

PLANNING COMMITTEE – 11 December 2025

25/1294/FUL - Construction of 9no. residential dwellings (Use Class C3), with associated rerouting of public footpath, access, parking and landscaping works at LAND ADJOINING SARRATT LANE, LOUDWATER, HERTFORDSHIRE

Parish: Sarratt Parish Council

Ward: Chorleywood North and Sarratt

Expiry of Statutory Period: 26.01.2026 (Agreed Extension)
Case Officer: Lauren Edwards

Recommendation: That Planning Permission be refused.

Reason for consideration by the Committee: Called in by 3 members of the planning committee to consider the following impacts: Impact on Green Belt, traffic/highway impacts, division of a footpath and neighbour impacts.

Development type: Minor Dwellings

To view all documents forming part of this application please go to the following website:

[25/1294/FUL | Construction of 9no. residential dwellings \(Use Class C3\), with associated rerouting of public footpath, access, parking and landscaping works | Land Adjoining Sarratt Lane Loudwater Hertfordshire](#)

1 Relevant Planning History

- 1.1 No relevant planning history.

2 Description of Application Site

- 2.1 The application site is located on the eastern side of Sarratt Lane in Loudwater. It is currently an open parcel of field land with an area of 1.18Ha. The site has an existing vehicle access to the north and a Public Right of Way / footpath (Sarratt 061) which runs diagonally through the centre from the southern corner to northern corner of the site. There are mature trees/vegetation on the boundary adjacent to the lane and a woodland to the north east. To the south east are trees and the rear gardens of properties in Bridle Lane. The site itself mostly comprises of grass/scrubland with some vegetation within the site itself.
- 2.2 The application site is located within the Outer Loudwater Conservation Area and adjacent to the Loudwater Conservation Area, the boundary of which sits slightly west of the site on the other side of the lane. The site is also located in the Metropolitan Green Belt. There is a Local Wildlife Site located to the north.
- 2.3 All adjacent trees/those within the site are protected by virtue of their siting within the Conservation Area and/or woodland TPO.

3 Description of Proposed Development

- 3.1 This application seeks planning permission for the construction of 9no. residential dwellings (Use Class C3), with associated rerouting of public footpath, access, parking and landscaping works.
- 3.2 The application proposes nine detached dwellings. Each dwelling would have five bedrooms, a rear garden and front driveway for 2 cars.
- 3.3 The dwellings in Plots 1&8, 2&5, 3&4 and 7&9 would be pairs of the same dwelling. Plot 6 would be a different design. All 9 dwellings would be two storey in height with crown roofs

and a traditional design approach. The main portion of the dwellings would be rectangular in form served by a crown roof with a combination of catslide, hipped and gabled projections. The proposed dwellings would be finished in a combination of contrasting brick work and tile hanging.

- 3.4 Plots 3&4 would have detached garages whilst the other dwellings would have an internal garage. 3 spaces would be provided per dwelling (2 within a driveway and 1 within a garage).
- 3.5 Two passing bays are proposed along Sarratt Lane by cutting into the bank adjacent to the lane. These would be to the north western edge opposite 'Hautbois' and to the south west opposite Beech Hill.
- 3.6 The site would be accessed via the existing access to the north western corner of the site. Plots 1-3 would face northwards with Plot 5 to the rear and Plots 4, 6 and 7 facing the sides of sites. Plots 8 and 9 would be located towards the south of the site facing northwards. The internal road would have a U shape along the north eastern side of the site.
- 3.7 In order to facilitate the proposed development the existing footpath would be re-routed around the western edge of the site. It would have a compacted gravel surface with Wildflower meadows adjacent.
- 3.8 A refuse collection point is proposed opposite Plot 3 for the dwellings within the southern part of the development (Plots 1 – 3). A kerbside collection is proposed for the remainder of the dwellings.
- 3.9 In order to facilitate the proposed development 13 trees are proposed to be removed in addition to 3 tree groups.

4 Consultation

4.1 Statutory Consultation

4.1.1 Sarratt Parish Council: [Objection]

SPC: We object to this application on the basis of the following:

- 1) It is a development on edge of settlement greenbelt land, without any justifiable very special circumstances.
- 2) It is not a sustainable location due to the narrow single track access, existing traffic issues in the area, before any additional traffic volume this application would add, and the lack of viable sustainable transport options to this site.
- 3) Loss of local green space, a well used public right of way, biodiversity and proximity to sensitive ancient woodland.

We recognise that the immediate local area is made up of large dwellings and the proposed 5 bed dwellings fit this context, however there is not an identified local need for this size of housing.

If the officers are minded to approve, we request this application is called into the planning Committee.

4.1.2 Hertfordshire County Council – Highway Authority: [Objection]

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 recommends that permission be refused for the following reasons:

1) The potential to support and promote sustainable forms of travel to and from the site is limited and unsatisfactory. The proposals are therefore contrary to policy guidelines as outline in National Planning Policy Framework and Hertfordshire's Local Transport Plan 2018, specifically policy 1:

Transport User Hierarchy and Policy 5 – Development Management 5a) 5b) and 5g)
Sarratt Lane is an unclassified local access route subject to 30mph speed limit. It is highway maintainable at public expense and classed as P1/M1 on HCC's place and movement network.

The proposed development is for the construction of 9no. residential dwellings (Use Class C3) and includes the rerouting of public footpath (Sarratt Footpath 061).

Following consideration of the location of the site, the potential to promote and encourage sustainable forms of travel (including cycling; walking and public transport) to and from the proposed residential development is poor and limited.

Chapter 116 and 117 of the National Planning Policy Framework states:

116: Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.

117: Within this context, applications for development should:

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
- c) create places that are safe, secure and attractive – which minimise the scope

There is a lack of footway is located on Sarratt Lane providing pedestrian access to the local area.

The site is not considered to be within convenient walking distance of the nearest train station (Rickmansworth) which is located approximately 3300m to the site (walking route). Bus services are not located within walking distance of the site (2000m). The site is not considered to be accessible via alternative methods of transportation, especially when considering the lack of dedicated pedestrian footway along Sarratt lane and Loudwater Lane.

The site is located in a rural location and the distances to any local amenities, facilities and public transport are significantly greater than guidance as laid out in Inclusive Mobility: A Guide to Best Practice on Access to Pedestrian and Transport Infrastructure, 2021 and Planning for Walking (CIHT, 2015).

Conclusion

Following consideration of the above points, HCC as Highway Authority is therefore recommending that the application be refused. The sustainable travel options to and from the site are limited and not satisfactory. Whilst there are some existing dwellings, these existed prior to the adoption of the existing LTP, updated NPPF and supporting guidance as referenced in this response. The proposals are considered to be contrary to

Hertfordshire's LTP4 and the NPPF and therefore HCC is unable to recommend the granting of permission for this application.

4.1.3 HCC Footpath section: No response received.

Officer comment: Contact was made with the Highways Officer to enquire as to whether their comments were on behalf of themselves and the footpath section. They confirmed that they were solely those of the Highways Officer. The Highways Officer did advise that the Ramblers Association would be making comments and these are included in the public consultation section, in full below, however members are reminded that they are not a statutory consultee.

Furthermore, Officers also sought clarification as to whether the Highways Officer was, aside from the unsustainability of the site, also wishing to object on highway safety grounds. The Highways Officer confirmed that they had reviewed the submitted information and did not wish to object on the grounds of highway safety.

4.1.4 Conservation Officer: [Objection]

The application is for Construction of 9 no. residential dwellings (Use Class C3), with associated rerouting of public footpath, access, parking and landscaping works.

The application site is in the Outer Loudwater Conservation Area. The Conservation Area Appraisal (CAA) states: 'Loudwater is a wooded, undulating part of the Chess Valley with narrow lanes and leafy tracks. The original settlement of large, detached houses in spacious plots developed along the banks of the river, taking advantage of the breath-taking views across the valley. In some parts, very large Edwardian houses, each with many acres of land, have been replaced by several large, detached houses of character still on generous plots with trees and gardens all around them'.

The CAA also states that the relationship between buildings and their associated plots and surrounding planting are as important as the buildings themselves and defines the character of the Conservation Area.

The Site is currently an open green area within the Conservation Area surrounded by trees and there is also a Public Right of Way (PRoW) SARRATT 061 running across the Site. The CAA does not explicitly refer to the Site or explain the rationale for its inclusion within the Conservation Area.

However, it does note that Sarratt Lane moves "gently through densely wooded countryside and gardens". It highlights Sarratt Lane as a single-track lane with leafy canopies that will not have changed much in the last three hundred years. The Site makes a positive contribution to the Conservation Area due to its semi-rural character.

The proposal is for nine houses, associated parking and works and rerouting of the public footpath.

This follows pre-application reference 21/1873/PREAPP for a similar proposal. Heritage concerns were raised regarding a lack of information relating to impact on the Conservation Area and the form of the dwellings but also stated that the proposal would be entirely inappropriate, as it would develop a historically undeveloped area of the Conservation Area, which contributes to its significance.

The current proposal has given greater detail in terms of heritage considerations through a Heritage Statement and has also provided detailed designs. The Heritage Statement highlights that the Site was not part of the Loudwater Estate in the 1922 development of the Estate and was likely adjacent agricultural land and that there has been later development, it is low density and semirural in character. Also, that the Site is heavily enclosed by trees and there are only very limited, glimpsed views. However, it does acknowledge that through

the trees that bound the Site, its relationship with Sarratt Lane and the rural context it provides the Site contributes to the tranquil and semi-rural character of the Conservation Area.

