7.5m in width to the frontage and approximately 10m to the rear. The submitted block plan indicates that the proposed dwelling would be set in approximately 1.1m from the southern flank boundary immediately adjacent to Windmill Drive, increasing to 1.7m to the rear reflecting the tapered nature of the southern flank site boundary. The submitted plans indicate that the dwelling would be built up to the northern flank boundary of the application site. The proposed rear garden would have a width of 10m and depth of 4.8m.
- 3.3 The proposed dwelling would comprise an open plan kitchen, dining and living room with a WC to the ground floor with a bathroom, two bedrooms, one with an ensuite and a store at first floor level.
- 3.4 The submitted plans indicate that the roof of the proposed dwelling would be finished with a zinc bronze colour roof, soldier course of brick, brick header detail, bronze colour painted window frames and an oak garage and front door.
- 3.5 The proposed dwelling as part of the current application is of the same appearance as that approved under application reference 20/1343/FUL. The sole difference between the previously approved application and the current application is that the current application is accompanied by a Financial Viability Appraisal which demonstrates that the development

could not viably pay the entire commuted sum toward off-site affordable housing provision. This is further discussed within the analysis section below. The applicant has submitted the current application as the previous permission has elapsed.

4 Consultation

4.1 Statutory Consultation

4.1.1 Croxley Green Parish Council: [Objection]

Croxley Green Parish Council has the following concerns

Overdevelopment of the site

Lack of amenity space and parking

Croxley Green Parish Council support the concerns of the neighbours and request that the application is called into the TRDC planning committee if the officer is minded to approve.

Officer Note: Following receipt of these comments, Officers provided the Parish Council with further information including the appeal decision subject to the 2018 planning application, and the subsequent variation of conditions application in addition to the Conservation Officer's comments on the current application. The Parish Council confirmed that their concerns were still relevant and that the application should be called in unless Officers were minded to refuse.

4.1.2 Conservation Officer: [No Objection]

The proposal is largely similar to the scheme allowed at appeal (ref: APP/P1940/W/19/3219890) and application 20/1343/FUL. There are some minor alterations, but they would not result in any additional harm to the Conservation Area. As noted previously, the proposed alterations to the layout of this property will not alter how this property impacts the Croxley Green Conservation Area.

4.1.3 Hertfordshire County Council – Highway Authority: [No Objection, subject to conditions]

Notice is given under article 22 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that 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 (in the form of scaled plans and/or written specifications) have been submitted and approved in writing by the Local Planning Authority to illustrate the following:*
 - Provision of an automatic roller shutter garage door (or alternatively an open covered parking space) or similar to ensure that any garage door does not overhang the highway and any vehicle does not obstruct/wait on the highway whilst manually opening or shutting the door.*
 - Details of replacement parking arrangements for the vehicles currently using the parking area/hardstanding to the rear of 4 Scots Hill.*

Reason: To enable vehicles to safely draw off the highway and that any displaced parking associated with grant of consent does not detriment other users of the highway and 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:

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) *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 right of way network. If this development is likely to result in the public highway or public right of way becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the County Council website at: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.*

AN) *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 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 123 4047.*

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

Comments

It is understood that the description of the development has been amended, however, the plans previously commented upon within the Highways Authorities previous response to this application (my comments dated 09/12/2022) remain unchanged. I therefore repeat them, and recommend condition, herewith.

The application is described as seeking to renew an extant consent (18/0970/FUL and 20/1343/FUL). It is understood the house was granted, at appeal to decision made in respect of 18/0970/FUL, in 2019. The 2020 application understood to be only related to orientation of the approved dwelling.

I can confirm that Hertfordshire County Council, as Highway Authority, were consulted in respect of the 2018 application, our response dated 31/5/2018 refers. Since the time of this

earlier response the Highway Authority has adopted a new Local Transport Plan, the following response therefore has regard to revised Highway Authority Policies.

The Highway Authority are satisfied that the details of the present applicant reflect those previously found acceptable under permission 20/1343/FUL (now Drwg 3435 STR1, formerly drwg P113 Rev P4).

The Highway Authority has previously presented concerns in respect of the garage door, the parking arrangements, and the dropped kerb highlighted. Specifically noting that any garage provided would need to have an automatic roller shutter garage door (or alternatively no door at all and be an open fronted covered parking space).

The proposed dwelling would be accessed via Windmill Drive, which is designated as an unclassified local access road, subject to a speed limit of 30mph and is highway maintainable at public expense. The proposals include utilising an existing vehicle crossover (VXO) / dropped kerb opposite the turning head at the end of Windmill Drive. The existing VXO has provides access to a large hardstanding / parking area for approximately 2/3 vehicles.

The proposals include providing a new VXO to provide access to a single garage with no driveway fronting it.

HCC as Highway Authority has considered that the general proposed access arrangements are acceptable and would not have an unreasonable impact on the safety of highway users passing the site as vehicles would enter straight into the garage and are at the end of the cul-de-sac with low levels of passing traffic. Furthermore, the existing turning head allows for greater manoeuvrability for vehicles at the end of the cul-de-sac. Such decision recognises that visibility from the access is limited, but the nature of Windmill Drive at this location reduced any associated risk to an acceptably low level. It remains however necessary that any garage provided would need to have an automatic roller shutter garage door (or alternatively no door at all and be an open fronted covered parking space) as the garage is less the recommended 6m set back from the edge of the highway carriageway. The applicant is requested to note that they shall also be required to enter into a VXO agreement with HCC as the Highway Authority in relation to the alterations required to the existing dropped kerb.

The only parking provided for the proposed dwelling is the single garage and the existing parking area / hardstanding will be lost. This level of parking would not be a significant issue on its own to recommend refusal from a highways point of view. However, the loss of the existing parking to the rear of 4 Scots Hill shall need to be taken into consideration and the detrimental impact additional potential parking on the highway may have (please see the details as requested in condition 1).

Drawing 3435 STR1 (1:100) whilst featuring a scale bar, shows no measurements to this scale bar. By reference to original submitted drawings the LPA are directed to assure themselves that garage is to an acceptable dimension. Garages beneath 2.4m x 4.8m will be insufficient to accommodate a parked modern vehicle. The Highway Authority, by reference to Manual for Streets, would recommend garage dimensions (internal) of 3m x 6m in order to fully accommodate parked vehicles and associated common residential demands for integral garages. The LPA shall need to consider whether they are satisfied that the garage parking is suitable for consideration as providing parking compliant with local parking standards.

I recognise earlier recommendations provided by the HA have included condition in respect of Construction Management Plan. It is recognised that the Town and Country Planning (Pre-Commencement Conditions) Regulations 2018 imposed greater restrictions on imposition of pre-commencement conditions. I cannot justify, on the scale of development,

such requirement, but request additional advisory notes to ensure that the developer/contractor are aware of the relevant limitations in respect of local impacts of construction.

Whilst drawing 3435 suggests 'automated doors' and what appears to be a track of a (horizontal) roller blind nature garage door, this is not wholly clear.

I repeat the condition in respect of details of gates / doors. The condition previously recommended by Highways included recommendation that details of replacement parking arrangements for vehicles currently using the parking area / hardstanding to the rear of Scots Hill be provided. This would be for the HA to consider the impacts of the displaced parking in respect of safety and capacity, but shall also be necessary to the Local Planning Authority in their responsibility as Parking Authority. Drawing 3435 provides details in respect of the revisions to dropped kerb to Windmill Drive sufficient to remove this element of the previous condition, the requested advisory notes include detail on requirements to arrange the necessary revisions to the vehicle crossover.

4.1.4 National Grid: No response received.

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 20

4.2.2 No of responses received: 3 (3 objections, 0 supporting)

4.2.3 Site Notice: Expired 18.12.2022 Press Notice: Expired: 23.12.2022.

4.2.4 Summary of objections received:

- There are already 8 vehicles from commercial use using the estate parking
- Occupants of flats above shops use parking
- School drop off use parking
- Losing 2 spaces at the back of the existing shop would mean more parking in residential spaces.
- No visitor parking for new property.
- One parking space is not sufficient.
- Design isn't identical to previous consent. A column has been added to the corner near the front door on the plan but this isn't shown on the elevation. The column reduces the quality of the design.
- Appeal Inspector report highlighted the importance of high quality design but this is now dumbed down: eg. Items mislabelled, oak now labelled only as timber. Design details must be conditioned as appeal inspector recommended.
- Energy statement is dated 2017 showing compliance with 2013 Part L. The Energy Statement should be updated to respond to 2022 Part L and design changes may be necessary to achieve current energy efficiency requirements. TRDC declared a climate emergency since the previous consent and should insist on higher energy efficiency standards than regulatory minimum. Use of fossil fuels should not be permitted, this could be a Passivhaus standard dwelling, all electric.
- Proposed design is not in keeping with character and appearance of area.
- Bulky and prominent.
- Cramped virtually onto the Windmill Drive service road.
- Imposing
- Cramped and visually prominent, intrusive.
- Overlooking concerns.
- If this property sets a precedent for other dwellings along the single-lane service road, there will be a greater parking problem in the future.

4.2.5 Officer comment: All material planning considerations are outlined within the relevant analysis section below.

5 Reason for Delay

5.1 Committee Cycle

6 Relevant Planning Policy, Guidance and Legislation

6.1 Planning applications are required to be determined in accordance with the statutory development plan unless material considerations indicate otherwise as set out within S38 (6) Planning and Compulsory Purchase Act 2004 and S70 of Town and Country Planning Act 1990).

6.2 S72 of Planning (Listed Buildings and Conservation Areas) Act 1990 requires LPAs to have special regard to the desirability of preserving or enhancing the character or appearance of conservation areas.

6.3 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.

6.4 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, CP2, CP3, CP4, CP8, CP9, CP10 and CP12.

The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM1, DM4, DM6, 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. Policy SA1 is relevant.

The Croxley Green Neighbourhood Plan (referendum version, December 2018). Policies CA1 and HO1 are relevant.

6.5 Other

Affordable Housing Supplementary Planning Document (adopted June 2011).

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

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

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

7 Planning Analysis

7.1 Principle of Development

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

7.1.2 Policy CP2 of the Core Strategy 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, and*
- iv. Monitoring information relating to housing supply and the Three Rivers housing targets.*

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

7.1.4 The proposed development would be of previously developed land and given the location of the site within a Key Centre and within a residential area, there is no in principle objection to residential development of the application site in relation to Policy CP2, however this is subject to consideration against other material considerations as discussed below.

7.1.5 The current application would result in the construction of a dwelling which would be identical in appearance to that previously approved under application reference 20/1343/FUL which was submitted following application reference 18/0970/FUL, which was allowed at appeal. No works in relation to the previously approved applications have commenced on site. The current application has been submitted as the time period to implement the previously approved consents has elapsed. The sole material difference between the current application and previous approvals is that the current application is accompanied by a Financial Viability Appraisal which demonstrates that the scheme could not viably pay the full affordable housing contribution. This is outlined in detail at 7.2.1-7.2.5 below.

7.2 Affordable Housing

- 7.2.1 **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.
- 7.2.2 For this application an off-site contribution by way of commuted sum payment would be sought in lieu of the on-site provision of affordable housing.
- 7.2.3 The proposed development would result in a requirement for a commuted sum of £52,875 towards affordable housing based on habitable floor-space of 70.5sqm multiplied by £750 per sqm which is the required amount in the 'Langleys and Croxley Green' market area.
- 7.2.4 The application is accompanied by a Viability Appraisal which outlines that the development would not be able to support a commuted sum towards affordable housing and remain viable. The Council have independently reviewed the submitted details and are of the view that the proposed development could support a commuted sum of £7,535 and remain viable. The applicant has agreed to enter into a S106 Agreement to secure payment of this sum.
- 7.2.5 As such subject to the completion of the S106 Agreement, the proposed development would therefore be acceptable in this respect in accordance with Policy CP4 of the Core Strategy (adopted October 2011) and the Affordable Housing Supplementary Planning Document (approved June 2011).

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 DMP LDD advises that the Council will protect the character and residential amenity of existing areas of housing from forms of 'backland', 'infill' or other forms of new residential development which are inappropriate for the area. Development will only be supported where it can be demonstrated that the proposal will not result in:
- i. Tandem development;
 - ii. Servicing by an awkward access drive which cannot easily be used by service vehicles;
 - iii. The generation of excessive levels of traffic;
 - iv. Loss of residential amenity;
 - v. Layouts unable to maintain the particular character of the area in the vicinity of the application site in terms of plot size, plot depth, building footprint, plot frontage width, frontage building line, height, gaps between buildings and streetscape features (e.g. hedges, walls, grass verges etc.)
- 7.3.3 Policy CA1 of the Croxley Green Neighbourhood Plan outlines that new development should seek to conserve and, wherever possible, enhance the key elements of character and appearance through careful design and massing of new buildings and the protection and enhancement of private gardens and open space without inhibiting innovative design.

- 7.3.4 The planning application 18/0970/FUL was refused by officers for three reasons (harm to character of area, harm to amenities of neighbours and lack of affordable housing contribution) but allowed at appeal (reference APP/P1940/W/19/3219890). Minor amendments were then approved to the scheme under application reference 20/1343/FUL. The current application seeks planning permission for the construction of a dwelling which would have the same appearance as that approved under application reference 20/1343/FUL. Although the NPPF has been updated since the previous applications were determined, and the Croxley Green Neighbourhood Plan has been adopted since the original 2018 permission, there have been no significant policy changes between the determination of the previously approved application and the current application. On the basis that the Development Plan remains unchanged since the 2020 approval, that site circumstances remain the same and on the basis that the dwelling would be of the same appearance as that previously approved in 2020, it is not considered that the proposed development would result in any harm to the character or appearance of the streetscene or wider area when compared with the previously approved schemes.
- 7.3.5 In summary, the proposed new dwelling would not appear unduly prominent or incongruous within the streetscene so as to result in demonstrable harm to the character of the locality. Therefore would be acceptable in accordance with Policies CP1 and CP12 of the Core Strategy, Policy DM1 and Appendix 2 of the Development Management Policies LDD and Policies CA1 and HO1 of the Croxley Green Neighbourhood Plan (referendum version, December 2018)..
- 7.4 Impact on amenity of neighbours
- 7.4.1 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'.
- 7.4.2 Policy DM1 and Appendix 2 of the Development Management Policies document set out that development should not result in loss of light to the windows of neighbouring properties nor allow overlooking, and should not be excessively prominent in relation to adjacent properties.
- 7.4.3 Appendix 2 states, in the interests of privacy and to prevent overlooking, distances between buildings should be sufficient so as to prevent overlooking, particularly from upper floors. As an indicative figure, 28 metres should be achieved between the faces of single or two storey buildings backing onto each other or in other circumstances where privacy needs to be achieved.
- 7.4.4 Planning permission has previously been given at appeal for application reference 18/0970/FUL for the 'construction of two bedroom detached dwelling to rear of 4 Scots Hill accessed via Windmill Drive'. A subsequent application reference 20/1343/FUL was then granted which allowed alterations to the layout.
- 7.4.5 The proposed development would have the same appearance as the dwelling approved under application reference 20/1343/FUL and which was found to have an acceptable impact on neighbours. The proposal would not result in any additional harm to neighbouring properties.
- 7.4.6 The proposal is therefore considered to be acceptable in this regard in accordance with Policy CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies document.
- 7.5 Quality of accommodation for future occupants
- 7.5.1 Policy CP12 of the Core Strategy states that development should take into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space and

specific standards for provision of amenity space are set out in Appendix 2 of the Development Management Policies LDD. These standards set out that a two bedroom dwelling should provide 63sqm.

- 7.5.2 The proposed new dwelling would result in a shortfall of approximately 19sqm of amenity space. In allowing the appeal at the application site (reference APP/P1940/W/19/3219890) the Inspector commented that *'in a fairly dense, mixed use environment such as this, a degree of overlooking and disturbance is not uncommon. This space would provide a sufficient area for future occupants of this small two bedroom dwelling to sit outside, hang washing, or to store typical domestic paraphernalia'*. In addition, the application site is located approximately 155 meters, or a 2 minute walk, from the Green, public open space. As such, it is not considered that the shortfall in amenity space provision would result in demonstrable harm to future occupiers, and the proposal is acceptable in this regard.

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 DMP LDD. 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. 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.

7.7 Trees and Landscaping

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

- 7.7.2 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

- 7.8 The development would not result in the loss of any trees within the site. As such it is not considered that the proposed development would result in unacceptable harm in this respect. The current application is accompanied by a hard and soft landscaping scheme which indicates the landscaping to the front and rear of the site. The landscaping scheme is the same as that previously approved under application reference 22/2225/DIS. As such, the landscaping is considered to be acceptable.

7.9 Highways, Access and Parking

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

- 7.9.2 Appendix 5 of the DMP LDD outlines that two bedroom dwellings should provide 2 spaces (1 assigned). The proposed garage would provide one assigned parking space, and as such, there would be an onsite shortfall of one space. The Highways Officer has confirmed that the new dropped kerb arrangement is considered to be acceptable. Notwithstanding this, the Highways Officer has requested a condition to be attached to any granted consent to require details to be submitted to and approved by the LPA to include details of an automatic roller shutter garage door or open covered space and details of replacement parking arrangements for the vehicles currently using the parking area to the rear of 4 Scots Hill. Furthermore, a condition would be attached to any granted consent to require the works to be carried out in accordance with the submitted Construction Management Plan prepared by Bespoke Safety Solutions (BSS) dated 8th December 2020, as approved as part of application reference 21/2224/DIS.
- 7.9.3 It is acknowledged that given the proposed onsite parking provision that the development would result in an onsite shortage of one parking space. However, given the location of the application site and that there are public transport links within close proximity to the application site, it is not considered that the proposed development would result in significant harm to highway safety, and therefore the proposed development would not result in demonstrable harm as to justify the refusal of planning permission in this regard.
- 7.10 Sustainability
- 7.10.1 Paragraph 152 of the NPPF states that “Planning should support the transition to a low carbon future in a changing climate. 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”
- 7.10.2 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.
- 7.10.3 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.
- 7.10.4 An energy statement prepared by Merlin Property Services has been submitted which outlines the new dwelling would result in a 6.04% saving which would comply with the 5% over the requirements of Part L. As such the proposed dwelling would comply with Policy DM4 of the DMP LDD.
- 7.11 Flood Risk and Drainage
- 7.11.1 The application site is located within Flood Risk Zone 1. Plentiful provision of soft landscaping would be retained surrounding the new dwelling. The proposed driveway would be permeable so as to prevent surface run off to the highway. Therefore the proposal is considered to be acceptable in this regard.
- 7.12 Refuse and Recycling

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

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

7.12.2 The proposed new dwelling would provide access from a driveway directly to the highway to allow for the collection of bins in a manner typical of a residential setting. The block plan indicates a bin store to the rear, indicating it would comprise 1.8 high close boarded timber fence panels. As such, the submitted details are considered to be acceptable.

8 Recommendation

8.1 That the decision be delegated to the Head of Regulatory Services and that PLANNING PERMISSION BE GRANTED, subject to the following conditions and subject to the completion of a Section 106 Agreement:

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: 3435 101 B, 3435 LND 1C, 3435 100 B and 3435 STR1.

Reason: For the avoidance of doubt and in the proper interests of planning, to safeguard the Conservation Area and in the interests of the visual amenities of the locality and the residential amenity of neighbouring occupiers, in accordance with Policies CP1, CP2, CP3, CP4, CP8, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011), Policies DM1, DM3, DM4, DM6, DM8, DM10, DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013) and Policies CA1 and HO1 of the Croxley Green Neighbourhood Plan (referendum version, December 2018).

C3 Before any building operations above ground level hereby permitted are commenced, full details (in the form of scaled plans and/or written specifications) shall be submitted and approved in writing by the Local Planning Authority to illustrate the following:

- Provision of an automatic roller shutter garage door (or alternatively an open covered parking space) or similar to ensure that any garage door does not overhang the highway and any vehicle does not obstruct/wait on the highway whilst manually opening or shutting the door.
- Details of replacement parking arrangements for the vehicles currently using the parking area /hardstanding to the rear of 4 Scots Hill.

The development shall thereafter be carried out in accordance with the approved details.

Reason: In the interests of highway safety and convenience in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011) and Policy DM10 of the Development Management Policies LDD (adopted July 2013).

- C4 The development shall be carried out in accordance with the submitted and approved Construction Management Plan prepared by Bespoke Safety Solutions, dated 8th December 2020.

Reason: In the interests of highway safety and convenience in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011) and Policy DM10 of the Development Management Policies LDD (adopted July 2013).

- C5 The building shall not be erected other than in the materials as have been approved in writing by the Local Planning Authority as shown on the submitted plans or stated in the submitted material schedule, and no external materials shall be used other than those approved.

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).

- C6 The development hereby approved shall be carried out in accordance with the submitted Landscaping Plan drawing number 3435 LND 1C.

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 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).

- C7 Notwithstanding the provisions of Schedule 2 Part 1 Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any other revoking and re-enacting that Order with or without modification), the garage serving the dwelling hereby permitted shall be retained primarily for the garaging of private cars. No alterations shall be carried out to the garage such as to prevent its use for garaging private cars.

Reason: In the interests of the visual amenities of the area and to ensure that on-site car parking provision is maintained to avoid the standing of vehicles on the adjoining highway to the detriment of safety the free flow of traffic thereon and to meet the requirements of Policies CP1, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

- C8 Immediately following the implementation of this permission, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order

2015 (or any other revoking and re-enacting that order with or without modification) no development within the following Classes of Schedule 2 of the Order shall take place.

Part 1

Class 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

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 neighbouring properties and in the interests of the visual amenities of the site and the area in general, 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 The development shall not be occupied until the energy saving and renewable energy measures detailed within the Energy Statement submitted as part of the application are incorporated into the approved development.

Reason: To ensure that the development meets the requirements of Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM4 and Appendix 2 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.

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. 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 development maintains/improves the economic, social and environmental conditions of the District.
- 14 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

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:
 - 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.

¹ The revised National Planning Policy Framework was updated in February 2019 and July 2021 and retains the policies as stated in Paragraph 1.3 of this document.

- 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 and as of 31 December 2021, Three Rivers has received small site affordable housing contributions amounting to over **£2.4 million**. Utilising those monies, development is has funded the delivery of 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 £2.4 million already received, small scale (1-9 unit) schemes have secured to date a further **£2.7million to £4.0million²** 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 2021, 250 planning

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. Data is as of February 2022

permissions were granted for minor residential developments which contribute a net dwelling gain. Of those only 13 have been permitted to lapse which is only 5.2% of all such schemes³.

- 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 2021, 215 planning applications for residential development involving a net gain of dwellings were determined⁴ by the Council. Of these, 191 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

³ The Needs Analyses (December 2019 and December 2020) referred to a lapse rate of 9% for minor developments; manual analysis has since demonstrated that a number of sites included in the 9% lapse figure have been subject to subsequent planning applications which were granted approval. Such sites have therefore still come forward for development despite earlier permissions lapsing. The lapse percentage in this Needs Analysis (January 2022) has therefore been revised to exclude application sites which are subject to later approvals which are either outstanding, under construction or complete.

⁴ Includes refused and approved applications. Excludes prior approval developments.

- 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":

"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 2016⁵, the lowest quartile house price in Three Rivers in 2016, representing the cheapest properties in the District was £325,000.00, making it the **fifth**⁶ most expensive local authority area in England and Wales (excluding London), out of a total of three hundred and three local authority areas (see table 1 below).

Number	Local Authority Name	Lowest Quartile House Prices (2016)
1	Elmbridge	£375,000.00
2	St Albans	£355,000.00
3	Windsor and Maidenhead	£340,000.00
4	Hertsmere	£330,000.00
5	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 2020 was £365,000⁷. The lowest quartile house price of £365,000 places Three Rivers as the **fourth** most expensive local authority area in England and Wales (excluding London), out of a total of three hundred and three local authority areas (see table 2 below). The lowest quartile house price has risen by £40,000 from 2016 to 2020, demonstrating a worsening affordability position.

Number	Local Authority Name	Lowest Quartile House Prices (2020)
1	Elmbridge	£411,250
2	St Albans	£400,000
3	Windsor and Maidenhead	£375,000
4	Three Rivers	£365,000

Table 2.

⁵ ONS (2021) *Dataset: House price to residence-based earnings ratio Table 6a*

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

⁶ Note that prior to the formation of the Buckinghamshire Council (now a unitary authority), Three Rivers was the seventh most expensive local authority area as two local authorities in Buckinghamshire ranked higher in lower quartile house price than Three Rivers in 2016 (South Bucks - £370,000.00; Chiltern - £335,000.00).

⁷ Office for National Statistics (2021) *Dataset: House price to residence-based earnings ratio Table 6a*

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

Lowest quartile earnings in Three Rivers in 2016 were £24,518.00 and £26,983.00 in 2020, 13.3 times worsening to 13.5 below the lowest quartile house prices (ratio of lower quartile house prices to lower quartile gross annual, residence based earnings⁸). In a mortgage market where lenders are traditionally willing to lend 3.5 times a person's income, clearly a lending requirement at over 13 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 2020 to have a deposit of £270,560.00, or (without such a deposit) to earn £94,440.00 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 ratio⁹ 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 fourth¹⁰ worst affordability ratio in England and Wales (excluding London), as set out in table 3 below, again when compared against three hundred and three local authorities.

Number	Local Authority Name	Median quartile house price affordability ratio ⁸ (2016)
1	Hertsmere	14.23
2	Mole Valley	14.18
3	Elmbridge	13.86
4	Three Rivers	13.77

Table 3.

Over the period 2016 to 2020, the median quartile house affordability ratio in Three Rivers has improved with a decrease from 13.77 in 2016 to 12.92 in 2020 (see table 4 below). Whilst the median affordability ratio has slightly improved (by 0.85), Three Rivers has maintained its position with the fourth worst affordability ratio in England and Wales (excluding London), demonstrating a lack of improvement in Three Rivers' affordability position nationally.

Number	Local Authority Name	Median quartile house price affordability ratio ¹ (2020)
1	Mole Valley	16.84
2	Elmbridge	14.17
3	Epsom and Ewell	13.26
4	Three Rivers	12.92

Table 4.

⁸ Office for National Statistics (2020) *Dataset: House price to residence-based earnings ratio Table 6b*
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

⁹ Affordability ratio statistics are revised annually by the ONS to reflect revisions to the house price statistics and earnings data.

¹⁰ Note that prior to the formation of the Buckinghamshire Council (now a unitary authority), Three Rivers had the fifth worst affordability ratio most expensive local authority area as a local authority in Buckinghamshire ranked higher in median affordability ratio than Three Rivers in 2016 (Chiltern – 14.49).

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 2020 that had risen to 13.53, showing a worsening ratio over the period from 2016 to 2020.

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 Local Housing Needs Assessment (LNHA) (August 2020) is the most recent update to the South West Hertfordshire Strategic Housing Market Assessment January 2016 (SHMA) and estimates the need for affordable housing over the 2020-2036 period. The LNHA splits its analysis between affordable housing to rent and affordable housing to buy.

Affordable Housing Need - To Rent

- 2.7 The South West Hertfordshire Local Housing Needs Assessment (LHNA) (August 2020) found that at that time there were approximately 1,276 households within Three Rivers that were situated in unsuitable housing. Unsuitability is based on the numbers of homeless households and in temporary accommodation, households in overcrowded housing, concealed households and existing affordable housing tenants in need. 57% of these households are estimated to be unable to afford market housing without subsidy, which means the revised gross need is reduced to 727 households¹¹.
- 2.8 In addition to needs arising from those in unsuitable housing, the LNHA also analyses affordable need to rent arising from newly-forming households within the District. The LNHA estimates 800 new households forming per annum in Three Rivers over the period 2020 to 2036. 45% of these newly-forming households are estimated to be unable to afford market housing (to rent) resulting in 360 new households with a need for affordable housing to rent each year over the period 2020 to 2036¹².
- 2.9 The LNHA also considers newly arising need for affordable rent from existing households (i.e. households residing in market accommodation now requiring affordable housing). The LNHA estimates an additional 77 existing households falling into need for affordable rent per year over the period 2020 to 2036¹³.
- 2.10 Taking into account the figures of need noted above and the supply of affordable housing to rent through re-lets, the LNHA calculates the annual affordable housing

¹¹ Table 33: Estimated Current Rented Affordable Housing Need, South West Hertfordshire Local Housing Needs Assessment (August 2020)

¹² Table 34: Estimated Level of Rented Affordable Housing Need from Newly Forming Households (per annum 2020-2036), South West Hertfordshire Local Housing Needs Assessment (August 2020)

¹³ Table 35: Estimated level of Housing Need from Existing Households (per annum 2020-2036), South West Hertfordshire Local Housing Needs Assessment (August 2020)

need to rent over the period 2020 to 2036 as 350 in Three Rivers¹⁴. This need involves households who cannot afford anything in the market without subsidy and is equivalent to 55% of the District's total local housing need requirement calculated by the standard methodology. This indicates the substantial scale of need for this type of affordable housing.

Affordable Housing Need - To Buy

- 2.11 In addition, the LNHA estimates a need of 162 units for affordable home ownership per annum¹⁵ over the period 2020 to 2036, although this is a need which is formed by households identified as being able to afford to rent privately without subsidy.

Total Affordable Housing Need

- 2.12 Combining the need for affordable housing to rent and affordable housing to buy results in the calculation of 512 affordable units per year, equating to approximately 80% of Three Rivers' total local housing need requirement (as calculated by the standard method).

Affordable Housing Provision in Three Rivers

- 2.13 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.
- 2.14 Since the start of the plan period from 1 April 2001 to 31st March 2021 (the latest date where the most recent completion figures are available), 4,965 gross dwellings were completed. From this, 1,128 were secured as affordable housing, a total of 22.7%. This percentage is significantly below the Core Strategy target of 45% which means there was a shortfall of 1,107 or 22.3% in order to fulfil the 45% affordable housing requirement up to 31 March 2021. This shortfall only exacerbates the already pressing need for small sites to contribute towards the provision of affordable housing.
- 2.15 In the latest monitoring period of 2020/21 (financial year), 26 sites¹⁶ 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 four major developments (15%) and 22 minor developments (86%). 17 of the 26 schemes contributed to affordable housing provision whilst nine of the 26 schemes did not contribute:

¹⁴ Table 37: Estimated Annual Level of Affordable/Social Rented Housing Need (2020-2036), South West Hertfordshire Local Housing Needs Assessment (August 2020)

¹⁵ Table 42: Estimated Annual Need for Affordable Home Ownership (2020-2036), South West Hertfordshire Local Housing Needs Assessment (August 2020)

¹⁶ Sites with completions in 2020/21

- Four out of the 26 sites provided viability justification, in line with CP4 policy, for the absence of affordable housing provision.
- Four 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 17 schemes which did contribute, nine made contributions via commuted sums towards off-site provision; all nine schemes were minor developments, demonstrating the important role of small sites in collecting financial payments to be spent on affordable housing provision. Of the remaining eight schemes which contributed via on-site provision in 2020/21, three were major developments and five were minor developments, with four of the five minor developments delivered by Registered Providers (17/2077/FUL, 17/2606/FUL – Three Rivers District Council; 17/0883/FUL – Thrive Homes; 14/1168/FUL – Watford Community Housing Trust). This reflects the pattern of on-site delivery from large schemes, with commuted sums from minor developments, unless delivered by Registered Providers.

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

- 2.16 In 2017/2018 (financial year), there were 67 planning applications determined¹⁷ for net gain residential schemes, of which 57 were small site schemes (85%). In 2018/19 (financial year), there were 50 planning applications determined for net gain residential schemes, of which 46 were small site schemes (92%). In 2019/20 (financial year), there were 60 planning applications for net gain residential schemes determined, of which 55 were small sites schemes (92%). In 2020/21 (financial year), there were 38 planning applications for net gain residential schemes determined, of which 33 were small site schemes (87%). 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 four financial years.
- 2.17 In terms of numbers of completed dwellings proposed by those small site schemes, between 2011-2021 (financial years) some 384 net dwellings were completed which equates to 38 net dwellings per annum and to 22.2% over the 2011-2021 period. 22.2% 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-

¹⁷ Includes refused and approved applications. Excludes prior approval developments.