The points raised above are acknowledged. However, the proposal will fundamentally alter the rural and undeveloped character of the Site through the introduction of built form, changes to the access and alterations to the boundary. It is unlikely that the harm could be lessened or mitigated through the planting of tree screening given the fundamental change in land use. There are also concerns regarding the proposal to divert the existing public footpath which is evident on the 1870 Ordnance Survey Map and is part of the historic character of the Conservation Area.

In terms of the design, while the development is relatively low density by modern standards, it would place large houses in relatively small plots, which would not be in keeping with the much deeper rear gardens which characterise the Conservation Area. While efforts have been made to respond to the local character in terms of materials, the houses would be relatively large with crown roofs and several with detached garages, increasing the sense of development. However, it should be noted that the primary concern is with a previously undeveloped area of the Conservation Area and alterations to the design would not necessarily be sufficient to overcome the heritage concerns.

The proposals would fail to preserve or enhance the character and appearance of the Conservation Area, contrary to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

With regards to the National Planning Policy Framework the level of harm is 'less than substantial' as per paragraph 215. Great weight should be given to the asset's conservation as per paragraph 212.

4.1.5 Lead Local Flood Authority (LLFA): [Objection]

This is a full planning application for development of residential buildings and associated works including the rerouting of footpath and some landscaping works. The entire site area is 1.18 hectares.

We object to this planning application in the absence of an acceptable Drainage Strategy or and supporting information relating to:

- The proposed SuDS are likely to increase the risk of flooding elsewhere.
- The development is not in accordance with NPPF, PPG or Three Rivers local policies including POLICY DM8 and POLICY DM9.

Reason

To prevent flooding in accordance with National Planning Policy Framework paragraphs 181, 182 and 187 by ensuring the satisfactory management of local flood risk, surface water flow paths, storage and disposal of surface water from the site in a range of rainfall events and ensuring the SuDS proposed operates as designed for the lifetime of the development.

We will consider reviewing this objection if the issues highlighted on the accompanying Planning Application Technical Response document are adequately addressed.

The main points of this are:

1. The discharge location hierarchy has not been sufficiently evidenced. The discharge hierarchy is set out in the National Standards for Sustainable Drainage Systems (SuDS) (June 2025) and should be followed in relation to the surface water drainage strategy for this site. The applicant needs to follow the discharge location hierarchy and evidence

each level before moving to the next level in line with Standard 1 paragraph 1.2 of the National Standards for SuDS.

2. In line with the four pillars of SuDS and the National Standards for SuDS, the design should include water quantity and quality benefits as well as biodiversity and amenity benefits as part of the surface water drainage provision in open and above ground SuDS across the site.
3. Provide updated surface water design calculations for all the required rainfall simulation events. The rainfall simulations are expected to include 100% AEP (1 year), 3.33%AEP (30 year), 3.33%AEP (30 year) with climate change allowance, 1% AEP (100 year) and 1% AEP (100 year) with climate change allowance events. The labels in drainage layout drawings should match the labels in the supporting calculations.
4. A full drainage strategy is required with all the details needed for a full planning application. The submitted document clearly states that it is for an outline application and does not include all the details needed for a full application. The drawing does not include the conveyance system or storage features details. The detailed supporting calculations are also missing for the same.
5. Infiltration testing was conducted to only 1.5m below ground level (bgl), therefore information on the potential for infiltration between 1.5m – 2.0m bgl is not provided. As favourable infiltration rates were not encountered up to 1.5m bgl, shallow infiltration has not currently been purposed. Deep infiltration, invert levels deeper than 2.0m bgl, is not acceptable.
6. Should provide the pre and post development runoff volume and proper evidence that the proposed discharged rates would not increase flood risk elsewhere and need to be re-assessed.
7. Provide comprehensive assessment and provision of sufficient mitigation to ensure that the proposals do not increase the risk of flooding to existing offsite properties and infrastructure.
8. Ground floor finished floor levels should have a freeboard of a minimum of 150mm above proposed external ground level or a minimum of 300mm above the maximum design water level from any source, whichever is most precautionary.
9. Should provide drawings of cross sections and long sections of all the network and structures such as ponds, basins and swales need to be supplied. Hertfordshire County Council.
10. For soakaway storage structure, half drain down time is almost 72 hours. Any drainage network showing storage features has half drain down time should not be greater than 24 hours (or within 48 hours for features that are lined).
11. A surface water construction management plan should be submitted to include management of water quantity and quality.

We will consider reviewing this objection if the issues listed above and those highlighted on the accompanying Planning Application Technical Response document are adequately addressed.

Informative

Both FEH13 and FEH22 are currently accepted to support drainage modelling calculations. For the avoidance of doubt the use of FSR and FEH1999 data has been superseded and therefore, use in rainfall simulations are not accepted.

Please note if, you the Local Planning Authority review the application and decide to grant planning permission, notify the us (the Lead Local Flood Authority), by email at FRMConsultations@hertfordshire.gov.uk.

4.1.6 Landscape Officer: [Objection]

The Land adjoining Sarratt Lane is classed as Green Belt and is situated within the Outer Loudwater conservation area, a public Right of Way runs between the northern and

southern corners and connects this land to the local protected woodland areas of Long Spring and Upper Plantation. The site is an uncultivated meadow lined and scattered through with native self-sown trees, with a historic hornbeam hedge growing along the road boundary with Sarratt Lane. Verdant views from the road add to the rural feeling of Sarratt Lane, while the Right of Way through the meadow and trees provides an open countryside landscape for quiet recreation.

The proposal to erect 9 houses within this land, each with a large footprint in excess of 2800 square feet, requires the removal of 13 trees protected by the local conservation area (1x category B, 11x category C) and 3 tree groups (1x category B, 2x category C), along with the installation of a large area of hard standing access roads and drives, and diversion of the Right of Way from the center of the land to running alongside the road of Sarratt Lane.

Contrary to Development Management Policy 2 of the local plan regarding Green Belt land, the countryside landscape of this site will be deteriorated through the development of housing and access roads. This further contrasts with DM3 regarding conservation areas by way of altering the historic character, quality and mix of uses of the area. The scale of the development plus the diversion of the public Right of Way to the roadside, will reduce the public amenity currently provided by the countryside character of the area and its accessibility through a quiet and open footpath. While a high number of replacement trees has been proposed in the landscape plan, this will not restore the open and rural feeling of the current landscape, therefore refusal is recommended on this basis.

4.1.7 Thames Water: [No objection]

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

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

With regard to SURFACE WATER drainage, Thames Water would advise that if the developer follows the sequential approach to the disposal of surface water we would have no objection. Management of surface water from new developments should follow guidance under sections 167, 168 & 169 in the National Planning Policy Framework. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. Should you require further information please refer to our website.

<https://www.thameswater.co.uk/help/home-improvements/how-to-connect-to-sewer/sewer-connection-design>

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

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

4.1.8 Herts Ecology: No response received.

4.1.9 National Grid: No response received.

Public/Neighbour Consultation

4.1.10 Number consulted: 11

4.1.11 No of responses received: 71 objections.

4.1.12 Site Notice: 05.09.2025

Press Notice: 13.09.2025

4.1.13 Summary of Responses:

- Impact on Green Belt
- Conservation Area and character impacts
- Highway safety impact/increased traffic
- Unsustainable location
- Construction impacts
- Wildlife impacts
- Infrastructure capacity concerns
- Poor existing street lighting
- Precedent
- Site is an important green corridor
- Additional passing bays not sufficient mitigation
- Access not safe
- Traffic surveys conducted in school holidays
- Loss of trees/habitats
- Noise impacts
- Existing site has a high amenity value
- Impact on aquifer
- Erosion of rural character

Comment from Ramblers association:

As appointed District Footpath Secretary for The Ramblers, the organisation concerned

with the protection of public rights of way, I object to this proposal on the basis that it would involve the drastic diversion of the Public Footpath 61, such that it would become little more than a footway alongside Sarratt Lane.

This footpath at present provides a welcome escape from walking along the road, effectively the only such within Loudwater, apart from which it is a highly desirable amenity in its own right, offering freedom to enjoy the wide open aspect of the field which it traverses.

If this diversion gets approval to the route shown in the Plans, then it will need to comply with HCC's Document: "A Design Guide, Countryside & Rights of Way Service", dated September 2020, which specifies minimum widths, surfacing, vegetated margins, and signage etc.

Officer comment: Officers note the comments above however as a point of clarification the footpath would be separated from the lane itself and would be sited within the site itself with a vegetative buffer between the two.

5 Reason for Delay

5.1 EOT Agreed.

6 Relevant Planning Policy, Guidance and Legislation

6.1 Legislation

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.

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.

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

The Environment Act 2021.

6.2 National Planning Policy Framework and National Planning Practice Guidance

In December 2024 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 2024 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, CP3, CP4, CP9, CP10, CP11 and CP12.

The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM1, DM2, DM3, DM4, DM6, DM10, DM12, DM13 and Appendix 5.

Outer Loudwater Conservation Area Appraisal (2007).

The Loudwater Conservation Area Appraisal (2013) is also relevant.

6.4 Other

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

Affordable Housing SPD (June 2011).

7 **Planning Analysis**

7.1 Impact on Green Belt

7.1.1 The National Planning Policy Framework (NPPF) sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belt are their openness and their permanence. One of the purposes of including land within Green Belt is to safeguard the countryside from encroachment.