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

- 2.18 As set out at paragraphs 1.7 and 1.8 above, the commuted payments (£2.4 million) 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 February 2022) secured a further **£2.7million - £4.0million** (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

- 2.19 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 2021 there were 250 planning permissions granted for minor (net gain) residential developments in the District. Of those only 13 have lapsed (5.2%)¹⁸. This demonstrates that the application of CP4 has not acted as a brake on small scale residential developments.

Relevant Appeal Decisions

¹⁸ See footnote 3.

- 2.20 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.
- 2.21 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.
- 2.22 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.
- 2.23 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.
- 2.24 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.”¹⁹*
- 2.25 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.

¹⁹ Paragraph 7, Planning Inspectorate Letter, March 2017.

2.26 The Council's stance has been tested on appeal on numerous occasions (26 decisions as at the date of this document) and the Planning Inspectorate have repeatedly concluded (that whilst the NPPF carries considerable weight, it does not outweigh CP4 of the Councils development plan given the acute and substantial need for affordable housing in the District and the important contribution small sites make towards addressing this shortfall. Below are extracts from a few of those decisions:

- **APP/P1940/W/19/3222318, Eastbury Corner, 13 Eastbury Avenue, Northwood, Decision date: 21st June 2019:**
"The Council has however provided robust evidence to demonstrate high affordable housing need locally and that affordability in the District continues to deteriorate. Indeed, needs analysis carried out by the Council highlights the importance of small sites in addressing shortfall and the lack of affordability that exists in the District. I apply substantial weight to this local evidence due to its recentness and the clear conclusions that can be drawn from it. Policy CP4 makes it clear that site circumstances and financial viability will be taken into account when seeking affordable housing provision."
- **APP/P1940/W/19/3221363, The Swallows, Shirley Road, Abbots Langley Decision date: 27th June 2019:**
"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 Councils 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/19/3229038: 124 Greenfield Avenue**

Decision Date 10th December 2019

“Furthermore, windfall sites make up the majority of the proposals in a District which is constrained by the Green Belt and so delivery of affordable housing from these sites is crucial. The submitted evidence supports the proportion of housing proposals which have been on small sites in the last few years. There is no evidence before me that seeking affordable housing on small sites has precluded small windfall sites coming forward – indeed such sites have contributed a significant amount to the affordable housing pot since 2011... Overall, there is substantial evidence of considerable affordable housing need in the District and it has been demonstrated that small sites make an important contribution to affordable housing delivery in the Borough. I attach very significant weight to this consideration. Whilst the Framework is a material consideration of very considerable weight, based on the local circumstances of this case, in this instance the Framework does not outweigh the relevant development plan policy.”

- **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”

- **APP/P1940/W/20/3259397 24 Wyatts Road**

Decision Date 8th February 2021

“...I consider that the specific circumstances within this district together with the updated evidence to support Policy CP4 are sufficient, in this case, to outweigh the guidance of the Framework.”

- **APP/P1940/W/20/3260602: 8-10 Claremont Crescent, Croxley Green**

Decision Date 18th February 2021

“The Council’s case is that Policy CP4 should continue to apply to all housing developments, notwithstanding its lack of consistency with the more recent Framework. In justifying this position, it has provided robust evidence of a high affordable housing need in the district as well as an independent viability assessment in relation to this appeal. Furthermore, a number of similar appeal decisions, cited by the Council, show that Inspectors have considered development plan policies with lower affordable housing thresholds to outweigh national policy given the local evidence of substantial affordable housing need. Whilst the Framework is a material consideration of very considerable weight, based on the local circumstances of this case, in this instance it does not outweigh the relevant development plan policy. In making this judgement, I have given considerable but not full weight to Policy CP4.”

- **APP/P1940/W/20/3244533 2 Canterbury Way**

Decision Date 4th March 2021

“Over the plan period there have been times when the Council have applied Policy CP4 of the CS and times when they have not. I accept that this may have implications for the delivery of non-major sites, perhaps encouraging whether or not developers will bring forward proposals. However, it cannot be the only factor which influences whether or not such sites are brought forward. Furthermore, there is no substantive evidence to suggest that if Policy CP4 of the CS was not applied it would significantly increase the supply of housing in the district. Moreover, Policy CP4 of the CS was subject to an assessment of viability alongside all other requirements through the Local Plan process... Overall, on the basis of the evidence before me I am not convinced that the Council’s application of Policy CP4 of the CS is directly discouraging developers from bringing forward small sites due to the

need to provide or contribute towards affordable housing or demonstrate that it viably cannot... housing affordability in the district is acute such that, based on the specific circumstances of this case and the evidence presented, I find on balance the proposal should make appropriate provision for affordable housing.”

- **APP/P1940/W/20/3260554: Land adjacent to 2 Coles Farm**

Decision Date 15th June 2021

“The appellant’s comments regarding the importance of small sites is noted as is the Council’s lack of a five-year housing land supply. Despite this, the proposal is required to secure a contribution towards the provision of affordable housing, however, at the point of determination no executable undertaking is before me... The proposal would be contrary to CS Policy CP4 and the Affordable Housing Supplementary Planning Document 2011 which require all new development resulting in a net gain of one or more dwellings to contribute to the provision of affordable housing.”

Conclusion

- 2.27 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, December 2020 and February 2022 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 2020 ONS data shows that the affordability of housing in Three Rivers is deteriorating year on year and the need for affordable housing is growing. As such proposals for the residential development of sites of 10 dwellings or less (not “major development”) will currently be expected to contribute towards the provision of affordable housing in accordance with Policy CP4 as a condition of grant. The Council will keep this evidence under review.

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

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

Sources Used:

1. Core Strategy (October 2011)
<http://www.threerivers.gov.uk/egcl-page/core-strategy>
2. Annual Monitoring Report 2020/2021 (December 2021)
<http://www.threerivers.gov.uk/egcl-page/annual-monitoring-report>
3. Affordable Housing Supplementary Planning Document (June 2011)
<http://www.threerivers.gov.uk/egcl-page/supplementary-planning-documents>
4. South West Hertfordshire Local Housing Needs Assessment (August 2020)
<https://www.threerivers.gov.uk/egcl-page/new-local-plan-evidence-base>
5. Office of National Statistics Housing Data 2002-20
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

February 2022

PLANNING COMMITTEE – 23 February 2023

22/2250/FUL - Subdivision of the site and the construction of 2no. two storey detached dwellings with rooflights and associated accesses, parking, landscaping and ancillary works at NORTH VIEW FARM, BELL LANE, BEDMOND, HERTFORDSHIRE, WD5 0QT (DCES)

Parish: Abbots Langley

Ward: Abbots Langley and Bedmond

Expiry of Statutory Period: 27.02.2023 (Agreed EoT) Case Officer: Lauren Edwards

Recommendation: That Planning Permission be granted subject to the completion of a Section 106.

Reason for consideration by the Committee: The application was called in by three members of the Planning Committee in order to assess the impact of the development on the Metropolitan Green Belt.

1 Relevant Planning History

1.1 No relevant Planning History.

2 Description of Application Site

2.1 The application site relates to a parcel of land approx. 1030sqm in area and is located on the northern side of Bell Lane, Bedmond. The site is currently enclosed to the front by timber fencing and a metal gate to the access. To the flank boundaries there is closed boarded fencing and to the rear is mature vegetation that separates the application site from a larger parcel of field land to the rear which is within the ownership of the applicant and therefore identified by a blue line on the site location plan. The application site is covered by grass which is relatively well maintained.

2.2 To the west of the site is a detached two storey dwelling known as 'The Weald'. This neighbour has accommodation in the roof served by rear dormers, gable ends and single storey projections. Land levels in this part of the street are relatively flat such that the neighbour is on the same level as the application site.

2.3 To the east of the site is an area of protected wood land. Beyond the Woodland to the east is a dwelling known as Harefield.

2.4 There are also neighbouring properties to the south. The neighbouring dwellings are all of varying scale and design.

2.5 There are a line of protected trees across the rear boundary of the site and one individual tree towards the south eastern corner.

2.6 The application site is located within the Metropolitan Green Belt.

3 Description of Proposed Development

3.1 This application seeks planning permission for the subdivision of the site and the construction of 2no. two storey detached dwellings with rooflights and associated accesses, parking, landscaping and ancillary works.

- 3.2 The existing site would be subdivided to create two residential plots each containing a detached two storey dwelling. Hereafter the Plot to the west will be referred to as 'Plot 1' and the plot to the east at 'Plot 2'. Both dwellings would have 4 bedrooms.
- 3.3 The dwelling at Plot 1 would have a maximum overall depth of 13m and a width of 8.6m. It would be set in a minimum of 1m from the flank boundary towards the rear, increasing to 1.5m towards the front. It would be set back 11.7m from the front boundary. The dwelling would have a maximum height of 8.1m. It would have a ridge running side to side with a two storey front gable projection, gable end to the east and a hipped roof to the west. To the rear there would be a single storey rear projection with a mono pitched roof which would have a depth of 1.5m beyond the main two storey rear elevation, a width of 3.7m and a mono-pitched roof with a maximum height of 3.3m. To the front the property would have a flat roofed front porch and a single storey projection serving the garage which would have a mono pitched roof.
- 3.4 The dwelling at Plot 2 would have a maximum overall depth of 11.3m and a width of 9.4m. It would be set in 6m from the new shared boundary and a minimum of 4m from the eastern flank boundary with spacing increasing to the rear. The dwelling would have a maximum height of 8.3m. This dwelling would have ridge running side to side with a gable end to the west and a hipped roof to the east. It would have a two storey front gable projection and to the rear partial catslide roof feature with a pitched roof two storey feature. The front and rear elevation would both be stepped.
- 3.5 The proposed dwellings would be finished in painted render with facing brick work detailing and grey roof tiles.
- 3.6 To the front two accesses would be created and the frontage would have a carriage driveway section. An access from be retained to the east to provide access to the wider parcel of land to the north. To the front of each dwelling there would be parking for at least 3 cars. To the rear the site would be subdivided by fencing to create two private gardens. Each dwelling would also have a bin store and a bicycle store.
- 3.7 Amended plans have been received in order to omit the previously proposed detached garage, revise the roof of Plot 2 to omit a crown roof and to omit a two storey rear projection serving Plot 1.

4 Consultation

4.1 Statutory Consultation

4.1.1 Abbots Langley Parish Council: [No objection]

No objection. Although this development is in the greenbelt, members feel it is a good use of the land for infill dwelling within the greenbelt. The proposed development is in keeping with neighbouring dwellings and members consider the location falls within the curtilage of the village.

4.1.2 Hertfordshire County Council – Highway Authority: [No objection]

Recommendation

Notice is given under article 22 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission.

Comments/Analysis

It is to be noted HCC does not have the ability to implement policies in the location of the proposed dwellings and new accesses, so these comments are written in an advisory capacity.

Description of Proposal

Subdivision of the site and the construction of 2no. two storey detached dwellings with rooflights and associated accesses, parking, landscaping and ancillary works

Site and Surroundings

Bell Lane is a private route formed by Abbots Langley 067 bridleway which, according to signage, is subject to a 10mph speed limit and is not highway maintainable at public expense. Bell Lane connects with the highway network at High Street, a classified C secondary distributor. The site is located on a residential street within the settlement of Bedmond, approximately 2.6km east of Kings Langley. The nearest bus stop to the site is approximately 190m away and is a stop for the 20 and H19 buses. The local post office and convenience store are located approximately 385m from the site. There is not a footway along Bell Lane however it is a public right of way.

Access and Parking

The application proposes a new vehicular access for each dwelling onto Bell Lane. Due to the lack of footway fronting the site, there is no need for a dropped kerb of any specific size. Furthermore, due to the private nature of Bell Lane, HCC policies and maintenance cannot be implemented. The low speed of the route and the low-lying planting fronting the site means that there is suitable visibility from the accesses. The connection of the accesses within the site forms a carriage driveway which ensures that vehicles can egress the site in forward gear. There have not been any collisions along Bell Lane within the last 5 years, it is noted there has been one collision of slight severity at the junction of Bell Lane and High Street.

Ultimately the LPA will have to be satisfied with the parking provision, but HCC would like to comment that there are up to 7 parking spaces at the site according to the Application Form. This parking provision is made up of the driveways, a garage and a carport, as shown on drawing number PL 02. It is noted that garages should measure 3m x 6m in order for them to be considered a suitable parking space as per Manual for Streets and Roads in Hertfordshire: Highway Design Guide 3rd Edition Section 4 – Design Standards and Advice. All parking must be kept within the site as the public right of way should not be blocked at any time. Cycle parking has been shown within the gardens of each dwelling, although due to the number of bedrooms in the dwellings, additional/larger cycle storage is likely to be required. Electric vehicle charging has not been shown within the plans although it is minded that it should be included as part of updated Building Regulations.

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 collection location and residents should not carry waste more than 30m to the collection point. These distances are not exceeded at the site and waste storage is shown in the rear gardens of each dwelling.

Emergency Vehicle Access

In accordance with Manual for Streets Paragraph 6.7, the entire footprint of a dwelling must be within 45m from the edge of the highway so an emergency vehicle can gain access. At this site, the footprints of each dwelling are within 45m of the public right of way bridleway, although it is noted that the width of the bridleway would likely make it difficult for a fire tender to turn around.

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 nearby highway and therefore, has no objections on highway grounds to this application. Again, it is to be noted HCC does not have the ability to implement policies in the location of the development, so this response is written in an advisory capacity only.

4.1.3 Herts Ecology: No response received

4.1.4 Herts Footpath Section: No response received

4.1.5 National Grid: No response received

4.1.6 Landscape Officer: No response received

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 5

4.2.2 No of responses received: 4 objections

4.2.3 Site Notice: Expired 27.01.2023 Press notice: Expired 03.02.2023

4.2.4 Summary of Responses:

- Loss of light
- Unjust to have Green Belt rules relaxed after neighbour's previous refusals
- Bell Lane is an unmade private road hard to maintain due to increased traffic
- Construction traffic will make road surface worse
- House to plot size ratio not in keeping
- Construction traffic will impact access to pedestrians/horse riders
- Adverse impact on biodiversity
- Green Belt impacts
- Would set precedent for further building (adjacent site in local plan consultation)
- TPOs, woodland and wildlife sites adjacent
- Impact on Chiltern Beechwood SAC

5 Reason for Delay

5.1 Committee cycle

6 Relevant Planning Policy, Guidance and Legislation

6.1 Planning applications are required to be determined in accordance with the statutory development plan unless material considerations indicate otherwise as set out within S38 (6) Planning and Compulsory Purchase Act 2004 and S70 of Town and Country Planning Act 1990).

6.2 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.

6.3 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, 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, DM4, DM6, 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. Policy SA1 is relevant.

6.4 Other

Affordable Housing Supplementary Planning Document (adopted June 2011).

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

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

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

7 **Planning Analysis**

7.1 Principle of Development

7.1.1 The proposed development would result in a net gain of two residential dwellings. The site is not identified as a housing site in the Site Allocations document and would be considered as a windfall site. However, as advised in this document, where a site is not identified for

development, it may still come forward through the planning application process where it will be tested in accordance with relevant national and local policies.

7.1.2 Policy CP2 of the Core Strategy 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, and
- iv. Monitoring information relating to housing supply and the Three Rivers housing targets.

7.1.3 Further the purposes of the settlement hierarchies as defined within the Core Strategy the application site is only partially included with the defined village settlement boundary. However this would not in itself preclude residential development in these areas. The application site is surrounded by existing residential dwellings which form part of an established residential road. As such the principle of residential development in this location is considered acceptable subject to all other material considerations below.

7.2 Housing Mix

7.2.1 Policy CP3 of the Core Strategy states that the Council will require housing proposals to take into account the range of housing needs, in terms of 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

7.2.2 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 which are the second least required within the district and the proposal would not strictly accord with the mix prescribed by Policy CP3 of the Core Strategy. However it is considered that a development of this nature, which proposes an additional two units, 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).

7.3 Affordable Housing

7.3.1 **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.

7.3.2 The proposed development would result in a requirement for a commuted sum of £135,750 towards affordable housing based on habitable floor-space of 181sqm multiplied by £750 per sqm which is the required amount in the 'Langleys and Croxley Green' market area.

7.3.3 A draft S106 agreement has been submitted which commits to payment of the required commuted sum amount. As such subject to the completion of a S106 agreement to secure the monies the proposal would comply with Policy CP4 of the Core Strategy (2011).

7.4 Green Belt

- 7.4.1 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 is supported by Policy DM2 of the Development Management Policies LDD and states that 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.
- 7.4.2 In respect of the NPPF, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The NPPF states that when considering proposals, Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt and that very special circumstances will not exist unless harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations.
- 7.4.3 Paragraph 149 of the NPPF states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:
- a) buildings for agriculture and forestry;
 - b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
 - c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
 - d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
 - e) **limited infilling in villages;**
 - f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
 - g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
 - not have a greater impact on the openness of the Green Belt than the existing development; or
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
- 7.4.4 In order to ascertain whether the proposed development would fall within exception (e), it is necessary to firstly consider a) whether the application site falls within a village and b) if the extent of housing proposed is considered 'limited'. In *Wood v Secretary of State for Communities and Local Government* (2014) it was held that whether or not a proposed development constitutes limited infilling in a village is a question of planning judgement, and that this would depend upon their assessment of the position on the ground.
- 7.4.5 The Oxford Dictionary defines a village as a group of houses and associated buildings, larger than a hamlet and smaller than a town, situated in a rural area. It defines a hamlet as a small settlement, generally one smaller than a village, and strictly (in Britain) one without a Church. It is recognised that in the appeal at Land off Tongue Lane, Brown Edge

(APP/B3438/W/18/3211000) the Inspector noted that..."While a Church may have once existed in Ridgeway, there is no Church there now as it has been replaced by a dwelling known as Chapel House. There are also no other associated buildings in Ridgeway that would, in my judgement, mean that Ridgeway is anything more than a hamlet". While the Inspector's comments are noted, it is considered that the existence of a Church is not a conclusive factor as to whether a settlement is a village and thus a greater view is required based on facts on the ground.

- 7.4.6 Turning first to the question of whether the application site is located within a village. The application site only partial falls within the boundary of a village as designated by the settlement hierarchy as set out within the Core Strategy however the NPPF does not specify that a village must be specifically defined as such within the development plan. Neither does the NPPF specify what the limits of a village should be. Having regard to appeal decisions, it is accepted that the definition of a village is a matter of planning judgement and even if a site falls outside a designated settlement boundary, this is not definitive as to whether a site falls within a village or not.
- 7.4.7 Whilst the application site is only partly covered by the village boundary as defined by Core Strategy this would not preclude a judgement that the site is located within a village for the purposes of the Green Belt exceptions. The village boundary bounds the site to the east, south and west. Additionally the application site is within a 5 minute (0.3 mile walk) of Bedmond Village stores and the other local services which are contained within Bedmond. Whilst Bell Lane itself is an unlit private road the walking route is still relatively direct. Bell Lane is accessible to pedestrians with most of the walk being along the lit footpath along 'High Street'. As such it is concluded that the application site can be considered as being within a village for the purposes of Paragraph 149 (e) of the NPPF.
- 7.4.8 It is also noted that the LPA has also received appeal decisions for a site further away from a village centre than proposed in this case. For example 'Notley Croft' (APP/P1940/W/17/3187494) was considered to be within the village of Bedmond despite it being slightly further away (0.4 miles vs 0.3miles) from the village centre.
- 7.4.9 It also needs to be ascertained whether the proposed development is 'limited infilling'. As with the village factor of this exception the NPPF does not define limited infilling therefore this is also a matter of planning judgement. It is generally considered to be a "small gap" having regard to both the scale and form of the development, interpreted in the context of the overall aims of the Green Belt.
- 7.4.10 The proposed dwellings fit comfortably with the application site and two dwellings is considered to be limited both in the context of the size of the site and within the streetscene as a whole.
- 7.4.11 The last exercise of the exception is to determine whether the proposed development is 'infilling'. It is noted that the application site is absent of built form to the north. However to the south and west the application site does sit within a linear pattern of built form. It is noted that there is not an immediate neighbouring dwelling to the east however there is a dwelling further along Bell Lane known as 'Harefield'. It is accepted therefore that the proposed dwellings would not sit within a gap between continuous ribbon of built form. However it is bound to a degree on three sides of the site by established patterns of residential development. The application site is only separated from 'Harefield' to the east by a protected woodland which provides a forced break to the line of built form on this side of Bell Lane and contains the application site. When considered in relation to the built form evidenced on the ground the proposed two units would 'infill' a gap at the end of a line of dwellings and between the continuous line of dwellings to the south. Additionally when viewed in the wider context of Bell Lane would infill between existing built form albeit more sporadic towards the east. Overall when considering the site circumstances it is considered that the proposal would comprise infilling for the purposes of the exception as set out at Paragraph 149 (e) of the NPPF.

7.4.12 In light of the above the development would not be inappropriate development in the Green Belt and would be consistent with the aims and objectives of the Framework and Policy CP11 of the Three Rivers Local Development Framework Core Strategy (2011) and Policy DM2 of the Three Rivers Local Plan Development Management Policies Local Development Document (2013).

7.5 Impact on Character and Street Scene

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

7.5.2 In terms of new residential development, Policy DM1 of the DMLDD advises that the Council will protect the character and residential amenity of existing areas of housing from forms of 'backland', 'infill' or other forms of new residential development which are inappropriate for the area. Development will 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.)

7.5.3 The proposal would not constitute tandem development nor would it be served by an awkward access. The uplift of two units is not considered to generate excessive levels of traffic (highways considerations are discussed in detail below) and would not result in the loss of any existing residential amenity (impact on amenity discussed in detail below).

7.5.4 The overall character of Bell Lane is mixed both in relation to the scale and design of dwellings. However the prevailing character is of detached dwellings. There are examples of many roof forms which are largely traditional in nature, various materials and differing sizes of properties including bungalows and two storey dwellings with loft accommodation.

7.5.5 The proposed plots would be of a size and shape which responds to the overall character of the streetscene, particularly to the northern side of Bell Lane where plots are slightly shorter and wider. The proposed dwellings would have a stepped front building line which responds positively to the building line along the northern side of Bell Lane which is more sporadic than on the southern side where front building lines are more linear. The proposed dwellings would also front the road with parking and soft landscaping to the frontage which reflects the overall layout of plots within the locality.

7.5.6 Appendix 2 of the DMP LDD outlines that 1.2m spacing should be retained between site boundaries and first floor flanks. The dwelling at Plot 1 would be set in a minimum of 1.2m from the boundary at first floor level towards the rear with spacing increasing towards the frontage. The dwellings would both be set in over 4m from the new shared boundary and the dwelling at Plot 2 would be set in a minimum of 4m from the eastern boundary. As such

the proposed development would retain adequate spacing to the boundaries which would respond the character of the streetscene.

- 7.5.7 The proposed dwellings would each be two storey with two storey front gable features and a combination of hipped and gabled roofs. Each would have traditional roof forms. Overall the proposed dwellings would not appear at odds in their size, height and form within the mixed nature of dwelling within Bell Lane.
- 7.5.8 Further details of the proposed materials will be required by condition however the principle of render with facing brickwork and grey tiles would not be incongruous within the streetscene where a variety of material palettes are evident.
- 7.5.9 The proposal also includes the provision of cycle stores and bin stores. Both of which are set back from the highway and would not appear as incongruous features within the residential setting of the application site. However elevations of the bin store have not been submitted and thus would be required by condition.
- 7.5.10 In summary, subject to further details of the proposed materials, the proposed new dwellings would not appear unduly prominent or incongruous within the streetscene so as to result in demonstrable harm to the character of the locality. Therefore would be acceptable in accordance with Policies CP1 and CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies LDD

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'.
- 7.6.2 Policy DM1 and Appendix 2 of the Development Management Policies document set out that development should not result in loss of light to the windows of neighbouring properties nor allow overlooking, and should not be excessively prominent in relation to adjacent properties.
- 7.6.3 Appendix 2 of the DMP LDD outlines that two storey rear extensions should not generally intrude a 45 degree splay line drawn across the rear from the point on the boundary level with the rear wall of the adjacent property. This principle is dependent on the spacing and relative positions of properties and consideration will be given to the juxtaposition of properties, land levels and positions of windows and development on neighbouring properties.
- 7.6.4 The proposed dwelling at Plot 1 would intrude a 45 degree splay line with 'The Weald' when taken from the point on the boundary level with the two storey rear elevation of this neighbour by approx. 2.3m. However Appendix 2 outlines that where there is a single storey rear projection the 45 degree line can be taken from the point on the boundary level with this element. When taken from the point on the boundary level with the neighbour's single storey rear projection would not intrude. Additionally there would be spacing both to the boundary and between the two main flanks of the dwellings such that the two storey flank of dwelling 1 would be separated by approx. 4.9m from the single storey rear projection of the neighbour. Additionally the roof form of the main dwelling would be hipped away from the boundary to the side closest to the neighbour and the single storey rear projection would also have a mono pitched roof. The deepest point of the proposed dwelling would not extend beyond the single storey rear projection of the neighbour. When considering the design of the proposed dwelling, siting and separation distances it is not considered the proposed development would result in an unacceptable overbearing impact or loss of light to this neighbour so as to result in demonstrable harm to the amenity of this neighbour.

- 7.6.5 Some oblique views could be had towards the garden of 'The Weald' however these would not be direct nor atypical for a residential location such that unacceptable levels of overlooking would occur. The proposed first floor flank windows would both be conditioned to be obscure glazed and top level opening only.
- 7.6.6 There is no immediate neighbour to the rear or eastern side of the application site. The neighbours to the south are separated from the proposed dwellings by the road and it is not considered that the proposed front windows would afford unacceptable views towards these properties which are not generally expected in a residential location.
- 7.6.7 The proposal is therefore considered to be acceptable in this regard in accordance with Policy CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies document.
- 7.7 Quality of accommodation and amenity space for future occupants
- 7.7.1 Policy CP12 of the Core Strategy states that development should take into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space and specific standards for provision of amenity space are set out in Appendix 2 of the Development Management Policies LDD. These standards set out that a four bedroom dwelling should provide 105sqm.
- 7.7.2 Both dwellings would benefit from in excess of 105sqm of amenity space. Therefore would comply with Appendix 2 of the DMP LDD in this respect. Additionally both dwellings would be of a good size proving good quality of accommodation to future occupiers. The proposed rear gardens would not be overlooked to any degree which would not be expected in a residential setting. Owing to the separation distances between the proposed dwellings they would not have an undue impact upon each other however the facing flank windows would be conditioned to be obscure glazed and top level opening only.
- 7.8 Wildlife and Biodiversity
- 7.8.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive.
- 7.8.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of applications in accordance with Policy CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the DMLDD. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications that may be affected prior to determination of a planning application.
- 7.8.3 The application has been submitted with a Biodiversity Checklist and a Preliminary Ecology Assessment.
- 7.8.4 Firstly it is noted that the application site is located within the Zone of Influence (ZOI) for the Chilterns Beechwoods Special Area of Conservation (SAC). The location of the site within the ZOI is a material consideration, however it is acknowledged that the site, and Three Rivers District is at the outer edge of the ZOI, and the District has been identified as generating less than 2% of the visits to the SAC. Taking this into account, it is considered that material harm would be unlikely to be caused to the SAC as a result of this development, and no compensatory measures are required in respect of this matter.
- 7.8.5 Turning to the submitted Preliminary Ecology Assessment it is noted that this report pertains to not only the application site but the wider land to the rear. However its findings are still considered to be relevant.

7.8.6 In relation to badgers the recommendations of the assessment is that further surveys should be undertaken prior to the commencement of development to confirm the presence of setts. These can be carried out at any time of the year. In respect of bats the assessment identifies one tree with moderate potential however this tree is sited on the other side of the parcel of land to the rear of the application site and therefore would not be impacted and further surveys are therefore not required. The assessment does not identify that any other surveys are required with the exception of the Badger Sett survey. As such a condition will be added in respect of the Badger Setts as well as an informative regarding nesting birds. A full hard and soft landscaping scheme will also be required prior to the commencement of works.

7.9 Trees and Landscaping

7.9.1 Policy DM6 of the Development Management Policies LDD (adopted July 2013) states that 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. Policy DM6 further states that development proposals should demonstrate that existing trees, hedgerows and woodlands will be safeguarded and managed during and after development.

7.9.2 Paragraph 131 of the NPPF outlines that trees make an important contribution to the character and quality of urban environments. Paragraph 174 further adds that planning decisions should contribute to the natural and local environments and should recognise the benefits of trees and woodland.

7.9.3 The application has been accompanied by a Tree Survey and Arboricultural Impact Assessment (AIA). Plot 2 will be constructed within the RPA of T3 however the submitted AIA outlines methods for investigation works and suggested mitigation measures. The AIA also includes a methodology for the works as a whole including ground and barrier protection measures. As such subject to a condition requiring the development to be carried out in accordance with the submitted report it is not considered that the development would result in harm to the on-site and adjacent protected trees. Additionally a full hard and soft landscaping scheme would be required by condition.

7.10 Highways, Access and Parking

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

7.10.2 Appendix 5 of the DMP LDD requires that 4 bedroom dwellings should provide 3 on-site parking spaces. Each dwelling would have at least 3 parking spaces to the frontage and therefore would comply with Appendix 5 in this respect.

7.10.3 Bell Lane does not form part of the adopted highways network and therefore the comments of the Highways Officer are offered in an advisory capacity. The Highways Officer has raised no objections to the proposed accesses or parking arrangements, commenting that vehicles would be able to enter and exit in a forward gear.

7.10.4 It is noted that road surface of Bell Lane is in a state of some disrepair. The comments of neighbours are also acknowledged in relation to the impact of construction vehicles and additional residents cars upon the gradual further deterioration of the road. However Bell Lane is a private road and therefore the impact on its surface is not a material planning consideration. It is also not reasonable to require development to improve an existing situation. Nevertheless it is considered reasonable to require the submission of a construction management plan to minimise the disturbance of the proposed development to the single track road.

7.11 Sustainability

- 7.11.1 Paragraph 93 of the NPPF states that “Planning plays a key role in helping to shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure”.
- 7.11.2 Policy CP1 of the Core Strategy requires the submission of an Energy and Sustainability Statement demonstrating the extent to which sustainability principles have been incorporated into the location, design, construction and future use of proposals and the expected carbon emissions.
- 7.11.3 Policy DM4 of the DMLDD requires applicants to demonstrate that development will produce 5% less carbon dioxide emissions than Building Regulations Part L (2013) requirements having regard to feasibility and viability. This may be achieved through a combination of energy efficiency measures, incorporation of on-site low carbon and renewable technologies, connection to a local, decentralised, renewable or low carbon energy supply. The policy states that from 2016, applicants will be required to demonstrate that new residential development will be zero carbon. However, the Government has announced that it is not pursuing zero carbon and the standard remains that development should produce 5% less carbon dioxide emissions than Building Regulations Part L (2013) requirements having regard to feasibility and viability.
- 7.11.4 The application has been accompanied by an Energy Statement prepared by this outlines an energy saving of 40.43% compared with the requirements of Part L therefore exceeds Policy DM4 by 35.43%. A condition will be added to ensure the development is carried out in accordance with the submitted details.

7.12 Refuse and Recycling

- 7.12.1 Policy DM10 (Waste Management) of the DMLDD advises that the Council will ensure that there is adequate provision for the storage and recycling of waste and that these facilities are fully integrated into design proposals. New developments will only be supported where:
- i) The siting or design of waste/recycling areas would not result in any adverse impact to residential or work place amenity
 - ii) Waste/recycling areas can be easily accessed (and moved) by occupiers and by local authority/private waste providers
 - iii) There would be no obstruction of pedestrian, cyclists or driver site lines
- 7.12.2 Bin stores have been shown on the submitted block plan which would serve each dwelling. Both have a suitable access onto the site frontage where bins can be collected from the highway as per the existing arrangements for neighbouring houses. Notwithstanding this the plans do not show elevations of the proposed bin stores and as such this will be required by condition.