7.1.2 The NPPF identifies the five purposes of including land in Green Belts as:

- a) to check the unrestricted sprawl of large built-up areas;*
- b) to prevent neighbouring towns from merging into one another;*
- c) to assist in safeguarding the countryside from encroachment;*
- d) to preserve the setting and special character of historic towns; and*
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land*

7.1.3 Paragraph 153 of the NPPF states that, when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations

7.1.4 Paragraph 154 of the NPPF states that Development in the Green Belt is inappropriate unless one of the following exceptions applies:

- 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), including buildings, 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; 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 (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt.
- h) Other forms of development provided they preserve its openness and do not conflict with the purposes of including land within it. These are:

- i. mineral extraction;*
- ii. engineering operations;*
- iii. local transport infrastructure which can demonstrate a requirement for a Green Belt location;*
- iv. the re-use of buildings provided that the buildings are of permanent and substantial construction;*
- v. material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and*
- vi. development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order*

7.1.5 Policy CP11 of the Core Strategy (adopted October 2011) 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 DM2 of the Development Management Policies LDD (adopted July 2013) notes that “as set out in the NPPF, the construction of new buildings in the Green Belt is inappropriate with certain exceptions, some of which are set out below”. Relevant to this current application is a) New Buildings, which states “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”. Policy DM2 was adopted prior to the publication of the current NPPF. However, it was adopted after the publication of the original 2012 NPPF, and the Green Belt policies in the NPPF in relation to inappropriate development are not materially different between the two. On that basis, it is considered that Policy DM2 is in accordance with the NPPF and may be afforded weight.

7.1.6 It is not considered that the proposed development would meet any of the exceptions to inappropriate development as defined by Paragraph 154 of the NPPF. However, whilst the development would not be in accordance with Paragraph 154 it is also necessary to consider the development in relation to paragraph 155 of the NPPF which relates to Grey Belt. This sets out ‘that the development of homes, commercial and other development in the Green Belt should not be regarded as inappropriate where all of the following apply:

- a) The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;*
- b) There is demonstrable unmet need for the type of the development proposed.*
- c) The development would be in a sustainable location with particular reference to paragraphs 110 and 115 of this framework.*

- d) *Where applicable the development meets the 'Golden Rules' requirements set out in paragraphs 156-157.*

- 7.1.7 In considering whether the site would constitute Grey Belt land, reference must be had to Annexe 2 of the NPPF which defines Grey Belt as follows:

For the purposes of plan- making and decision making, 'grey belt' is defined as land in the Green Belt comprising previously developed land and/or any other land that, in either case does not strongly contribute to any of purposes (a), (b) or (d) in paragraph 143. Grey Belt excludes land where the application of the policies relating to the areas of assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development'.

- 7.1.8 In this case, the site is 'any other land', as it is not 'previously developed land'. For it to be considered Grey Belt land, the land needs not to strongly contribute to any of the purposes (a), (b) or (d) of paragraph 143 of the NPPF. These purposes are:

- a) *To check the unrestricted sprawl of large built up areas*
- b) *To prevent neighbouring towns merging into one another*
- d) *To preserve the setting and special character of historic towns.*

- 7.1.9 In considering whether the application site contributes to the purposes (a), (b) or (d) regard must be had to Planning Practice Guidance at paragraph 005 Reference ID: 64-005-2025022 which provides guidance in relation to informing judgements as to whether land can be considered as Grey Belt. In addition, Paragraph 007 of the PPG is also relevant and sets out the following:

After consideration of the above criteria, any assessment area that is not judged to strongly contribute to any one of purposes a, b, or d can be identified as grey belt land, subject to the exclusion of land where the application of the policies relating to the areas or assets in footnote 7 to the NPPF (other than Green Belt) would provide a strong reason for refusing or restricting development.

- 7.1.10 A) To check the unrestricted sprawl of large built- up areas. The application site is located within Loudwater which is not considered to be a 'large built up area' nor is it defined as a village (or any other classification) for the purposes of the settlement hierarchy. Loudwater is an estate comprising residential dwellings, detached from nearby larger settlements such as Chorleywood and Croxley Green. As such, the site does not contribute towards this purpose.
- 7.1.11 B) To prevent neighbouring towns merging into one another. The PPG specifically set out that B relates to the merging of towns. In this case, given the location of the site, it is not considered that the parcel of land comprising the application site makes any contribution in preventing the merging of towns.
- 7.1.12 D) To preserve the setting and special character of historic towns. The PPG sets out that areas that make no or only a weak contribution are likely to include those that 'have no visual, physical or experiential connection to the historical aspects of the town'. The site is located some distance from any historic towns. As such the proposal would preserve the setting of historic towns as it would have no visual, physical or experiential connection to any aspect of a historic town.
- 7.1.13 Whilst discussed in more detail within the relevant section below, in relation to footnote 7 the proposal would provide a strong reason for refusal in the application of policies relating to an area or asset set out within it. Footnote 7 expressly includes 'areas at risk of flooding'. Whilst it is noted that the existing site is not within a flood risk zone the intent of the relevant policies both within the NPPF and the Local Development Plan is that development should not exacerbate or result in increased flooding. At present the LLFA have raised an objection

in relation to flood risk commenting that ‘the proposed SuDs are likely to increase the risk of flooding elsewhere’. In light of this the development in its current condition cannot be concluded to not result in the site being at risk of flooding in the future. Therefore whilst the application site is not considered to make a strong contribution to purposes (a), (b) or (d), the site cannot be considered to be Grey Belt with the outstanding flooding objection.

- 7.1.14 Owing to the strong reason for refusal relating to flood risk, as set out above the site cannot be considered Grey Belt and is therefore Green Belt. However should an alternative view be taken by members in relation to the application of footnote 7, it would be necessary to move onto considering the remaining elements of paragraph 155 as discussed below.
- 7.1.15 Paragraph 155 of the NPPF also advises that where development utilises Grey Belt land, it must not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan. In this case, it is not considered that the development would undermine the purposes of the remaining Green Belt across the plan area.
- 7.1.16 In addition, criteria (b) of Paragraph 155 of the NPPF sets out that development in the Green Belt would not be inappropriate where ‘there is a demonstrable unmet need for the type of the development proposed’. In this case, the applicant is proposing a residential development for the provision of 9 dwellings. National Policy places great emphasis on the delivery of housing with paragraph 61 of the NPPF stating the following:

To support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet an area’s identified housing need, including with an appropriate mix of housing types for the local community.

- 7.1.17 The Council cannot demonstrate a five-year housing land supply as required by the NPPF, with the current housing land supply being at 1.7 years. Consequently, there is a significant need for housing within the District which must be afforded significant weight in the decision-making process. In this case, the scheme would deliver 9 residential dwellings. Whilst covered in more detail below it is noted here that the proposal would fail to make a contribution towards affordable housing. However solely in the context of ‘unmet need’ there is such for any housing within district and as such in this case the proposed development would be in accordance with criteria (b) of Paragraph 155.
- 7.1.18 Criteria (C) of Paragraph 155 sets out that the development should be in a sustainable location with particular reference to paragraphs 110 and 115 of the NPPF.
- 7.1.19 Paragraph 110 sets out:

The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.

- 7.1.20 Paragraph 115 sets out:

In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

a) sustainable transport modes are prioritised taking account of the vision for the site, the type of development and its location;

b) safe and suitable access to the site can be achieved for all users;

c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and

d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree through a vision-led approach.

- 7.1.21 The NPPF is clear that development should be focused towards locations that are already sustainable or those where it can be demonstrated the site can be made sustainable. It is not considered that the application site sits within either of these categories. The application site is located on a semi-rural single track unlit lane. Ultimately future occupiers would be heavily reliant on private cars to access shops and services. There is no lit pavement for safe pedestrian travel until the Chorleywood Road (over 1 mile away). It is noted that there are public footpath links to Rickmansworth, Croxley Green and Chorleywood however these are mostly unlit, of unmade/uneven surfaces and would involve some sections of walking along the lane. Similarly cycling options are not considered overly safe or desirable given the nature of the lane.
- 7.1.22 In order to reach public transport links this would also involve walking or cycling down the unlit lane which is absent of footways. The nearest bus stop on Chorleywood Road is a 1 mile (23 minute) walk away.
- 7.1.23 Whilst it is noted that the site is adjacent to existing residential development, that does not justify directing further development towards unsustainable locations.
- 7.1.24 As such it is not considered that the site is located within a sustainable location. Furthermore it is not considered that the development could provide measures that would make the site sustainable.
- 7.1.25 It is therefore concluded that the development would not meet criteria a-c of Paragraph 155.
- 7.1.26 Turning to d; *Where applicable the development meets the 'Golden Rules' requirements set out in paragraphs 156-157.* Owing to the size of the application site (over 0.5Ha) paragraph 156-157 would be applicable.
- 7.1.27 As is the case with the Grey Belt position, it has been concluded that the development fails criteria c of paragraph 155 and therefore, in any event, would fail to comply with this exception in its entirety. However should members reach an alternative conclusion on sustainability then Paragraphs 156-157 would need to be considered. A judgement on this is set out below.