7.13 Conclusion

- 7.13.1 For the reasons set out above, subject to conditions and the completion of a S106 agreement the proposed development is considered acceptable. The proposal would comprise appropriate development in the Green Belt and no other harm has been identified. As such Paragraph 11 of the NPPF is not engaged. Nevertheless the benefits of the scheme providing two new dwellings which achieve policy compliance, including a policy compliant affordable housing contribution, is to be noted particularly in light of the lack of the Council's current ability to demonstrate a 5 year housing land supply.

8 **Recommendation**

8.1 That PLANNING PERMISSION BE GRANTED subject to the following conditions and subject to the completion of a Section 106 Agreement:

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: PL 01A, PL 02A, PL 03B, PL 04B and PL 05

Reason: For the avoidance of doubt and in the proper interests of planning, to safeguard the openness of the Green Belt and in the interests of the visual amenities of the locality and the residential amenity of neighbouring occupiers, in accordance with Policies CP1, CP2, CP3, CP4, CP8, CP9, CP10, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM2, DM4, DM6, DM8, DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013).

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 prevent the buildings being constructed in inappropriate materials 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 Prior to the commencement of the development hereby permitted the additional Badger Setts surveys as recommended by the submitted Preliminary Ecology Appraisal prepared by James Blake Associates shall be undertaken in accordance with the suggested methodology. The findings shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development hereby permitted. Any required mitigations measurements shall be carried out in accordance with the approved details.

Reason: This condition is a pre commencement condition to ensure to ensure that Badgers are safeguarded 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).

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 the AIA prepared by Bartlett ref GD/220496/R1/sh.

The protective measures, including fencing, shall be installed 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.

The development hereby approved shall thereafter be implemented only in accordance with the methodology as set out in the Arboricultural Report prepared by Bartlett ref GD/220496/R1/sh.

Reason: To prevent damage 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 No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of hard and soft landscaping, 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. 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).

- C7 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:

- i. parking of vehicles of site operatives and visitors
- ii. construction of access arrangements including the routing of vehicles
- iii. loading and unloading of plant and materials
- iv. storage of plant and materials used in constructing the development
- v. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- vi. wheel washing facilities
- vii. measures to control the emission of dust and dirt during construction

The approved Construction Method Statement shall be adhered to throughout the construction period.

Reason: This condition is a pre commencement condition in the interests of highway safety and convenience in accordance with Policies CP1 and CP10 of the Core

Strategy (adopted October 2011) and Policy DM10 of the Development Management Policies LDD (adopted July 2013).

- C8 Prior to the first occupation of the development hereby permitted the proposed boundary fencing shall be installed in accordance with the details as shown on the approved plans. The boundary treatment shall be maintained in accordance with the approved details 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) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C9 The development shall not be occupied until the energy saving and renewable energy measures detailed within the Energy Statement submitted as part of the application are incorporated into the approved development.

Reason: To ensure that the development meets the requirements of Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM4 and Appendix 2 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.

- C10 The development shall not be occupied until a scheme for the separate storage and collection of domestic waste has been 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 occupied 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 Policies DM1, DM10 and Appendix

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. 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 development maintains/improves the economic, social and environmental conditions of the District.
- 14 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

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:
- 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 and as of 31 December 2021, Three Rivers has received small site affordable housing contributions amounting to over **£2.4 million**. Utilising those monies, development is has funded the delivery of 21 units of affordable

¹ The revised National Planning Policy Framework was updated in February 2019 and July 2021 and retains the policies as stated in Paragraph 1.3 of this document.

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 £2.4 million already received, small scale (1-9 unit) schemes have secured to date a further **£2.7million to £4.0million**² 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 2021, 250 planning permissions were granted for minor residential developments which contribute a net dwelling gain. Of those only 13 have been permitted to lapse which is only 5.2% of all such schemes³.
- 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 2021, 215 planning applications for residential development involving a net gain of dwellings were determined⁴ by the Council. Of these, 191 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

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. Data is as of February 2022

³ The Needs Analyses (December 2019 and December 2020) referred to a lapse rate of 9% for minor developments; manual analysis has since demonstrated that a number of sites included in the 9% lapse figure have been subject to subsequent planning applications which were granted approval. Such sites have therefore still come forward for development despite earlier permissions lapsing. The lapse percentage in this Needs Analysis (January 2022) has therefore been revised to exclude application sites which are subject to later approvals which are either outstanding, under construction or complete.

⁴ Includes refused and approved applications. Excludes prior approval developments.

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":

"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 2016⁵, the lowest quartile house price in Three Rivers in 2016, representing the cheapest properties in the District was £325,000.00, making it the **fifth**⁶ most expensive local authority area in England and Wales (excluding London), out of a total of three hundred and three local authority areas (see table 1 below).

Number	Local Authority Name	Lowest Quartile House Prices (2016)
1	Elmbridge	£375,000.00
2	St Albans	£355,000.00
3	Windsor and Maidenhead	£340,000.00
4	Hertsmere	£330,000.00
5	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 2020 was £365,000⁷. The lowest quartile house price of £365,000 places Three Rivers as the **fourth** most expensive local authority area in England and Wales (excluding London), out of a total of three hundred and three local authority areas (see table 2 below). The lowest quartile house price has risen by £40,000 from 2016 to 2020, demonstrating a worsening affordability position.

Number	Local Authority Name	Lowest Quartile House Prices (2020)
1	Elmbridge	£411,250

⁵ ONS (2021) *Dataset: House price to residence-based earnings ratio Table 6a*
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

⁶ Note that prior to the formation of the Buckinghamshire Council (now a unitary authority), Three Rivers was the seventh most expensive local authority area as two local authorities in Buckinghamshire ranked higher in lower quartile house price than Three Rivers in 2016 (South Bucks - £370,000.00; Chiltern - £335,000.00).

⁷ Office for National Statistics (2021) *Dataset: House price to residence-based earnings ratio Table 6a*
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

2	St Albans	£400,000
3	Windsor and Maidenhead	£375,000
4	Three Rivers	£365,000

Table 2.

Lowest quartile earnings in Three Rivers in 2016 were £24,518.00 and £26,983.00 in 2020, 13.3 times worsening to 13.5 below the lowest quartile house prices (ratio of lower quartile house prices to lower quartile gross annual, residence based earnings⁸). In a mortgage market where lenders are traditionally willing to lend 3.5 times a person's income, clearly a lending requirement at over 13 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 2020 to have a deposit of £270,560.00, or (without such a deposit) to earn £94,440.00 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 ratio⁹ 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 fourth¹⁰ worst affordability ratio in England and Wales (excluding London), as set out in table 3 below, again when compared against three hundred and three local authorities.

Number	Local Authority Name	Median quartile house price affordability ratio ⁸ (2016)
1	Hertsmere	14.23
2	Mole Valley	14.18
3	Elmbridge	13.86
4	Three Rivers	13.77

Table 3.

Over the period 2016 to 2020, the median quartile house affordability ratio in Three Rivers has improved with a decrease from 13.77 in 2016 to 12.92 in 2020 (see table 4 below). Whilst the median affordability ratio has slightly improved (by 0.85), Three Rivers has maintained its position with the fourth worst affordability ratio in England and Wales (excluding London), demonstrating a lack of improvement in Three Rivers' affordability position nationally.

Number	Local Authority Name	Median quartile house price affordability ratio ¹ (2020)
1	Mole Valley	16.84
2	Elmbridge	14.17
3	Epsom and Ewell	13.26
4	Three Rivers	12.92

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 2020 that had risen to 13.53, showing a worsening ratio over the period from 2016 to 2020.

⁸ Office for National Statistics (2020) *Dataset: House price to residence-based earnings ratio Table 6b*

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

⁹ Affordability ratio statistics are revised annually by the ONS to reflect revisions to the house price statistics and earnings data.

¹⁰ Note that prior to the formation of the Buckinghamshire Council (now a unitary authority), Three Rivers had the fifth worst affordability ratio most expensive local authority area as a local authority in Buckinghamshire ranked higher in median affordability ratio than Three Rivers in 2016 (Chiltern – 14.49).

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 Local Housing Needs Assessment (LNHA) (August 2020) is the most recent update to the South West Hertfordshire Strategic Housing Market Assessment January 2016 (SHMA) and estimates the need for affordable housing over the 2020-2036 period. The LNHA splits its analysis between affordable housing to rent and affordable housing to buy.

Affordable Housing Need - To Rent

- 2.7 The South West Hertfordshire Local Housing Needs Assessment (LHNA) (August 2020) found that at that time there were approximately 1,276 households within Three Rivers that were situated in unsuitable housing. Unsuitability is based on the numbers of homeless households and in temporary accommodation, households in overcrowded housing, concealed households and existing affordable housing tenants in need. 57% of these households are estimated to be unable to afford market housing without subsidy, which means the revised gross need is reduced to 727 households¹¹.
- 2.8 In addition to needs arising from those in unsuitable housing, the LNHA also analyses affordable need to rent arising from newly-forming households within the District. The LNHA estimates 800 new households forming per annum in Three Rivers over the period 2020 to 2036. 45% of these newly-forming households are estimated to be unable to afford market housing (to rent) resulting in 360 new households with a need for affordable housing to rent each year over the period 2020 to 2036¹².
- 2.9 The LNHA also considers newly arising need for affordable rent from existing households (i.e. households residing in market accommodation now requiring affordable housing). The LNHA estimates an additional 77 existing households falling into need for affordable rent per year over the period 2020 to 2036¹³.
- 2.10 Taking into account the figures of need noted above and the supply of affordable housing to rent through re-lets, the LNHA calculates the annual affordable housing need to rent over the period 2020 to 2036 as 350 in Three Rivers¹⁴. This need involves households who cannot afford anything in the market without subsidy and is equivalent to 55% of the District's total local housing need requirement calculated by the standard methodology. This indicates the substantial scale of need for this type of affordable housing.

Affordable Housing Need - To Buy

¹¹ Table 33: Estimated Current Rented Affordable Housing Need, South West Hertfordshire Local Housing Needs Assessment (August 2020)

¹² Table 34: Estimated Level of Rented Affordable Housing Need from Newly Forming Households (per annum 2020-2036), South West Hertfordshire Local Housing Needs Assessment (August 2020)

¹³ Table 35: Estimated level of Housing Need from Existing Households (per annum 2020-2036), South West Hertfordshire Local Housing Needs Assessment (August 2020)

¹⁴ Table 37: Estimated Annual Level of Affordable/Social Rented Housing Need (2020-2036), South West Hertfordshire Local Housing Needs Assessment (August 2020)

- 2.11 In addition, the LNHA estimates a need of 162 units for affordable home ownership per annum¹⁵ over the period 2020 to 2036, although this is a need which is formed by households identified as being able to afford to rent privately without subsidy.

Total Affordable Housing Need

- 2.12 Combining the need for affordable housing to rent and affordable housing to buy results in the calculation of 512 affordable units per year, equating to approximately 80% of Three Rivers' total local housing need requirement (as calculated by the standard method).

Affordable Housing Provision in Three Rivers

- 2.13 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.
- 2.14 Since the start of the plan period from 1 April 2001 to 31st March 2021 (the latest date where the most recent completion figures are available), 4,965 gross dwellings were completed. From this, 1,128 were secured as affordable housing, a total of 22.7%. This percentage is significantly below the Core Strategy target of 45% which means there was a shortfall of 1,107 or 22.3% in order to fulfil the 45% affordable housing requirement up to 31 March 2021. This shortfall only exacerbates the already pressing need for small sites to contribute towards the provision of affordable housing.
- 2.15 In the latest monitoring period of 2020/21 (financial year), 26 sites¹⁶ 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 four major developments (15%) and 22 minor developments (86%). 17 of the 26 schemes contributed to affordable housing provision whilst nine of the 26 schemes did not contribute:
- Four out of the 26 sites provided viability justification, in line with CP4 policy, for the absence of affordable housing provision.
 - Four 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 17 schemes which did contribute, nine made contributions via commuted sums towards off-site provision; all nine schemes were minor developments, demonstrating the important role of small sites in collecting financial payments to be spent on affordable housing provision. Of the remaining eight schemes which contributed via on-site provision in 2020/21, three were major developments and five were minor developments, with four of the five minor developments delivered by Registered Providers (17/2077/FUL, 17/2606/FUL – Three Rivers District Council; 17/0883/FUL – Thrive Homes; 14/1168/FUL – Watford Community Housing Trust). This reflects the

¹⁵ Table 42: Estimated Annual Need for Affordable Home Ownership (2020-2036), South West Hertfordshire Local Housing Needs Assessment (August 2020)

¹⁶ Sites with completions in 2020/21

pattern of on-site delivery from large schemes, with commuted sums from minor developments, unless delivered by Registered Providers.

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

- 2.16 In 2017/2018 (financial year), there were 67 planning applications determined¹⁷ for net gain residential schemes, of which 57 were small site schemes (85%). In 2018/19 (financial year), there were 50 planning applications determined for net gain residential schemes, of which 46 were small site schemes (92%). In 2019/20 (financial year), there were 60 planning applications for net gain residential schemes determined, of which 55 were small sites schemes (92%). In 2020/21 (financial year), there were 38 planning applications for net gain residential schemes determined, of which 33 were small site schemes (87%). 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 four financial years.
- 2.17 In terms of numbers of completed dwellings proposed by those small site schemes, between 2011-2021 (financial years) some 384 net dwellings were completed which equates to 38 net dwellings per annum and to 22.2% over the 2011-2021 period. 22.2% 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

- 2.18 As set out at paragraphs 1.7 and 1.8 above, the commuted payments (£2.4 million) 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 February 2022) secured a further **£2.7million - £4.0million** (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.

¹⁷ Includes refused and approved applications. Excludes prior approval developments.

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

- 2.19 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 2021 there were 250 planning permissions granted for minor (net gain) residential developments in the District. Of those only 13 have lapsed (5.2%)¹⁸. This demonstrates that the application of CP4 has not acted as a brake on small scale residential developments.

Relevant Appeal Decisions

- 2.20 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: 3156661), 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.
- 2.21 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.
- 2.22 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.
- 2.23 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.
- 2.24 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

¹⁸ See footnote 3.

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.”¹⁹

2.25 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.

2.26 The Council’s stance has been tested on appeal on numerous occasions (26 decisions as at the date of this document) and the Planning Inspectorate have repeatedly concluded (that whilst the NPPF carries considerable weight, it does not outweigh CP4 of the Councils development plan given the acute and substantial need for affordable housing in the District and the important contribution small sites make towards addressing this shortfall. Below are extracts from a few of those decisions:

- **APP/P1940/W/19/3222318, Eastbury Corner, 13 Eastbury Avenue, Northwood, Decision date: 21st June 2019:**
“The Council has however provided robust evidence to demonstrate high affordable housing need locally and that affordability in the District continues to deteriorate. Indeed, needs analysis carried out by the Council highlights the importance of small sites in addressing shortfall and the lack of affordability that exists in the District. I apply substantial weight to this local evidence due to its recentness and the clear conclusions that can be drawn from it. Policy CP4 makes it clear that site circumstances and financial viability will be taken into account when seeking affordable housing provision.”
- **APP/P1940/W/19/3221363, The Swallows, Shirley Road, Abbots Langley Decision date: 27th June 2019:**
“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

¹⁹ Paragraph 7, Planning Inspectorate Letter, March 2017.

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 Councils 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/19/3229038: 124 Greenfield Avenue**

Decision Date 10th December 2019

“Furthermore, windfall sites make up the majority of the proposals in a District which is constrained by the Green Belt and so delivery of affordable housing from these sites is crucial. The submitted evidence supports the proportion of housing proposals which have been on small sites in the last few years. There is no evidence before me that seeking affordable housing on small sites has precluded small windfall sites coming forward – indeed such sites have contributed a significant amount to the affordable housing pot since 2011... Overall, there is substantial evidence of considerable affordable housing need in the District and it has been demonstrated that small sites make an important contribution to affordable housing delivery in the Borough. I attach very significant weight to this consideration. Whilst the Framework is a material consideration of very considerable weight, based on the local circumstances of this case, in this instance the Framework does not outweigh the relevant development plan policy.”

- **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"

- **APP/P1940/W/20/3259397 24 Wyatts Road**

Decision Date 8th February 2021

"...I consider that the specific circumstances within this district together with the updated evidence to support Policy CP4 are sufficient, in this case, to outweigh the guidance of the Framework."

- **APP/P1940/W/20/3260602: 8-10 Claremont Crescent, Croxley Green**

Decision Date 18th February 2021

"The Council's case is that Policy CP4 should continue to apply to all housing developments, notwithstanding its lack of consistency with the more recent Framework. In justifying this position, it has provided robust evidence of a high affordable housing need in the district as well as an independent viability assessment in relation to this appeal. Furthermore, a number of similar appeal decisions, cited by the Council, show that Inspectors have considered development plan policies with lower affordable housing thresholds to outweigh national policy given the local evidence of substantial affordable housing need. Whilst the Framework is a material consideration of very considerable weight, based on the local circumstances of this case, in this instance it does not outweigh the relevant development plan policy. In making this judgement, I have given considerable but not full weight to Policy CP4."

- **APP/P1940/W/20/3244533 2 Canterbury Way**

Decision Date 4th March 2021

"Over the plan period there have been times when the Council have applied Policy CP4 of the CS and times when they have not. I accept that this may have implications for the delivery of non-major sites, perhaps encouraging whether or not developers will bring forward proposals. However, it cannot be the only factor which influences whether or not such sites are brought forward. Furthermore, there is no substantive evidence to suggest that if Policy CP4 of the CS was not applied it would significantly increase the supply of housing in the district. Moreover, Policy CP4 of the CS was subject to an assessment of viability alongside all other requirements through the Local Plan process... Overall, on the basis of the evidence before me I am not convinced that the Council's application of Policy CP4 of the CS is directly discouraging developers from bringing forward small sites due to the need to provide or contribute towards affordable housing or demonstrate that it viably cannot... housing affordability in the district is acute such that, based on the specific circumstances of this case and the evidence presented, I find on balance the proposal should make appropriate provision for affordable housing."

- **APP/P1940/W/20/3260554: Land adjacent to 2 Coles Farm**

Decision Date 15th June 2021

“The appellant’s comments regarding the importance of small sites is noted as is the Council’s lack of a five-year housing land supply. Despite this, the proposal is required to secure a contribution towards the provision of affordable housing, however, at the point of determination no executable undertaking is before me... The proposal would be contrary to CS Policy CP4 and the Affordable Housing Supplementary Planning Document 2011 which require all new development resulting in a net gain of one or more dwellings to contribute to the provision of affordable housing.”

Conclusion

2.27 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, December 2020 and February 2022 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 2020 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 2020/2021 (December 2021)
<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 Local Housing Needs Assessment (August 2020)
<https://www.threerivers.gov.uk/eqcl-page/new-local-plan-evidence-base>

5. Office of National Statistics Housing Data 2002-20

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

February 2022

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PLANNING COMMITTEE – 23 FEBRUARY 2023

PART I - DELEGATED

9. **22/2250/FUL - Subdivision of the site and the construction of 2no. two storey detached dwellings with rooflights and associated accesses, parking, landscaping and ancillary works at NORTH VIEW FARM, BELL LANE, BEDMOND, HERTFORDSHIRE, WD5 0QT (DCES)**

Parish: Abbots Langley

Ward: Abbots Langley and Bedmond

Expiry of Statutory Period: 27.02.2023 (Agreed EoT) Case Officer: Lauren Edwards

Recommendation: That Planning Permission be Granted subject to the completion of a Section 106.

Reason for consideration by the Committee: The application was called in by three members of the Planning Committee in order to assess the impact of the development on the Metropolitan Green Belt.

1 Relevant Planning History

- 1.1 No relevant Planning History.

2 Description of Application Site

- 2.1 The application site relates to a parcel of land approx. 1030sqm in area and is located on the northern side of Bell Lane, Bedmond. The site is currently enclosed to the front by timber fencing and a metal gate to the access. To the flank boundaries there is closed boarded fencing and to the rear is mature vegetation that separates the application site from a larger parcel of field land to the rear which is within the ownership of the applicant and therefore identified by a blue line on the site location plan. The application site is covered by grass which is relatively well maintained.
- 2.2 To the west of the site is a detached two storey dwelling known as 'The Weald'. This neighbour has accommodation in the roof served by rear dormers, gable ends and single storey projections. Land levels in this part of the street are relatively flat such that the neighbour is on the same level as the application site.
- 2.3 To the east of the site is an area of protected wood land. Beyond the Woodland to the east is a dwelling known as Harefield.
- 2.4 There are also neighbouring properties to the south. The neighbouring dwellings are all of varying scale and design.
- 2.5 There are a line of protected trees across the rear boundary of the site and one individual tree towards the south eastern corner.
- 2.6 The application site is located within the Metropolitan Green Belt.

3 Description of Proposed Development

- 3.1 This application seeks planning permission for the subdivision of the site and the construction of 2no. two storey detached dwellings with rooflights and associated accesses, parking, landscaping and ancillary works.

- 3.2 The existing site would be subdivided to create two residential plots each containing a detached two storey dwelling. Hereafter the Plot to the west will be referred to as 'Plot 1' and the plot to the east at 'Plot 2'. Both dwellings would have 4 bedrooms.
- 3.3 The dwelling at Plot 1 would have a maximum overall depth of 13m and a width of 8.6m. It would be set in a minimum of 1m from the flank boundary towards the rear, increasing to 1.5m towards the front. It would be set back 11.7m from the front boundary. The dwelling would have a maximum height of 8.1m. It would have a ridge running side to side with a two storey front gable projection, gable end to the east and a hipped roof to the west. To the rear there would be a single storey rear projection with a mono pitched roof which would have a depth of 1.5m beyond the main two storey rear elevation, a width of 3.7m and a mono-pitched roof with a maximum height of 3.3m. To the front the property would have a flat roofed front porch and a single storey projection serving the garage which would have a mono pitched roof.
- 3.4 The dwelling at Plot 2 would have a maximum overall depth of 11.3m and a width of 9.4m. It would be set in 6m from the new shared boundary and a minimum of 4m from the eastern flank boundary with spacing increasing to the rear. The dwelling would have a maximum height of 8.3m. This dwelling would have ridge running side to side with a gable end to the west and a hipped roof to the east. It would have a two storey front gable projection and to the rear partial catslide roof feature with a pitched roof two storey feature. The front and rear elevation would both be stepped.
- 3.5 The proposed dwellings would be finished in painted render with facing brick work detailing and grey roof tiles.
- 3.6 To the front two accesses would be created and the frontage would have a carriage driveway section. An access from be retained to the east to provide access to the wider parcel of land to the north. To the front of each dwelling there would be parking for at least 3 cars. To the rear the site would be subdivided by fencing to create two private gardens. Each dwelling would also have a bin store and a bicycle store.
- 3.7 Amended plans have been received in order to omit the previously proposed detached garage, revise the roof of Plot 2 to omit a crown roof and to omit a two storey rear projection serving Plot 1.

4 Consultation

4.1 Statutory Consultation

4.1.1 Abbots Langley Parish Council: [No objection]

No objection. Although this development is in the greenbelt, members feel it is a good use of the land for infill dwelling within the greenbelt. The proposed development is in keeping with neighbouring dwellings and members consider the location falls within the curtilage of the village.

4.1.2 Hertfordshire County Council – Highway Authority: [No objection]

Recommendation

Notice is given under article 22 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission.

Comments/Analysis

It is to be noted HCC does not have the ability to implement policies in the location of the proposed dwellings and new accesses, so these comments are written in an advisory capacity.

Description of Proposal

Subdivision of the site and the construction of 2no. two storey detached dwellings with rooflights and associated accesses, parking, landscaping and ancillary works

Site and Surroundings

Bell Lane is a private route formed by Abbots Langley 067 bridleway which, according to signage, is subject to a 10mph speed limit and is not highway maintainable at public expense. Bell Lane connects with the highway network at High Street, a classified C secondary distributor. The site is located on a residential street within the settlement of Bedmond, approximately 2.6km east of Kings Langley. The nearest bus stop to the site is approximately 190m away and is a stop for the 20 and H19 buses. The local post office and convenience store are located approximately 385m from the site. There is not a footway along Bell Lane however it is a public right of way.

Access and Parking

The application proposes a new vehicular access for each dwelling onto Bell Lane. Due to the lack of footway fronting the site, there is no need for a dropped kerb of any specific size. Furthermore, due to the private nature of Bell Lane, HCC policies and maintenance cannot be implemented. The low speed of the route and the low-lying planting fronting the site means that there is suitable visibility from the accesses. The connection of the accesses within the site forms a carriage driveway which ensures that vehicles can egress the site in forward gear. There have not been any collisions along Bell Lane within the last 5 years, it is noted there has been one collision of slight severity at the junction of Bell Lane and High Street.

Ultimately the LPA will have to be satisfied with the parking provision, but HCC would like to comment that there are up to 7 parking spaces at the site according to the Application Form. This parking provision is made up of the driveways, a garage and a carport, as shown on drawing number PL 02. It is noted that garages should measure 3m x 6m in order for them to be considered a suitable parking space as per Manual for Streets and Roads in Hertfordshire: Highway Design Guide 3rd Edition Section 4 – Design Standards and Advice. All parking must be kept within the site as the public right of way should not be blocked at any time. Cycle parking has been shown within the gardens of each dwelling, although due to the number of bedrooms in the dwellings, additional/larger cycle storage is likely to be required. Electric vehicle charging has not been shown within the plans although it is minded that it should be included as part of updated Building Regulations.

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 collection location and residents should not carry waste more than 30m to the collection point. These distances are not exceeded at the site and waste storage is shown in the rear gardens of each dwelling.

Emergency Vehicle Access

In accordance with Manual for Streets Paragraph 6.7, the entire footprint of a dwelling must be within 45m from the edge of the highway so an emergency vehicle can gain access. At this site, the footprints of each dwelling are within 45m of the public right of way bridleway, although it is noted that the width of the bridleway would likely make it difficult for a fire tender to turn around.

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 nearby highway and therefore, has no objections on highway grounds to this application. Again, it is to be noted HCC does not have the ability to implement policies in the location of the development, so this response is written in an advisory capacity only.

4.1.3 Herts Ecology: No response received

4.1.4 Herts Footpath Section: No response received

4.1.5 National Grid: No response received

4.1.6 Landscape Officer: No response received

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 5

4.2.2 No of responses received: 4 objections

4.2.3 Site Notice: Expired 27.01.2023 Press notice: Expired 03.02.2023

4.2.4 Summary of Responses:

- Loss of light
- Unjust to have Green Belt rules relaxed after neighbour's previous refusals
- Bell Lane is an unmade private road hard to maintain due to increased traffic
- Construction traffic will make road surface worse
- House to plot size ratio not in keeping
- Construction traffic will impact access to pedestrians/horse riders
- Adverse impact on biodiversity
- Green Belt impacts
- Would set precedent for further building (adjacent site in local plan consultation)
- TPOs, woodland and wildlife sites adjacent
- Impact on Chiltern Beechwood SAC

5 Reason for Delay

5.1 Committee cycle.

6 Relevant Planning Policy, Guidance and Legislation

6.1 Planning applications are required to be determined in accordance with the statutory development plan unless material considerations indicate otherwise as set out within S38 (6) Planning and Compulsory Purchase Act 2004 and S70 of Town and Country Planning Act 1990).

6.2 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.

6.3 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, 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, DM4, DM6, 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. Policy SA1 is relevant.

6.4 Other

Affordable Housing Supplementary Planning Document (adopted June 2011).

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

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

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

7 **Planning Analysis**

7.1 Principle of Development

7.1.1 The proposed development would result in a net gain of two residential dwellings. The site is not identified as a housing site in the Site Allocations document and would be considered as a windfall site. However, as advised in this document, where a site is not identified for

development, it may still come forward through the planning application process where it will be tested in accordance with relevant national and local policies.

7.1.2 Policy CP2 of the Core Strategy 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, and
- iv. Monitoring information relating to housing supply and the Three Rivers housing targets.

7.1.3 Further the purposes of the settlement hierarchies as defined within the Core Strategy the application site is only partially included with the defined village settlement boundary. However this would not in itself preclude residential development in these areas. The application site is surrounded by existing residential dwellings which form part of an established residential road. As such the principle of residential development in this location is considered acceptable subject to all other material considerations below.

7.2 Housing Mix

7.2.1 Policy CP3 of the Core Strategy states that the Council will require housing proposals to take into account the range of housing needs, in terms of 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

7.2.2 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 which are the second least required within the district and the proposal would not strictly accord with the mix prescribed by Policy CP3 of the Core Strategy. However it is considered that a development of this nature, which proposes an additional two units, 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).

7.3 Affordable Housing

7.3.1 **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.

7.3.2 The proposed development would result in a requirement for a commuted sum of £135,750 towards affordable housing based on habitable floor-space of 181sqm multiplied by £750 per sqm which is the required amount in the 'Langleys and Croxley Green' market area.

7.3.3 A draft S106 agreement has been submitted which commits to payment of the required commuted sum amount. As such subject to the completion of a S106 agreement to secure the monies the proposal would comply with Policy CP4 of the Core Strategy (2011).

7.4 Green Belt

- 7.4.1 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 is supported by Policy DM2 of the Development Management Policies LDD and states that 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.
- 7.4.2 In respect of the NPPF, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The NPPF states that when considering proposals, Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt and that very special circumstances will not exist unless harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations.
- 7.4.3 Paragraph 149 of the NPPF states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:
- a) buildings for agriculture and forestry;
 - b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
 - c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
 - d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
 - e) limited infilling in villages;**
 - f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
 - g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
 - not have a greater impact on the openness of the Green Belt than the existing development; or
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
- 7.4.4 In order to ascertain whether the proposed development would fall within exception (e), it is necessary to firstly consider a) whether the application site falls within a village and b) if the extent of housing proposed is considered 'limited'. In *Wood v Secretary of State for Communities and Local Government* (2014) it was held that whether or not a proposed development constitutes limited infilling in a village is a question of planning judgement, and that this would depend upon their assessment of the position on the ground.
- 7.4.5 The Oxford Dictionary defines a village as a group of houses and associated buildings, larger than a hamlet and smaller than a town, situated in a rural area. It defines a hamlet as a small settlement, generally one smaller than a village, and strictly (in Britain) one without a Church. It is recognised that in the appeal at Land off Tongue Lane, Brown Edge

(APP/B3438/W/18/3211000) the Inspector noted that..."While a Church may have once existed in Ridgeway, there is no Church there now as it has been replaced by a dwelling known as Chapel House. There are also no other associated buildings in Ridgeway that would, in my judgement, mean that Ridgeway is anything more than a hamlet". While the Inspector's comments are noted, it is considered that the existence of a Church is not a conclusive factor as to whether a settlement is a village and thus a greater view is required based on facts on the ground.