Paragraph 156 outlines:

Where major development involving the provision of housing is proposed on land released from the Green Belt through plan preparation or review, or on sites in the Green Belt subject to a planning application, the following contributions ('Golden Rules') should be made:

a. affordable housing which reflects either: (i) development plan policies produced in accordance with paragraphs 67-68 of this Framework; or (ii) until such policies are in place, the policy set out in paragraph 157 below;

b. necessary improvements to local or national infrastructure; and

c. the provision of new, or improvements to existing, green spaces that are accessible to the public. New residents should be able to access good quality green spaces within a short walk of their home, whether through onsite provision or through access to offsite spaces.

Paragraph 157 sets out:

Before development plan policies for affordable housing are updated in line with paragraphs 67-68 of this Framework, the affordable housing contribution required to satisfy the Golden Rules is 15 percentage points above the highest existing affordable housing requirement which would otherwise apply to the development, subject to a cap of 50%. In the absence of a pre-existing requirement for affordable housing, a 50% affordable housing contribution should apply by default. The use of site-specific viability assessment for land within or released from the Green Belt should be subject to the approach set out in national planning practice guidance on viability.

- 7.1.28 The proposal would not provide any on site affordable housing.
- 7.1.29 To conclude, it is not considered that the site would be Grey Belt land owing to the 'strong reason for refusal' in the context of footnote 7 (unacceptable risk of flooding). Furthermore, even if this reason for refusal were to fall away the site is not considered to be a sustainable location and as such would not comply with the exception set out within paragraph 155 in its entirety. Turning to 'the Golden Rules' the proposal would fail to comply in the absence of any contribution towards affordable housing and would also fail to meet b) and c) of paragraph 156 which require infrastructure improvements and the provision or improvement to accessible green open space. Overall the proposed development would represent inappropriate development in the Green Belt and therefore would be, by definition, harmful.
- 7.1.30 Whilst the proposal would be inappropriate, by definition, an assessment of the impact on openness is required to ascertain whether there would be actual harm arising from the proposal.
- 7.1.31 Openness
- 7.1.32 Harm to openness can take a number of forms; spatial, visual impacts and impact arising from increased activity. The existing site is an open parcel of land, which is enclosed by mature vegetation and is entirely absent of built form. By virtue of the introduction of 9 large detached dwellings with associated hardstanding, ancillary buildings and internal roads the proposed development would have a significant adverse spatial impact on openness. Whilst the proposed development would be set against the backdrop of the adjacent woodland and would be screened to a degree by boundary vegetation it would still be readily visible from Sarratt Lane. As such would have a moderate adverse impact on visual openness. The site which is currently absent of built form would, as a result of the proposed development, be subject to a significant increase in the intensification of its use. The introduction of nine residential dwellings would mean a significant amount of comings and goings in comparison with the existing land together with general activity associated with a residential use. Therefore further adverse impacts on openness would arise from the increased amounts on site activity.
- 7.1.33 In summary, the proposed development would constitute inappropriate development in the Green Belt. Furthermore it would result in both adverse spatial and visual harm to the openness of the Green Belt, contrary to Policy CP11 of the Core Strategy and the NPPF.
- 7.1.34 Therefore, very special circumstances would be required which would need to outweigh the identified harm to the Green Belt and any other harm. This is to be considered at the end of this committee report.
- 7.2 Impact on character of the streetscene and heritage assets.
- 7.2.1 Policy CP1 of the Core Strategy (adopted October 2011) seeks to promote buildings of a high enduring design quality that respect local distinctiveness and Policy CP12 of the Core Strategy (adopted October 2011) relates to design and states that in seeking a high standard of design the Council will expect development proposals to 'have regard to the

local context and conserve or enhance the character, amenities and quality of an area'. Development should make efficient use of land but should also respect the 'distinctiveness of the surrounding area in terms of density, character, layout and spacing, amenity, scale, height, massing and use of materials'; 'have regard to the local context and conserve or enhance the character, amenities and quality of an area' and 'incorporate visually attractive frontages to adjoining streets and public spaces'.

- 7.2.2 In terms of new residential development, Policy DM1 of the DMLDD advises that the Council will protect the character and residential amenity of existing areas of housing from forms of 'backland', 'infill' or other forms of new residential development which are inappropriate for the area. Development will only be supported where it can be demonstrated that the proposal will not result in:
- i. Tandem development;
 - ii. Servicing by an awkward access drive which cannot easily be used by service vehicles;
 - iii. The generation of excessive levels of traffic;
 - iv. Loss of residential amenity;
 - v. Layouts unable to maintain the particular character of the area in the vicinity of the application site in terms of plot size, plot depth, building footprint, plot frontage width, frontage building line, height, gaps between buildings and streetscape features (e.g. hedges, walls, grass verges etc.)
- 7.2.3 Policy DM3 sets out that within Conservation Areas, development will only be permitted if the proposal is of a scale and design that preserves or enhances the character and appearance of the area; uses building materials and finishes that are appropriate to the area; and results, where relevant, in the removal of unsympathetic features and the restoration or reinstatement of missing features.
- 7.2.4 The application site is located in the Outer Loudwater Conservation Area and immediately adjacent to the Loudwater Conservation Area. It is acknowledged that the application site is not specifically noted within either Conservation Area Appraisal. Nevertheless it is considered to make a positive contribution to the 'semi-rural' verdant character of both Conservation Areas more widely owing to its open, green and vegetated nature. The Outer Loudwater Conservation Area Appraisal specifically sets out that the relationship between buildings and their associated plots and surrounding planting are as important as the buildings themselves and defines the character of the Conservation Area. By virtue of its close proximity it is also considered that the application site also makes a positive contribution towards the setting of the Loudwater Conservation Area which is similarly verdant and open in its character.
- 7.2.5 The introduction of nine, large detached dwellings with associated ancillary buildings would fundamentally erode the contribution the site makes by virtue of its open and verdant nature, to the overall character of the Outer Loudwater Conservation Area and the setting of the adjacent Loudwater Conservation Area. The test of the NPPF and Policy DM3 of the DMP LDD is clear that development must preserve or enhance the character of the heritage asset. It is acknowledged that any development on the application would erode its current character owing to its existing nature of being open land. However the proposed development would include the provision of 9 large detached dwellings, ancillary garages and internal road network. The cumulative impact of this amount of development on the site would result in the almost total erosion of the open nature of the site and would result in its character being of a stand alone cul-de-sac style residential development. Thus the site would no longer retain any of its current positive contribution as an open and green parcel of land. Whilst it is acknowledged that there is existing boundary vegetation along the lane, which together with the planting scheme proposed would provide a degree of mitigation to the views of the development from Sarratt Lane, however owing to the overall scale of the development views would be inevitable and thus the development would not be totally screened from public vantage points. Overall the proposed development would fail to

preserve the character of the site and the positive contribution it currently makes to the overall setting of the Conservation Areas.

- 7.2.6 Turning to the design and form of the dwellings themselves. They would all be large, detached properties with crown roof forms. Whilst the tradition design approach in terms of form and materials are considered to be in keeping with the character of the locality the crown roof forms are indicative of the overall excessive bulk and massing of the dwellings and further exacerbates the prominence of the development as a whole. In terms of plot size and layout the overall scale is smaller than those which generally prevail within the Conservation Area however they are not dissimilar to those within Bridle Lane to the south east. However the character of the area is such that all dwellings are different, whilst they retain a consistent design approach they are all unique in form. The 'pairs' of identical dwellings which are proposed would introduce incongruous uniformity which would be at odds with the character of the Conservation Area.
- 7.2.7 The proposal also includes the provision of two passing bays along Sarratt Lane. This would involve cutting into the existing bank at the side of the lane. The character of Sarratt Lane is such that it is mostly single track however it is not considered that the two passing bays would involve such levels of physical intervention that they would, in themselves, undermine the semi-rural character of the lane. Further details of the proposed surface and sections could be required by condition.
- 7.2.8 Paragraph 136 of the NPPF outlines that trees make an important contribution to the character and quality of urban environments. Paragraph 187 further adds that planning decisions should contribute to the natural and local environments and should recognise the benefits of trees and woodland.
- 7.2.9 Policy DM3 also adds that development within Conservation Areas will only be permitted if the proposal protects trees, hedgerows and other significant landscape features and incorporates landscaping appropriate to the character of the Conservation Area.
- 7.2.10 As set out above the application site makes a positive contribution to the setting of the Conservation Area(s). This is in part due to the landscape visual amenity of the site and the number of trees/mature vegetation. The proposed development includes the removal of 13 trees and 3 tree groups. The Tree and Landscape Officer has not raised an objection to the removal of a specific tree or trees but rather considers that the proposed development, together with the removal of trees would result in a degradation of the open and verdant character of the site and thus would have wider adverse landscape impacts.
- 7.2.11 By virtue of the overall scale of the development there would be limited opportunities on the site to provide significant re-planting. In any event the positive character of the site is attributed to its absence of built form and natural vegetation patterns as opposed to the contribution of specific trees. The significant removal of trees further erodes the contribution the site makes to the setting of the Conservation Area(s) and the limited opportunities for substantive replanting is indicative of the overdevelopment of the site.
- 7.2.12 The proposal would therefore result in less than substantial harm by virtue of its failure to preserve or enhance to the character of the Conservation Area(s). Thereby resulting in less than substantial harm to the heritage assets. The development would therefore be 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), The Outer Loudwater Conservation Area Appraisal (2007) and the NPPF.
- 7.2.13 Paragraph 215 of the NPPF sets out that 'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'. The planning balance and VSC are discussed in more detail at the end of the report however whilst the contribution towards housing supply is

noted it is not considered that this, together with other factors weighing in favour of the scheme, would amount to public benefits outweighing the identified harm.

7.3 Trees and Landscaping

- 7.3.1 Policy DM6 of the Development Management Policies LDD notes that proposals for new development should be submitted with landscaping proposals which seek to retain trees and other important landscape and nature conservation features. Development proposals on sites which contain existing trees and hedgerows will be expected to retain as many trees and hedgerows as possible. It also notes that planning permission will be refused for any development resulting in the loss or deterioration to protected woodland, protected trees, and hedgerows unless conditions can be imposed to secure their protection. It states that where the felling of a tree or hedgerow is permitted, a replacement tree or hedge of an appropriate species, size and in a suitable location will be required.
- 7.3.2 Paragraph 136 of the NPPF outlines that trees make an important contribution to the character and quality of urban environments. Paragraph 187 further adds that planning decisions should contribute to the natural and local environments and should recognise the benefits of trees and woodland.
- 7.3.3 Policy DM3 also adds that development within Conservation Areas will only be permitted if the proposal protects trees, hedgerows and other significant landscape features and incorporates landscaping appropriate to the character of the Conservation Area.
- 7.3.4 The proposed development would include the removal of 13 trees and 3 trees groups. All of which would be B or C grade trees. As set out above the Landscape Officer has not objected to the removal of a specific tree or trees but rather the overall adverse impacts to the character of the area by virtue of the degradation of its open and verdant character.
- 7.3.5 Overall, as set out above, whilst there is no objection to the specific removal of trees proposed there would be wider adverse landscape character impacts arising from the cumulative removal of trees together with the introduction of built form into the open land. Overall, the proposal would be contrary to Policies DM3 and DM6 of the Development Management Policies LDD (adopted July 2013) and the NPPF.

7.4 Affordable Housing

- 7.4.1 **Appendix A** of this report sets out the position of the Council and evidence relating to the application of the affordable housing threshold in Core Strategy Policy CP4: Affordable Housing.
- 7.4.2 The proposed development would require a commuted sum payment of £1,897,500.
- 7.4.3 The application has been submitted with a Financial Viability Assessment prepared by the applicant which concluded that they would be prepared to make a contribution of £100,000 towards affordable housing despite the conclusions of their Assessment that the scheme would result in a deficit if any contribution were made.
- 7.4.4 The FVA submitted has been reviewed by the Council's independent viability consultant, Adams Integra. Contrary to the findings of the submitted appraisal the consultant finds that the scheme could support a contribution of £1,458,890 and remain viable.
- 7.4.5 Owing to the level of difference between the stance of the parties on this matter and the recommendation for refusal, no further rebuttal to the findings of Adams Integra was invited by the LPA.
- 7.4.6 As such the proposal fails to comply with the requirements of Policy CP4 in this respect.

7.5 Housing Mix

- 7.5.1 Policy CP3 of the Core Strategy sets out that the Council will require housing proposals to take into account the range of housing needs as identified by the Strategic Housing Market Assessment (SHMA) and subsequent updates. The need set out in the Core Strategy is 30% one-bedroom units, 35% two-bedroom units, 34% three-bedroom units and 1% four bedroom and larger units. However, the most recent version of the Local Housing Needs Assessment (LNHA) was finalised in 2024 and is the most recent update to the SHMA. The recommended mix for Three Rivers in terms of market housing, affordable home ownership and social/affordable rented housing identified in the LNHA is shown below:

	1 Bedroom	2 Bedroom	3 Bedroom	4+ Bedroom
Market Housing	4%	21%	42%	32%

- 7.5.2 The proposed development would include the provision of 9 x 5 bedroom dwellings. Whilst the development would fail to provide a mix of dwelling sizes in accordance with Policy CP3 it is not considered that it would prejudice the overall delivery of housing across the district.

7.6 Impact on amenity of neighbours

- 7.6.1 Policy CP12 of the Core Strategy advises that development proposals should 'protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space'. Appendix 2 of the Development Management Policies LDD states that 'oversized, unattractive, and poorly sited development can result in loss of light and outlook for neighbours and detract from the character and appearance of the streetscene'

- 7.6.2 Appendix 2 of the DMP LDD sets out that a back to back distance of 28m should be achieved between 2 two storey rear elevations. A minimum of 28m would be achieved to the rear of properties in Bridle Lane (Potters Heron and Newland) and as such the proposal would comply in this respect. It is acknowledged that there would be an existing tree removed to this boundary however the separation distance alone is considered sufficient mitigation to prevent unacceptable overlooking. A distance of 46m would separate the development from the closest neighbour to the north and 35m to the west.

- 7.6.3 It is noted that the proposed development would result in additional comings and goings/increase intensification of the use of the site. Whilst in respect of Green Belt impacts this would be harmful it is not considered that there would be such increased level of activity that the development would result in demonstrable harm to adjacent neighbours.

- 7.6.4 Overall, the proposed development would not result in detrimental harm to neighbouring amenity by reason of unacceptable overlooking, loss of light or an overbearing impact.

7.7 Quality of accommodation for future occupants

- 7.7.1 Appendix 2 of the DMP LDD sets out that a back to back distance of 28m should be achieved between 2 two storey rear elevations. Where garden length alone is relied upon 14m should be achieved.

- 7.7.2 Plots 2 and 5 have a back to back distance of 25m and as such would not meet the guidance of Appendix 2. Whilst the shortfall is relatively minor this is indicative that the site is subject to overdevelopment in the context of its layout and scale. The site is located in a relatively rural location where compliance with back to back distances are generally expected. Whilst the shortfall is not considered to result in such poor quality accommodation for future occupiers so as to result in demonstrable harm to residential amenity, it is further indicative of the incongruity of the proposed development within the locality.

- 7.7.3 The rear elevations of Plot 4 and 6 face towards the flank of Plot 5. 12m separation is proposed between these walls which would be less than the 14m guidance. However the majority of the rear windows would face the flanks of No.5 as opposed to their rear patio/

main habitable windows. Thus would not result in direct views towards the private areas of these properties. However, as above, is further indicative of the overdevelopment of the site.

- 7.7.4 Overall it is considered that the future occupants of the development would benefit from a good quality of accommodation and would not be subject to unacceptable overlooking from existing development or other proposed dwellings.

Amenity Space Provision for future occupants

- 7.7.5 Appendix 2 of the DMP LDD outlines that the following amenity space standards:

Five bedroom dwellings:126sqm

- 7.7.6 Rear gardens in excess of 126qm would be provided to all dwellings and as such would comply with this guidance.

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 an initial ecology report and follow up bat inspection report have been submitted with the application.

- 7.8.4 The submitted report identifies a number of considerations. In respect of bats the initial report recommended that additional bat surveys be undertaken. The additional survey did not find any evidence of bats within the trees that are proposed to be removed. In respect of birds, it is considered that works should not take place within nesting season which could be secured by condition. The submitted report suggests that further surveys were to be undertaken in relation to badgers and dormice. However these have not been received by the LPA. Whilst a CEMP could be conditioned, in line with the recommendations of the submitted report, in the absence of the outstanding dormice and badger surveys it is not considered that the LPA has sufficient information to demonstrate the proposal would be acceptable. Whilst it may be the case that any impact could be addressed by mitigation, on the basis of the information submitted there is insufficient evidence to allow this to be a post determination matter reserved by condition and the development would therefore fail to comply with Policy CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

7.9 Highways, access and sustainable travel

- 7.9.1 Paragraph 117 of the NPPF sets out that all applications for development should:

a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;

- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;
- d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and
- e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

7.9.2 Policy CP10 of the Core Strategy sets out that all development should be designed and located to minimise the impacts of travel by motor vehicle on the District. Policy CP10 further outlines that development will need to demonstrate that:

- i) It provides a safe and adequate means of access
- j) It is appropriate in scale to the existing transport infrastructure, including public transport and, where necessary, infrastructure can be improved
- k) It is integrated with the wider network of transport routes, including public rights of way and cycle paths where appropriate
- l) It makes adequate provision for all users, including car and other vehicle parking, giving priority to people with mobility difficulties, pedestrians, cyclists and equestrians

7.9.3 The Highways Officer has reviewed the proposal and whilst they conclude that the proposed development would not result in actual harm to highway safety, they do object to the principle of development in this location owing to its lack of sustainability.

7.9.4 As set out above within the 'Green Belt' section the application site is accessed via Sarratt Lane which is a mostly single track, unlit road absent of footways. The Highways Officer shares the view that the application site has limited potential to promote or encourage sustainable modes of travel. As previously outlined the site is not located within suitable or safe walking/ cycling distance of public transport connections. Therefore, private car use would be the only viable option for travel for future occupiers.

7.9.5 The proposal also includes the re-routing of the existing public footpath which cuts through the middle of the application site such that it would run around the outer edge of the site, on the inside edge of the outer boundary vegetation. The Footpath Officer has not provided formal comments on the application and whilst the concerns of public are noted the public footpath would ultimately be retained. Its formal diversion would be subject to a separate application to HCC. Overall, the re-routing of the public footpath is not considered to be, in isolation, unacceptable in planning terms. Nevertheless, the wider visual amenity and character objections remain as outlined above.

7.9.6 Overall, the proposed development would therefore be contrary to paragraph 117 of the NPPF and Policy CP10 of the Core Strategy by virtue of the site's inability to provide sustainable means of travel.

7.10 Parking provision

7.10.1 Core Strategy Policy CP10 (adopted October 2011) requires development to make adequate provision for all users, including car parking. Policy DM13 in the Development Management Policies document (adopted July 2013) states that development should make provision for parking in accordance with the Parking Standards set out within Appendix 5.