- 7.4.6 Turning first to the question of whether the application site is located within a village. The application site only partial falls within the boundary of a village as designated by the settlement hierarchy as set out within the Core Strategy however the NPPF does not specify that a village must be specifically defined as such within the development plan. Neither does the NPPF specify what the limits of a village should be. Having regard to appeal decisions, it is accepted that the definition of a village is a matter of planning judgement and even if a site falls outside a designated settlement boundary, this is not definitive as to whether a site falls within a village or not.
- 7.4.7 Whilst the application site is only partly covered by the village boundary as defined by Core Strategy this would not preclude a judgement that the site is located within a village for the purposes of the Green Belt exceptions. The village boundary bounds the site to the east, south and west. Additionally the application site is within a 5 minute (0.3 mile walk) of Bedmond Village stores and the other local services which are contained within Bedmond. Whilst Bell Lane itself is an unlit private road the walking route is still relatively direct. Bell Lane is accessible to pedestrians with most of the walk being along the lit footpath along 'High Street'. As such it is concluded that the application site can be considered as being within a village for the purposes of Paragraph 149 (e) of the NPPF.
- 7.4.8 It is also noted that the LPA has also received appeal decisions for a site further away from a village centre than proposed in this case. For example 'Notley Croft' (APP/P1940/W/17/3187494) was considered to be within the village of Bedmond despite it being slightly further away (0.4 miles vs 0.3miles) from the village centre.
- 7.4.9 It also needs to be ascertained whether the proposed development is 'limited infilling'. As with the village factor of this exception the NPPF does not define limited infilling therefore this is also a matter of planning judgement. It is generally considered to be a "small gap" having regard to both the scale and form of the development, interpreted in the context of the overall aims of the Green Belt.
- 7.4.10 The proposed dwellings fit comfortably with the application site and two dwellings is considered to be limited both in the context of the size of the site and within the streetscene as a whole.
- 7.4.11 The last exercise of the exception is to determine whether the proposed development is 'infilling'. It is noted that the application site is absent of built form to the north. However to the south and west the application site does sit within a linear pattern of built form. It is noted that there is not an immediate neighbouring dwelling to the east however there is a dwelling further along Bell Lane known as 'Harefield'. It is accepted therefore that the proposed dwellings would not sit within a gap between continuous ribbon of built form. However it is bound to a degree on three sides of the site by established patterns of residential development. The application site is only separated from 'Harefield' to the east by a protected woodland which provides a forced break to the line of built form on this side of Bell Lane and contains the application site. When considered in relation to the built form evidenced on the ground the proposed two units would 'infill' a gap at the end of a line of dwellings and between the continuous line of dwellings to the south. Additionally when viewed in the wider context of Bell Lane would infill between existing built form albeit more sporadic towards the east. Overall when considering the site circumstances it is considered that the proposal would comprise infilling for the purposes of the exception as set out at Paragraph 149 (e) of the NPPF.

7.4.12 In light of the above the development would not be inappropriate development in the Green Belt and would be consistent with the aims and objectives of the Framework and Policy CP11 of the Three Rivers Local Development Framework Core Strategy (2011) and Policy DM2 of the Three Rivers Local Plan Development Management Policies Local Development Document (2013).

7.5 Impact on Character and Street Scene

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

7.5.2 In terms of new residential development, Policy DM1 of the DMLDD advises that the Council will protect the character and residential amenity of existing areas of housing from forms of 'backland', 'infill' or other forms of new residential development which are inappropriate for the area. Development will 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.)

7.5.3 The proposal would not constitute tandem development nor would it be served by an awkward access. The uplift of two units is not considered to generate excessive levels of traffic (highways considerations are discussed in detail below) and would not result in the loss of any existing residential amenity (impact on amenity discussed in detail below).

7.5.4 The overall character of Bell Lane is mixed both in relation to the scale and design of dwellings. However the prevailing character is of detached dwellings. There are examples of many roof forms which are largely traditional in nature, various materials and differing sizes of properties including bungalows and two storey dwellings with loft accommodation.

7.5.5 The proposed plots would be of a size and shape which responds to the overall character of the streetscene, particularly to the northern side of Bell Lane where plots are slightly shorter and wider. The proposed dwellings would have a stepped front building line which responds positively to the building line along the northern side of Bell Lane which is more sporadic than on the southern side where front building lines are more linear. The proposed dwellings would also front the road with parking and soft landscaping to the frontage which reflects the overall layout of plots within the locality.

7.5.6 Appendix 2 of the DMP LDD outlines that 1.2m spacing should be retained between site boundaries and first floor flanks. The dwelling at Plot 1 would be set in a minimum of 1.2m from the boundary at first floor level towards the rear with spacing increasing towards the frontage. The dwellings would both be set in over 4m from the new shared boundary and the dwelling at Plot 2 would be set in a minimum of 4m from the eastern boundary. As such

the proposed development would retain adequate spacing to the boundaries which would respond the character of the streetscene.

- 7.5.7 The proposed dwellings would each be two storey with two storey front gable features and a combination of hipped and gabled roofs. Each would have traditional roof forms. Overall the proposed dwellings would not appear at odds in their size, height and form within the mixed nature of dwelling within Bell Lane.
- 7.5.8 Further details of the proposed materials will be required by condition however the principle of render with facing brickwork and grey tiles would not be incongruous within the streetscene where a variety of material palettes are evident.
- 7.5.9 The proposal also includes the provision of cycle stores and bin stores. Both of which are set back from the highway and would not appear as incongruous features within the residential setting of the application site. However elevations of the bin store have not been submitted and thus would be required by condition.
- 7.5.10 In summary, subject to further details of the proposed materials, the proposed new dwellings would not appear unduly prominent or incongruous within the streetscene so as to result in demonstrable harm to the character of the locality. Therefore would be acceptable in accordance with Policies CP1 and CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies LDD

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'.
- 7.6.2 Policy DM1 and Appendix 2 of the Development Management Policies document set out that development should not result in loss of light to the windows of neighbouring properties nor allow overlooking, and should not be excessively prominent in relation to adjacent properties.
- 7.6.3 Appendix 2 of the DMP LDD outlines that two storey rear extensions should not generally intrude a 45 degree splay line drawn across the rear from the point on the boundary level with the rear wall of the adjacent property. This principle is dependent on the spacing and relative positions of properties and consideration will be given to the juxtaposition of properties, land levels and positions of windows and development on neighbouring properties.
- 7.6.4 The proposed dwelling at Plot 1 would intrude a 45 degree splay line with 'The Weald' when taken from the point on the boundary level with the two storey rear elevation of this neighbour by approx. 2.3m. However Appendix 2 outlines that where there is a single storey rear projection the 45 degree line can be taken from the point on the boundary level with this element. When taken from the point on the boundary level with the neighbour's single storey rear projection would not intrude. Additionally there would be spacing both to the boundary and between the two main flanks of the dwellings such that the two storey flank of dwelling 1 would be separated by approx. 4.9m from the single storey rear projection of the neighbour. Additionally the roof form of the main dwelling would be hipped away from the boundary to the side closest to the neighbour and the single storey rear projection would also have a mono pitched roof. The deepest point of the proposed dwelling would not extend beyond the single storey rear projection of the neighbour. When considering the design of the proposed dwelling, siting and separation distances it is not considered the proposed development would result in an unacceptable overbearing impact or loss of light to this neighbour so as to result in demonstrable harm to the amenity of this neighbour.

- 7.6.5 Some oblique views could be had towards the garden of 'The Weald' however these would not be direct nor atypical for a residential location such that unacceptable levels of overlooking would occur. The proposed first floor flank windows would both be conditioned to be obscure glazed and top level opening only.
- 7.6.6 There is no immediate neighbour to the rear or eastern side of the application site. The neighbours to the south are separated from the proposed dwellings by the road and it is not considered that the proposed front windows would afford unacceptable views towards these properties which are not generally expected in a residential location.
- 7.6.7 The proposal is therefore considered to be acceptable in this regard in accordance with Policy CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies document.
- 7.7 Quality of accommodation and amenity space for future occupants
- 7.7.1 Policy CP12 of the Core Strategy states that development should take into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space and specific standards for provision of amenity space are set out in Appendix 2 of the Development Management Policies LDD. These standards set out that a four bedroom dwelling should provide 105sqm.
- 7.7.2 Both dwellings would benefit from in excess of 105sqm of amenity space. Therefore would comply with Appendix 2 of the DMP LDD in this respect. Additionally both dwellings would be of a good size proving good quality of accommodation to future occupiers. The proposed rear gardens would not be overlooked to any degree which would not be expected in a residential setting. Owing to the separation distances between the proposed dwellings they would not have an undue impact upon each other however the facing flank windows would be conditioned to be obscure glazed and top level opening only.
- 7.8 Wildlife and Biodiversity
- 7.8.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive.
- 7.8.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of applications in accordance with Policy CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the DMLDD. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications that may be affected prior to determination of a planning application.
- 7.8.3 The application has been submitted with a Biodiversity Checklist and a Preliminary Ecology Assessment.
- 7.8.4 Firstly it is noted that the application site is located within the Zone of Influence (ZOI) for the Chilterns Beechwoods Special Area of Conservation (SAC). The location of the site within the ZOI is a material consideration, however it is acknowledged that the site, and Three Rivers District is at the outer edge of the ZOI, and the District has been identified as generating less than 2% of the visits to the SAC. Taking this into account, it is considered that material harm would be unlikely to be caused to the SAC as a result of this development, and no compensatory measures are required in respect of this matter.
- 7.8.5 Turning to the submitted Preliminary Ecology Assessment it is noted that this report pertains to not only the application site but the wider land to the rear. However its findings are still considered to be relevant.

7.8.6 In relation to badgers the recommendations of the assessment is that further surveys should be undertaken prior to the commencement of development to confirm the presence of setts. These can be carried out at any time of the year. In respect of bats the assessment identifies one tree with moderate potential however this tree is sited on the other side of the parcel of land to the rear of the application site and therefore would not be impacted and further surveys are therefore not required. The assessment does not identify that any other surveys are required with the exception of the Badger Sett survey. As such a condition will be added in respect of the Badger Setts as well as an informative regarding nesting birds. A full hard and soft landscaping scheme will also be required prior to the commencement of works.

7.9 Trees and Landscaping

7.9.1 Policy DM6 of the Development Management Policies LDD (adopted July 2013) states that 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. Policy DM6 further states that development proposals should demonstrate that existing trees, hedgerows and woodlands will be safeguarded and managed during and after development.

7.9.2 Paragraph 131 of the NPPF outlines that trees make an important contribution to the character and quality of urban environments. Paragraph 174 further adds that planning decisions should contribute to the natural and local environments and should recognise the benefits of trees and woodland.

7.9.3 The application has been accompanied by a Tree Survey and Arboricultural Impact Assessment (AIA). Plot 2 will be constructed within the RPA of T3 however the submitted AIA outlines methods for investigation works and suggested mitigation measures. The AIA also includes a methodology for the works as a whole including ground and barrier protection measures. As such subject to a condition requiring the development to be carried out in accordance with the submitted report it is not considered that the development would result in harm to the on-site and adjacent protected trees. Additionally a full hard and soft landscaping scheme would be required by condition.

7.10 Highways, Access and Parking

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

7.10.2 Appendix 5 of the DMP LDD requires that 4 bedroom dwellings should provide 3 on-site parking spaces. Each dwelling would have at least 3 parking spaces to the frontage and therefore would comply with Appendix 5 in this respect.

7.10.3 Bell Lane does not form part of the adopted highways network and therefore the comments of the Highways Officer are offered in an advisory capacity. The Highways Officer has raised no objections to the proposed accesses or parking arrangements, commenting that vehicles would be able to enter and exit in a forward gear.

7.10.4 It is noted that road surface of Bell Lane is in a state of some disrepair. The comments of neighbours are also acknowledged in relation to the impact of construction vehicles and additional residents cars upon the gradual further deterioration of the road. However Bell Lane is a private road and therefore the impact on its surface is not a material planning consideration. It is also not reasonable to require development to improve an existing situation. Nevertheless it is considered reasonable to require the submission of a construction management plan to minimise the disturbance of the proposed development to the single track road.

7.11 Sustainability

- 7.11.1 Paragraph 93 of the NPPF states that “Planning plays a key role in helping to shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure”.
- 7.11.2 Policy CP1 of the Core Strategy requires the submission of an Energy and Sustainability Statement demonstrating the extent to which sustainability principles have been incorporated into the location, design, construction and future use of proposals and the expected carbon emissions.
- 7.11.3 Policy DM4 of the DMLDD requires applicants to demonstrate that development will produce 5% less carbon dioxide emissions than Building Regulations Part L (2013) requirements having regard to feasibility and viability. This may be achieved through a combination of energy efficiency measures, incorporation of on-site low carbon and renewable technologies, connection to a local, decentralised, renewable or low carbon energy supply. The policy states that from 2016, applicants will be required to demonstrate that new residential development will be zero carbon. However, the Government has announced that it is not pursuing zero carbon and the standard remains that development should produce 5% less carbon dioxide emissions than Building Regulations Part L (2013) requirements having regard to feasibility and viability.
- 7.11.4 The application has been accompanied by an Energy Statement prepared by this outlines an energy saving of 40.43% compared with the requirements of Part L therefore exceeds Policy DM4 by 35.43%. A condition will be added to ensure the development is carried out in accordance with the submitted details.

7.12 Refuse and Recycling

- 7.12.1 Policy DM10 (Waste Management) of the DMLDD advises that the Council will ensure that there is adequate provision for the storage and recycling of waste and that these facilities are fully integrated into design proposals. New developments will only be supported where:
- i) The siting or design of waste/recycling areas would not result in any adverse impact to residential or work place amenity
 - ii) Waste/recycling areas can be easily accessed (and moved) by occupiers and by local authority/private waste providers
 - iii) There would be no obstruction of pedestrian, cyclists or driver site lines
- 7.12.2 Bin stores have been shown on the submitted block plan which would serve each dwelling. Both have a suitable access onto the site frontage where bins can be collected from the highway as per the existing arrangements for neighbouring houses. Notwithstanding this the plans do not show elevations of the proposed bin stores and as such this will be required by condition.

7.13 Conclusion

- 7.13.1 For the reasons set out above, subject to conditions and the completion of a S106 agreement the proposed development is considered acceptable. The proposal would comprise appropriate development in the Green Belt and no other harm has been identified. As such Paragraph 11 of the NPPF is not engaged. Nevertheless the benefits of the scheme providing two new dwellings which achieve policy compliance, including a policy compliant affordable housing contribution, is to be noted particularly in light of the lack of the Council's current ability to demonstrate a 5 year housing land supply.

8 **Recommendation**

- 8.1 That PLANNING PERMISSION BE GRANTED subject to the following conditions and subject to the completion of a Section 106 Agreement:
- 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: PL 01A, PL 02A, PL 03B, PL 04B and PL 05
- Reason: For the avoidance of doubt and in the proper interests of planning, to safeguard the openness of the Green Belt and in the interests of the visual amenities of the locality and the residential amenity of neighbouring occupiers, in accordance with Policies CP1, CP2, CP3, CP4, CP8, CP9, CP10, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM2, DM4, DM6, DM8, DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013).
- 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 prevent the buildings being constructed in inappropriate materials 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 Prior to the commencement of the development hereby permitted the additional Badger Setts surveys as recommended by the submitted Preliminary Ecology Appraisal prepared by James Blake Associates shall be undertaken in accordance with the suggested methodology. The findings shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development hereby permitted. Any required mitigations measurements shall be carried out in accordance with the approved details.
- Reason: This condition is a pre commencement condition to ensure to ensure that Badgers are safeguarded 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).
- 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 the AIA prepared by Bartlett ref GD/220496/R1/sh.
- The protective measures, including fencing, shall be installed 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.

The development hereby approved shall thereafter be implemented only in accordance with the methodology as set out in the Arboricultural Report prepared by Bartlett ref GD/220496/R1/sh.

Reason: To prevent damage 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 No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of hard and soft landscaping, 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. 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).

- C7 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:

- i. parking of vehicles of site operatives and visitors
- ii. construction of access arrangements including the routing of vehicles
- iii. loading and unloading of plant and materials
- iv. storage of plant and materials used in constructing the development
- v. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- vi. wheel washing facilities
- vii. measures to control the emission of dust and dirt during construction

The approved Construction Method Statement shall be adhered to throughout the construction period.

Reason: This condition is a pre commencement condition in the interests of highway safety and convenience in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011) and Policy DM10 of the Development Management Policies LDD (adopted July 2013).

- C8 Prior to the first occupation of the development hereby permitted the proposed boundary fencing shall be installed in accordance with the details as shown on the

approved plans. The boundary treatment shall be maintained in accordance with the approved details 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) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C9 The development shall not be occupied until the energy saving and renewable energy measures detailed within the Energy Statement submitted as part of the application are incorporated into the approved development.