- 7.10.2 Appendix 5 of the DMP LDD requires that dwellings with 4 or more bedrooms provide 3 on site parking space. The proposal includes the provision of at least 3 spaces per dwelling. This would include 2 on a driveway and 1 within a garage (2 in the case of plots 3&4). Owing to the nature of the development with no availability for off site parking a condition would be attached to require the garage to be made available for the parking of a minimum of 1 car by removing permitted development rights for unrestricted conversions. Overall, subject to conditions, the proposed development would provide adequate on-site parking in accordance with Appendix 5,

7.11 Energy Use

- 7.11.1 Paragraph 161 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 An energy statement has been submitted with this application which confirms that the proposal would achieve an energy saving of 66.36% as such would comply in this respect. This would be partly achieved by the provision of Air Source Heat Pumps. Details of these including noise output would be required by condition in the event of a grant of planning permission.

7.12 Flood Risk and Drainage

- 7.12.1 Policy CP1 of the Core Strategy (adopted October 2011) requires all development in Three Rivers to contribute to the sustainability of the District, by minimising flood risk through the use of Sustainable Drainage Systems. Policy DM8 of the Development Management Policies LDD (adopted July 2013) refers to Flood Risk and Water Resources, and states that development will only be permitted where it would not be subject to unacceptable risk of flooding. It also states that Development in all areas should include Sustainable Drainage Systems to reduce surface water runoff.
- 7.12.2 A flood risk assessment has been submitted with the application which has been reviewed by the LLFA who have objected to the information submitted. The LLFA consider that in the absence of an acceptable drainage strategy they are unable to support the proposal. A number of technical matters remain outstanding. It has not been demonstrated that the proposed SuDS would be adequate such that the proposal would not result in an unacceptable risk of flooding elsewhere. As such the development would be contrary to Policy DM8 of the Development Management Policies LDD (adopted July 2013) and the NPPF.

7.13 Refuse and Recycling

7.13.1 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

7.13.2 The transport statement submitted with the application sets out that it is expected that the Local Authority refuse collection would enter the site and collect from the kerbside (with the exception of plots 1-3 who would move bins to a collection point opposite plot 3). Whilst tracking diagrams have been provided these do not appear to have been based on vehicles akin to those used by the Local Authority. This in the event of a grant of planning permission a condition would be attached to ensure a refuse vehicle of the requisite size could manoeuvre.

7.14 Mandatory Biodiversity Net Gain

7.14.1 Paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 sets out that every planning permission granted for the development of land in England shall be deemed to have been granted subject to the 'biodiversity gain condition' requiring development to achieve a net gain of 10% of biodiversity value. This is subject to exemptions as set out in The Biodiversity Gain Requirements (Exemptions) Regulations 2024.

7.14.2 The proposed development would result in a net loss of on site habitats. Whilst the proposal would include the provision of on site hedgerows the 10% gain would be provided by way of off site credits. Whilst a Biodiversity Net Gain Plan is a post-determination matter from the information submitted the LPA has confidence that the requisite gains could be achieved.

7.15 Very Special Circumstances

7.15.1 Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development which for decision taking means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date [footnote 8], granting permission unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed [footnote 7]; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

7.15.2 Paragraph 12 of the NPPF states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

7.15.3 Where, as in the case of the application proposals, inappropriate development is proposed in the Green Belt the NPPF paragraph 152 provides that the application should not be approved 'except in very special circumstances.' If very special circumstances are shown to exist, the harm by inappropriateness and any other harm is clearly outweighed by other considerations. This balancing exercise is applied by Core Strategy Policy CP11 and DMP Policy DM2 consistent with the NPPF.

- 7.15.4 As is recognised in the assessment above the proposed development constitutes inappropriate development in the Green Belt. In addition to the harm to the Green Belt by reason of inappropriateness, it has been shown that the development would result in other harm. The other harm is identified as:
- Adverse impact on the Conservation Areas
 - Landscape visual impacts
 - Highways Impacts (unsustainable location)
 - Insufficient evidence that the development would not result in flood risk
 - Affordable Housing
 - Ecology
- 7.15.5 As set out in the analysis above, it is considered that the proposed development would fail to meet any of the identified exceptions to inappropriate development within the Green Belt. Furthermore, the land cannot be Grey Belt owing to the strong reason for refusal on flooding grounds and the development fails to comply with paragraph 155 of the NPPF, in so far as the site is not located within a sustainable location. As such, in accordance with paragraph 153 of the NPPF, very special circumstances are required which would outweigh the identified harm to the Green Belt.
- 7.15.6 There is no definition of what constitutes very special circumstances or what weight should be attached to any VSC, this is a matter of planning judgement. The very special circumstances forming part of the planning application consideration will be assessed against the following weightings: **substantial, significant, moderate and limited**.
- 7.15.7 **Adverse impacts**
- 7.15.8 The NPPF is clear that substantial weight should be given to any harm to the Green Belt. The proposed development would represent inappropriate development which is, by definition, harmful. Furthermore would result in actual harm to openness both visually and spatially.
- 7.15.9 As set out in the relevant section above it is not considered that public benefits exist to outweigh less than substantial harm to the heritage asset [Conservation Area(s)]. However should it be the case that it were to be balanced that public benefits do exist that identified harm still remains in the context of VSC and 'any other harm'. The weighting given to the character of the Conservation Area is considered to be significant.
- 7.15.10 The lack of a policy compliant contribution towards affordable housing or an agreed position over viability would mean that the scheme fails to comply with Policy CP4 of the Core Strategy. As expanded upon in Appendix A there is an acute and overwhelming need for affordable housing in the district. Thus the failure to comply with Policy CP4 is afforded significant weight.
- 7.15.11 The application site is located in an unsustainable location where there are insufficient opportunities to promote sustainable travel. The NPPF and the development plan policies are clear that sustainable travel (walking, cycling, access to public transport) should be at the forefront of residential development. Future occupiers of the proposed scheme would be almost entirely reliant on private car use. This is given moderate weight.
- 7.15.12 The landscape harm is more attributed to the landscape character impacts as opposed to solely the removal of trees. The harm to character is afforded significant weight however the landscape impacts in isolation would be moderate.

7.15.13 It is acknowledged that ecology issues have the potential to be overcome in the future should satisfactory follow up surveys be produced with any necessary mitigation measures. However at the current time there is insufficient evidence to conclude the development would not result in unacceptable harm to protected species. This is afforded moderate weight.

7.15.14 On the basis of the information submitted it has not been satisfactorily demonstrated that the proposed development would not result in an unacceptable risk of flooding from surface water. Whilst it is clear from the comments made by the LLFA that this could be addressed at the current time this is not the case. The current level of harm is considered to be significant.

7.15.15 **Benefits**

7.15.16 The applicant sets out that the LPA's current housing land supply stands at 1.7 years (published in December 2024).

7.15.17 The lack of housing land supply is noted and it is also acknowledged that this forms the substantive case of the applicant in favour of the scheme. However the proposed development includes the provision of 9 x 5 bedroom dwellings. Whilst it is noted that the development is not considered to result in harm in the context of housing mix (Policy CP3) alone this does weigh against the scheme. The need for dwellings with 4 or more bedrooms is acknowledged. However the dwellings proposed in this scheme would be 5 bedroom 'executive' homes, by virtue of their predicted value (~£1.7m as set out in the applicant's FVA). As such are not considered to be meeting the intended identified need. In 2024, the median gross annual residence-based earnings in Three Rivers was £46,457. That would mean that if a dwelling cost £1.7million, the ratio of house price to median gross annual residence-based earnings would be approximately 36.6. In other words, the cost of the house is approximately 36.6 times more expensive than the median gross annual residence-based earnings in Three Rivers. Therefore whilst there would be 9 units delivered towards the LPA's housing land supply these would be unaffordable to all except those at the very upper limit of incomes in the District. Thus the contribution is only attributed limited weight.

7.15.18 Short term benefits from construction would be limited owing to the scale of the site.

7.15.19 Whilst there would be some limited benefits socially and economically from the new occupants of the nine units these would also be limited in the context of the scale of the development.

7.15.20 The development would exceed the policy compliant level of sustainability in the context of Policy DM4 (energy/carbon emissions). Nevertheless, this would be limited when tempered against the fact the existing site is open field land.

7.15.21 The passing bays along Sarratt Lane would be a benefit of the scheme. However the contribution of this would be limited as it is not required to make the development acceptable nor has it been demonstrated that there are such overwhelming concerns for highway safety in the lane (e.g expansive accident data) that would be completely overcome by two passing bays.

7.15.22 **Summary**

	Weightings
Adverse impacts	
Green Belt	Substantial
Heritage/character	Significant
Affordable Housing	Significant
Highways	Moderate

Landscape	Moderate
Flood Risk	Significant
Ecology	Moderate
Benefits	
9 dwellings towards housing land supply	Limited
Short term benefits from construction	Limited
Long term social/economic benefits	Limited
Sustainability (energy efficiency)	Limited
Highways improvements (passing bays)	Limited

7.15.23 The determination of whether very special circumstances exist is a matter of planning judgement based on a consideration of all relevant matters. Very special circumstances cannot exist unless the harm to Green Belt, and any other harm, is clearly outweighed by other considerations. For the development to be acceptable in the Green Belt, within the setting of heritage assets (Conservation Area) the overall balance of other considerations must decisively weigh in favour of the development.

7.15.24 Although there are some notable benefits associated with the development, these are all considered to be limited. The totality of the other considerations as set out in the Table 1 above do not clearly outweigh the combined weight of harm to Green Belt by virtue of inappropriateness, loss of openness and conflict with the purposes of including land within it, less than substantial harm to the significance of the heritage assets, harm to the character and appearance of the street scene and landscape character, lack of contributions towards affordable housing, flooding risk, ecological implications and conflict with the development plan in this regard and unsustainable location of the site. As such, the other considerations do not clearly outweigh the identified harm, and the very special circumstances necessary to justify the development are not shown to exist. The application is therefore recommended for refusal.

8 Recommendation

That PLANNING PERMISSION BE REFUSED for the following reasons:

8.1 R1 Green Belt

The proposed development would constitute inappropriate development in the Green Belt and would result in harm to openness in both spatial and visual terms. Substantial weight is given to the harm to the Green Belt. The harm to the Green Belt and other harm is not clearly outweighed by other material considerations such as to constitute the Very Special Circumstances necessary to permit inappropriate development within the Green Belt. The development is therefore contrary to Policies CP1, CP11 and CP12 of the Core Strategy (adopted October 2011), Policy DM2 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2024).

R2 Impact on Character and the Conservation Areas

By virtue of the introduction of a significant quantum of built form onto the application site this would fundamentally undermine the positive contribution that the existing open parcel of land makes to the open and verdant setting of the Outer Loudwater and Loudwater Conservation Areas, which would be further exacerbated by the removal of a significant amount of trees. Furthermore by virtue of the matching pairs of properties and large crown roof forms the proposed dwellings would fail to represent a form of development that would be in keeping with the character of the Outer Loudwater Conservation Area. By virtue of the overall level of built form that would be introduced on the site the proposal would represent overdevelopment in the context of the semi-rural setting of the site which is exemplified by

the insufficient on site separation distances. Overall the proposed development would fail to preserve or enhance the character of the Conservation Areas thus leading to less than substantial harm to designated heritage assets. No public benefits exist which outweigh the identified harm. Thus the proposal would be contrary to Policies CP1 and CP12 of the Core Strategy (adopted October 2011), Policies DM1, DM3, DM6 and Appendix 2 of the Development Management Policies LDD (adopted July 2013), The Outer Loudwater Conservation Area Appraisal (2007) and the NPPF (2024).

R3 Affordable Housing

In the absence of an agreement under the provisions of Section 106 of Town and Country Planning Act 1990 or agreement that the development would not be viable to support the require commuted sum payment, 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).

R4 Flood Risk (surface water)

On the basis of the information submitted it has not been satisfactorily demonstrated that the proposed development would not result in an unacceptable adverse impact by virtue of surface flood risk. As such the development would be contrary to Policy DM8 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2024).

R5 Ecology

In the absence of sufficient information it has not been demonstrated that the development would not have a detrimental impact on biodiversity and protected species on the site. Therefore, the necessary consideration and appropriate mitigation cannot be given to the impact of the development on biodiversity and protected species, which is contrary to Policies CP1, CP9 and CP12 of the Core Strategy (adopted October 2011), Policy DM6 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2024).

R6 Highways/sustainability

By virtue of its siting along a single vehicle width, unlit, semi-rural lane there are insufficient opportunities for sustainable modes of travel. Therefore the future occupiers would have an unacceptable level of reliance of private car use. Overall the proposed development would be located within an unsustainable location with no option to make the site sustainable in the future. As such the development would be contrary to Policy CP10 of the Core Strategy (adopted October 2011) and the NPPF (2024).

8.2 Informative:

- 11 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

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 65 of the Framework advises that *“Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer).”* Annex 2 of the NPPF defines *“major development”* as *“for housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more.”*
- 1.4 The Council's current affordable housing policy is set out in Policy CP4 of the Core Strategy (adopted in October 2011) and establishes that:
 - a) “...All new development resulting in a net gain of one or more dwellings will be expected to contribute to the provision of affordable housing.”
 - e) “In most cases require affordable housing provision to be made on site, but in relation to small sites delivering between one and nine dwellings, consider the use of commuted payments towards provision off site. Such payments will be broadly equivalent in value to on-site provision but may vary depending on site circumstances and viability.”

¹ The National Planning Policy Framework was updated in February 2019, July 2021, December 2023 and December 2024 and retains the policies as stated in Paragraph 1.3 of this document.

- 1.5 The supporting text to Policy CP4 summarises the justification for it:
- Average house prices in Three Rivers are some of the highest in the country outside of London. As a result, many local people have difficulty accessing housing on the open market.
 - A Housing Needs Study estimated that 429 affordable dwellings would be needed each year to satisfy need. Such provision would exceed the total number of all housing types provided in the District in any year.
 - The 2010 Strategic Market Housing Assessment (SMHA) found that the requirement for affordable housing in and around the Three Rivers area remains exceptionally high.
 - In order to completely satisfy affordable housing requirements, **all** future housing in the district to 2021 would need to be affordable.
- 1.6 This policy remains the legal starting point for the consideration of planning applications under Section 38(6) PCPA 2004, which requires that the Council determines applications in accordance with the adopted development plan unless material considerations indicate otherwise. Paragraph 65 of the NPPF 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 & Conservation and Head of Regulatory Services on the weight that they recommend should be given to NPPF Paragraph 65 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 2024, Three Rivers has received small site affordable housing contributions amounting to over **£3.9 million**. £2.9 million of those monies has funded the delivery of **55 units** of additional affordable housing to date and a new development scheme which will deliver a further **8 units** utilising the current balance is currently being progressed. The Council is also presently working with local Registered Providers to enable the delivery of a further **12 additional affordable housing units** by way of loans/grants in return for 100% nomination rights. It is clear that Three Rivers' policy has already delivered a significant contribution towards the delivery of much needed affordable housing in the district and continues to be an important development tool for meeting a pressing need
- 1.8 In addition to the £3.9 million already received, small scale (1-9 unit) schemes have secured to date a further **£1.5million (plus indexation)**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 will continue to utilise these monies, as they are received, to deliver further affordable housing in Three Rivers.
- 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 129 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 2024, 288 planning permissions were granted for minor residential

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 projected contributions in respect of two alternative planning permissions and an outline PP with all matters reserved. Data is as of May 2025.

developments which contribute a net dwelling gain. Of those only 19 have been permitted to lapse which is only 6.6% of all such schemes³.

- 1.10 Current evidence of housing need in the District is noted below at paragraphs 2.4 to 2.16. 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 2024, 327 planning applications for residential development involving a net gain of dwellings were determined⁴ by the Council. Of these, 292 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 the overall identified needs and adopted development plan objectives. This is dealt with in more detail below.
- 1.12 If the weight to be given to the Framework is greater than the adopted development plan, this large proportion of Three Rivers' expected new housing delivery will contribute nothing towards affordable housing. This would compromise Three Rivers' ability to deliver its objectively assessed need for affordable housing.

2 Development Plan Policies and the WMS

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

³ 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 (May 2025) 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.

“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,

⁵ ONS (2025) *Dataset: House price to residence-based earnings ratio Table 6a*

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

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), as seen in 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.

- 2.6 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 2024 was £404,500⁷. The lowest quartile house price of £404,500 places Three Rivers as the **third** most expensive local authority area in England and Wales (excluding London), out of a total of 285 local authority areas (excluding London) as seen in table 2 below. Three Rivers' position has worsened and the lowest quartile house price has risen by £79,500 from 2016 to 2024, demonstrating an ongoing worsening affordability position.

Number	Local Authority Name	Lowest Quartile house Prices (2024)
1	Elmbridge	£445,000.00
2	St Albans	£440,000.00
3	Three Rivers	£404,500.00
4	Epping Forest	£390,000.00
5	Hertsmere	£387,500.00
6	Epsom and Ewell	£385,000.00
7	Windsor and Maidenhead	£385,000.00

Table 2.

- 2.7 Lowest quartile earnings in Three Rivers in 2016 were £24,518.00. In 2024, this figure was £33,056.00⁸, 12.24 times below the lowest quartile house prices (ratio of lower quartile house prices to lower quartile gross annual, residence based earnings⁹). In a mortgage market where lenders are traditionally willing to lend 3-4 times a person's income, clearly a lending requirement of 12+ times such an income means that most first time buyers are simply unable

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 (2025) *Dataset: House price to residence-based earnings ratio Table 6a* <https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

⁸ Office for National Statistics (2025) *Dataset: House price to residence-based earnings ratio Table 6b* <https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

⁹ Office for National Statistics (2025) *Dataset: House price to residence-based earnings ratio Table 6c* <https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

to purchase a dwelling in the District. Such a lending ratio would have required a first-time buyer in 2024 to have a deposit of £272k - £305k or (with a 5% deposit of £20,000) to earn £96,000.00- £128,000.00 per annum to get onto the lowest/cheapest rung of the property ladder. An additional Stamp Duty payment would also be payable.

- 2.8 In 2024, the median quartile house affordability ratio in Three Rivers was 11.57¹⁰ (see Table 3). Three Rivers has the eighth worst affordability ratio in England and Wales (excluding London) out of a total of 285 local authority areas (excluding London). Whilst this has improved from the 2016 figure of 13.77, Three Rivers' 5-year average is a ratio of 13.24, this being the fourth worst 5-year average affordability ratio in England and Wales (excluding London).