Reason: To ensure that the development meets the requirements of Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM4 and Appendix 2 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.

- C10 The development shall not be occupied until a scheme for the separate storage and collection of domestic waste has been 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 occupied 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 Policies DM1, DM10 and Appendix

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. 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.

- I2 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.
- I3 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.
- I4 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

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:
- 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 and as of 31 December 2021, Three Rivers has received small site affordable housing contributions amounting to over **£2.4 million**. Utilising those monies, development is has funded the delivery of 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 The revised National Planning Policy Framework was updated in February 2019 and July 2021 and retains the policies as stated in Paragraph 1.3 of this document.

- 1.8 In addition to the £2.4 million already received, small scale (1-9 unit) schemes have secured to date a further **£2.7million to £4.0million**² 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 2021, 250 planning permissions were granted for minor residential developments which contribute a net dwelling gain. Of those only 13 have been permitted to lapse which is only 5.2% of all such schemes³.
- 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 2021, 215 planning applications for residential development involving a net gain of dwellings were determined⁴ by the Council. Of these, 191 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 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. Data is as of February 2022

³ The Needs Analyses (December 2019 and December 2020) referred to a lapse rate of 9% for minor developments; manual analysis has since demonstrated that a number of sites included in the 9% lapse figure have been subject to subsequent planning applications which were granted approval. Such sites have therefore still come forward for development despite earlier permissions lapsing. The lapse percentage in this Needs Analysis (January 2022) has therefore been revised to exclude application sites which are subject to later approvals which are either outstanding, under construction or complete.

⁴ Includes refused and approved applications. Excludes prior approval developments.

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":

"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 2016⁵, the lowest quartile house price in Three Rivers in 2016, representing the cheapest properties in the District was £325,000.00, making it the **fifth**⁶ most expensive local authority area in England and Wales (excluding London), out of a total of three hundred and three local authority areas (see table 1 below).

Number	Local Authority Name	Lowest Quartile House Prices (2016)
1	Elmbridge	£375,000.00
2	St Albans	£355,000.00
3	Windsor and Maidenhead	£340,000.00
4	Hertsmere	£330,000.00
5	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 2020 was £365,000⁷. The lowest quartile house price of £365,000 places Three Rivers as the **fourth** most expensive local authority area in England and Wales (excluding London), out of a total of three hundred and three local authority areas (see table 2 below). The lowest quartile house price has risen by £40,000 from 2016 to 2020, demonstrating a worsening affordability position.

Number	Local Authority Name	Lowest Quartile House Prices (2020)
1	Elmbridge	£411,250
2	St Albans	£400,000
3	Windsor and Maidenhead	£375,000
4	Three Rivers	£365,000

Table 2.

⁵ ONS (2021) *Dataset: House price to residence-based earnings ratio Table 6a*
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

⁶ Note that prior to the formation of the Buckinghamshire Council (now a unitary authority), Three Rivers was the seventh most expensive local authority area as two local authorities in Buckinghamshire ranked higher in lower quartile house price than Three Rivers in 2016 (South Bucks - £370,000.00; Chiltern - £335,000.00).

⁷ Office for National Statistics (2021) *Dataset: House price to residence-based earnings ratio Table 6a*
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

Lowest quartile earnings in Three Rivers in 2016 were £24,518.00 and £26,983.00 in 2020, 13.3 times worsening to 13.5 below the lowest quartile house prices (ratio of lower quartile house prices to lower quartile gross annual, residence based earnings⁸). In a mortgage market where lenders are traditionally willing to lend 3.5 times a person's income, clearly a lending requirement at over 13 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 2020 to have a deposit of £270,560.00, or (without such a deposit) to earn £94,440.00 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 ratio⁹ 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 fourth¹⁰ worst affordability ratio in England and Wales (excluding London), as set out in table 3 below, again when compared against three hundred and three local authorities.

Number	Local Authority Name	Median quartile house price affordability ratio ⁸ (2016)
1	Hertsmere	14.23
2	Mole Valley	14.18
3	Elmbridge	13.86
4	Three Rivers	13.77

Table 3.

Over the period 2016 to 2020, the median quartile house affordability ratio in Three Rivers has improved with a decrease from 13.77 in 2016 to 12.92 in 2020 (see table 4 below). Whilst the median affordability ratio has slightly improved (by 0.85), Three Rivers has maintained its position with the fourth worst affordability ratio in England and Wales (excluding London), demonstrating a lack of improvement in Three Rivers' affordability position nationally.

Number	Local Authority Name	Median quartile house price affordability ratio ¹ (2020)
1	Mole Valley	16.84
2	Elmbridge	14.17
3	Epsom and Ewell	13.26
4	Three Rivers	12.92

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 2020 that had risen to 13.53, showing a worsening ratio over the period from 2016 to 2020.

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

⁸ Office for National Statistics (2020) *Dataset: House price to residence-based earnings ratio Table 6b*

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

⁹ Affordability ratio statistics are revised annually by the ONS to reflect revisions to the house price statistics and earnings data.

¹⁰ Note that prior to the formation of the Buckinghamshire Council (now a unitary authority), Three Rivers had the fifth worst affordability ratio most expensive local authority area as a local authority in Buckinghamshire ranked higher in median affordability ratio than Three Rivers in 2016 (Chiltern – 14.49).

- 2.6 The Local Housing Needs Assessment (LNHA) (August 2020) is the most recent update to the South West Hertfordshire Strategic Housing Market Assessment January 2016 (SHMA) and estimates the need for affordable housing over the 2020-2036 period. The LNHA splits its analysis between affordable housing to rent and affordable housing to buy.

Affordable Housing Need - To Rent

- 2.7 The South West Hertfordshire Local Housing Needs Assessment (LHNA) (August 2020) found that at that time there were approximately 1,276 households within Three Rivers that were situated in unsuitable housing. Unsuitability is based on the numbers of homeless households and in temporary accommodation, households in overcrowded housing, concealed households and existing affordable housing tenants in need. 57% of these households are estimated to be unable to afford market housing without subsidy, which means the revised gross need is reduced to 727 households¹¹.
- 2.8 In addition to needs arising from those in unsuitable housing, the LNHA also analyses affordable need to rent arising from newly-forming households within the District. The LNHA estimates 800 new households forming per annum in Three Rivers over the period 2020 to 2036. 45% of these newly-forming households are estimated to be unable to afford market housing (to rent) resulting in 360 new households with a need for affordable housing to rent each year over the period 2020 to 2036¹².
- 2.9 The LNHA also considers newly arising need for affordable rent from existing households (i.e. households residing in market accommodation now requiring affordable housing). The LNHA estimates an additional 77 existing households falling into need for affordable rent per year over the period 2020 to 2036¹³.
- 2.10 Taking into account the figures of need noted above and the supply of affordable housing to rent through re-lets, the LNHA calculates the annual affordable housing need to rent over the period 2020 to 2036 as 350 in Three Rivers¹⁴. This need involves households who cannot afford anything in the market without subsidy and is equivalent to 55% of the District's total local housing need requirement calculated by the standard methodology. This indicates the substantial scale of need for this type of affordable housing.

Affordable Housing Need - To Buy

- 2.11 In addition, the LNHA estimates a need of 162 units for affordable home ownership per annum¹⁵ over the period 2020 to 2036, although this is a need which is formed by households identified as being able to afford to rent privately without subsidy.

Total Affordable Housing Need

¹¹ Table 33: Estimated Current Rented Affordable Housing Need, South West Hertfordshire Local Housing Needs Assessment (August 2020)

¹² Table 34: Estimated Level of Rented Affordable Housing Need from Newly Forming Households (per annum 2020-2036), South West Hertfordshire Local Housing Needs Assessment (August 2020)

¹³ Table 35: Estimated level of Housing Need from Existing Households (per annum 2020-2036), South West Hertfordshire Local Housing Needs Assessment (August 2020)

¹⁴ Table 37: Estimated Annual Level of Affordable/Social Rented Housing Need (2020-2036), South West Hertfordshire Local Housing Needs Assessment (August 2020)

¹⁵ Table 42: Estimated Annual Need for Affordable Home Ownership (2020-2036), South West Hertfordshire Local Housing Needs Assessment (August 2020)

2.12 Combining the need for affordable housing to rent and affordable housing to buy results in the calculation of 512 affordable units per year, equating to approximately 80% of Three Rivers' total local housing need requirement (as calculated by the standard method).

Affordable Housing Provision in Three Rivers

2.13 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.

2.14 Since the start of the plan period from 1 April 2001 to 31st March 2021 (the latest date where the most recent completion figures are available), 4,965 gross dwellings were completed. From this, 1,128 were secured as affordable housing, a total of 22.7%. This percentage is significantly below the Core Strategy target of 45% which means there was a shortfall of 1,107 or 22.3% in order to fulfil the 45% affordable housing requirement up to 31 March 2021. This shortfall only exacerbates the already pressing need for small sites to contribute towards the provision of affordable housing.

2.15 In the latest monitoring period of 2020/21 (financial year), 26 sites¹⁶ 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 four major developments (15%) and 22 minor developments (86%). 17 of the 26 schemes contributed to affordable housing provision whilst nine of the 26 schemes did not contribute:

- Four out of the 26 sites provided viability justification, in line with CP4 policy, for the absence of affordable housing provision.
- Four 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 17 schemes which did contribute, nine made contributions via commuted sums towards off-site provision; all nine schemes were minor developments, demonstrating the important role of small sites in collecting financial payments to be spent on affordable housing provision. Of the remaining eight schemes which contributed via on-site provision in 2020/21, three were major developments and five were minor developments, with four of the five minor developments delivered by Registered Providers (17/2077/FUL, 17/2606/FUL – Three Rivers District Council; 17/0883/FUL – Thrive Homes; 14/1168/FUL – Watford Community Housing Trust). This reflects the pattern of on-site delivery from large schemes, with commuted sums from minor developments, unless delivered by Registered Providers.

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

¹⁶ Sites with completions in 2020/21

- 2.16 In 2017/2018 (financial year), there were 67 planning applications determined¹⁷ for net gain residential schemes, of which 57 were small site schemes (85%). In 2018/19 (financial year), there were 50 planning applications determined for net gain residential schemes, of which 46 were small site schemes (92%). In 2019/20 (financial year), there were 60 planning applications for net gain residential schemes determined, of which 55 were small sites schemes (92%). In 2020/21 (financial year), there were 38 planning applications for net gain residential schemes determined, of which 33 were small site schemes (87%). 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 four financial years.
- 2.17 In terms of numbers of completed dwellings proposed by those small site schemes, between 2011-2021 (financial years) some 384 net dwellings were completed which equates to 38 net dwellings per annum and to 22.2% over the 2011-2021 period. 22.2% 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

- 2.18 As set out at paragraphs 1.7 and 1.8 above, the commuted payments (£2.4 million) 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 February 2022) secured a further **£2.7million - £4.0million** (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

- 2.19 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

¹⁷ Includes refused and approved applications. Excludes prior approval developments.

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 2021 there were 250 planning permissions granted for minor (net gain) residential developments in the District. Of those only 13 have lapsed (5.2%)¹⁸. This demonstrates that the application of CP4 has not acted as a brake on small scale residential developments.

Relevant Appeal Decisions

- 2.20 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.
- 2.21 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.
- 2.22 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.
- 2.23 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.
- 2.24 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."*¹⁹

¹⁸ See footnote 3.

¹⁹ Paragraph 7, Planning Inspectorate Letter, March 2017.

2.25 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.

2.26 The Council's stance has been tested on appeal on numerous occasions (26 decisions as at the date of this document) and the Planning Inspectorate have repeatedly concluded (that whilst the NPPF carries considerable weight, it does not outweigh CP4 of the Councils development plan given the acute and substantial need for affordable housing in the District and the important contribution small sites make towards addressing this shortfall. Below are extracts from a few of those decisions:

- **APP/P1940/W/19/3222318, Eastbury Corner, 13 Eastbury Avenue, Northwood, Decision date: 21st June 2019:**
"The Council has however provided robust evidence to demonstrate high affordable housing need locally and that affordability in the District continues to deteriorate. Indeed, needs analysis carried out by the Council highlights the importance of small sites in addressing shortfall and the lack of affordability that exists in the District. I apply substantial weight to this local evidence due to its recentness and the clear conclusions that can be drawn from it. Policy CP4 makes it clear that site circumstances and financial viability will be taken into account when seeking affordable housing provision."
- **APP/P1940/W/19/3221363, The Swallows, Shirley Road, Abbots Langley Decision date: 27th June 2019:**
"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, Carpenters 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 Councils 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/19/3229038: 124 Greenfield Avenue**

Decision Date 10th December 2019

“Furthermore, windfall sites make up the majority of the proposals in a District which is constrained by the Green Belt and so delivery of affordable housing from these sites is crucial. The submitted evidence supports the proportion of housing proposals which have been on small sites in the last few years. There is no evidence before me that seeking affordable housing on small sites has precluded small windfall sites coming forward – indeed such sites have contributed a significant amount to the affordable housing pot since 2011... Overall, there is substantial evidence of considerable affordable housing need in the District and it has been demonstrated that small sites make an important contribution to affordable housing delivery in the Borough. I attach very significant weight to this consideration. Whilst the Framework is a material consideration of very considerable weight, based on the local circumstances of this case, in this instance the Framework does not outweigh the relevant development plan policy.”

- **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"

- **APP/P1940/W/20/3259397 24 Wyatts Road**

Decision Date 8th February 2021

"...I consider that the specific circumstances within this district together with the updated evidence to support Policy CP4 are sufficient, in this case, to outweigh the guidance of the Framework."

- **APP/P1940/W/20/3260602: 8-10 Claremont Crescent, Croxley Green**

Decision Date 18th February 2021

"The Council's case is that Policy CP4 should continue to apply to all housing developments, notwithstanding its lack of consistency with the more recent Framework. In justifying this position, it has provided robust evidence of a high affordable housing need in the district as well as an independent viability assessment in relation to this appeal. Furthermore, a number of similar appeal decisions, cited by the Council, show that Inspectors have considered development plan policies with lower affordable housing thresholds to outweigh national policy given the local evidence of substantial affordable housing need. Whilst the Framework is a material consideration of very considerable weight, based on the local circumstances of this case, in this instance it does not outweigh the relevant development plan policy. In making this judgement, I have given considerable but not full weight to Policy CP4."

- **APP/P1940/W/20/3244533 2 Canterbury Way**

Decision Date 4th March 2021

"Over the plan period there have been times when the Council have applied Policy CP4 of the CS and times when they have not. I accept that this may have implications for the delivery of non-major sites, perhaps encouraging whether or not developers will bring forward proposals. However, it cannot be the only factor which influences whether or not such sites are brought forward. Furthermore, there is no substantive evidence to suggest that if Policy CP4 of the CS was not applied it would significantly increase the supply of housing in the district. Moreover, Policy CP4 of the CS was subject to an assessment of viability alongside all other requirements through the Local Plan process... Overall, on the basis of the evidence before me I am not convinced that the Council's application of Policy CP4 of the CS is directly discouraging developers from bringing forward small sites due to the need to provide or contribute towards affordable housing or demonstrate that it viably cannot... housing affordability in the district is acute such that, based on the specific circumstances of this case and the evidence presented, I find on balance the proposal should make appropriate provision for affordable housing."

- **APP/P1940/W/20/3260554: Land adjacent to 2 Coles Farm**

Decision Date 15th June 2021

"The appellant's comments regarding the importance of small sites is noted as is the Council's lack of a five-year housing land supply. Despite this, the proposal is required to secure a contribution towards the provision of affordable housing, however, at the point of determination no executable undertaking is before me... The proposal would be contrary to CS Policy CP4 and the Affordable Housing Supplementary Planning Document 2011 which require all new development resulting in a net gain of one or more dwellings to contribute to the provision of affordable housing."

Conclusion

- 2.27 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, December 2020 and February 2022 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 2020 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 2020/2021 (December 2021)
<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 Local Housing Needs Assessment (August 2020)
<https://www.threerivers.gov.uk/eqcl-page/new-local-plan-evidence-base>
5. Office of National Statistics Housing Data 2002-20
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

February 2022