Number	Local Authority Name	Median quartile house price affordability ratio (2024)
1	Elmbridge	12.94
2	Epsom and Ewell	12.32
3	Hertsmere	12.24
4	Mole Valley	12.08
5	Tandridge	12.06
6	Chichester	11.81
7	St Albans	11.60
8	Three Rivers	11.57

Table 3.

- 2.9 Looking at the ratio of lower quartile house prices to lower quartile to gross annual, residence based earnings, in 2024 the ratio for Three Rivers was 12.24¹¹, with Three Rivers having the seventh worst affordability ratio in England and Wales (excluding London). Three Rivers' 5-year average is a ratio of 13.57, this being the fifth worst 5-year average affordability ratio in England and Wales (excluding London).

Affordable Housing Requirements in Three Rivers

- 2.10 The Local Housing Needs Assessment (LNHA) (March 2024) is the most recent update to the South-West Hertfordshire Strategic Housing Market Assessment January 2016 (SHMA) and estimates the need for affordable housing across the South-West Herts authorities. The LNHA splits its analysis between affordable housing to rent and affordable housing to buy.

Affordable Housing Need - To Rent

- 2.11 The South-West Hertfordshire Local Housing Needs Assessment (LHNA) (March 2024) found there were approximately 1,614 households within Three Rivers that were in need of

¹⁰ Office for National Statistics (2025) *Dataset: House price to residence-based earnings ratio Table 5c*
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

¹¹ Office for National Statistics (2025) *Dataset: House price to residence-based earnings ratio Table 6c*
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

affordable housing. This was based on a number of factors such as assessing the number of homeless households in temporary accommodation, households in overcrowded housing, concealed households and existing affordable housing tenants in need. When excluding households already in existing housing, this figure fell to 1,064 households, leaving an annualised current affordable housing need figure of approximately 53 over the 20-year period of 2021-2041.

- 2.12 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 724 new households forming per annum in Three Rivers over the period 2021 to 2041. 48% of these newly-forming households are estimated to be unable to afford market housing (to rent) resulting in 350 new households with a need for affordable housing to rent each year over the period 2021 to 2041.
- 2.13 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 48 existing households falling into need for affordable rent per year over the period 2021 to 2041.
- 2.14 Taking into account the figures of need noted above and other factors set out in the study, such as existing housing stock, **the LNHA calculates the annual affordable housing need to rent over the period 2021 to 2041 as 364 in Three Rivers** (totalling 7,280 units over a 20-year period). This need involves households who cannot afford anything in the market without subsidy and is equivalent to 44% 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

- 2.15 In addition to the need for rented affordable housing, the LNHA estimates a need of 163 units for affordable home ownership per annum (totalling 3,620 units over a 20-year period).

Total Affordable Housing Need

- 2.16 **Combining the need for affordable housing to rent and affordable housing to buy results in the calculation of 527 affordable units per year** (totalling 10,540 units over a 20-year period), equating to approximately 63% of Three Rivers' total local housing need requirement (as calculated by the standard method)

Affordable Housing Provision in Three Rivers

- 2.17 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.
- 2.18 Since the start of the plan period from 1 April 2001 to 31st March 2024 (the latest date where the most recent completion figures are available) 5,664 gross dwellings were completed. From this, 1,226 were secured as affordable housing, a total of 21.6%. This percentage is significantly below the Core Strategy target of 45% which means there was a shortfall of a further 1,323 or 23.4% affordable dwellings in order to fulfil the 45% affordable housing requirement up to 31 March 2024. This shortfall only exacerbates the already pressing need for small sites to contribute towards the provision of affordable housing.

2.19 In the latest monitoring period of 2023/24 (financial year), 17 sites¹² 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). 7 of the 17 schemes contributed to affordable housing provision whilst 10 of the 17 schemes did not contribute:

- 1 of the 17 sites delivering a net gain in housing in 2023/24 was exempt from affordable housing contributions due to planning permission being granted prior to the Council's first Needs Analysis being undertaken and 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.
- A further 9 of the 10 delivered sites which did not contribute to affordable housing during the 2023/24 period was the result of viability evidence being submitted during the course of the application which sufficiently evidenced that an affordable housing contribution would render the schemes unviable. These applications were therefore approved in accordance with Policy CP4, making clear that the requirement for affordable housing contributions is subject to viability considerations
- Of the 7 completed schemes which did contribute, 5 sites made contributions by way of a commuted sum, secured through Section 106 Agreements/Unilateral Undertakings and 2 provided on-site affordable housing units.

2.20 In addition to the 17 sites referenced above, there were a further 3 sites where the overall development resulted in a net gain of one or more dwellings. These sites were granted permission through the prior approval application route, through which affordable housing provision cannot be required.

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

2.21 It is clear from table 4 below that small site schemes make up the overwhelming percentage of planning applications made to the Council each year for residential (net gain of dwelling(s)) development:

Financial Year	Total number of planning applications for net gain residential schemes	Number that were for small site schemes	Percentage that were for small site schemes
2017/18	67	57	85%
2018/19	50	46	92%
2019/20	60	55	92%
2020/21	38	33	87%
2021/22	39	36	92%
2022/23	34	29	89%

¹² Sites with completions in the monitoring year 2023/24

2023/24	39	36	92%
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Table 4.

- 2.22 Table 5 below sets out the amount of small site schemes submitted for approval to the LPA resulting in a net gain of 1, 2 and 3 dwellings from 2017/2018 (financial year) to 2023/2024 (financial year). The table highlights that a high proportion of these small site schemes are for 1, 2 and 3 dwellings (net gain), with 1 dwelling schemes being the most common by a significant amount. It is clear that the benefits of allowing applications which propose a low number of dwellings in breach of Policy CP4 would be significantly and demonstrably outweighed by the consequential loss of the development plan policy tool provided by Policy CP4 which enables the Council to provide for the mitigation of the continued and pressing need for affordable housing in the District in a proven sustainable way in accordance with the purpose of the planning system to contribute to the achievement of sustainable development including the provision of homes (NPPF, para 7).

Year	No. of 1 dwelling schemes	No. of 2 dwelling schemes	No. of 3 dwelling schemes	Total number of applications (for net gain) determined that year	% of total applications determined (for net gain) being 1-3 dwelling schemes that year
2017/2018	35	10	3	67	72%
2018/2019	27	4	4	50	70%
2019/2020	27	8	6	60	68%
2020/2021	24	3	2	38	76%
2021/2022	24	3	2	39	74%
2022/2023	17	4	2	34	68%
2023/2024	21	6	1	39	72%

Table 5.

- 2.23 In terms of numbers of completed dwellings proposed by small site schemes, between 2011-2024 (financial years) some 498 net dwellings were completed which equates to approximately 38 net dwellings per annum and to 21.6% over the 2011-2024 period. 21.6% 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

- 2.24 As set out at paragraphs 1.7 and 1.8 above, the Council has received approximately £3.9 million in commuted payments to date, with a further £1.5million secured. £2.9million of those monies have been spent enabling the delivery of 55 affordable housing units: an important contribution towards the identified affordable housing shortfall in the district. The Council is currently preparing a proposed scheme utilising the monies received which will deliver an additional 8 affordable housing units and it is also in discussions with partner Registered Providers to deliver a further 12 housing units by way of loans/grants in return for 100% nomination rights. The Council will continue to work with Registered Providers to deliver further affordable housing in the District in the medium term future, utilising those additional affordable housing contributions as and when they are received.
- 2.25 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

- 2.26 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 129 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 2024 there were 288 planning permissions granted for minor (net gain) residential developments in the District. Of those only 19 have lapsed (6.6%)¹³. This demonstrates that the application of CP4 has not acted as a brake on small scale residential developments.

Relevant Appeal Decisions

- 2.27 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.
- 2.28 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

¹³ See footnote 3.

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.

- 2.29 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.
- 2.30 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.
- 2.31 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."*¹⁴
- 2.32 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.
- 2.33 The Council's stance has been tested on appeal on numerous occasions and the Planning Inspectorate have repeatedly concluded in over 40 appeal decisions to date 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/19/3230911, 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

¹⁴ Paragraph 7, Planning Inspectorate Letter, March 2017.

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/19/3229038: 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.”

- **APP/P1940/W/21/3276715: Land adjacent to 62-84 & 99-121 Sycamore Road, Croxley Green Decision Date: 10th March 2022**

“Small housing sites have an important role in helping to deliver new housing in the district, including meeting a pressing need for affordable housing. For small housing sites of one to nine dwellings, paragraph e) of Policy CP4 of the CS allows for the possibility of commuted payments towards provision of off-site affordable housing. The Council indicates the indexation of such sums from a date of June 2011 to be the norm in most cases, to reflect the adoption date of the Three Rivers Affordable Housing Supplementary Planning Document (SPD), including its commuted payment formula, and so ensure that the contribution remains the same in real terms over time. Since the Council’s decision, a Planning Obligation by way of Unilateral Undertaking (UU) which proposes provision for affordable housing has been submitted by the appellant. The UU5 proposes an indexation date of 1st February 2022, and not 1st June 2011 as sought by the Council. As such, the UU does not make provision for adjustment of the affordable housing sum in proportion to any increase in the Retail Prices Index during the period of more than a decade since the adoption of the SPD. In this respect, I have no certainty that the proposed affordable housing contribution would be adequate to meet local need. I therefore conclude that the proposed development would not make adequate provision for affordable housing. As such, it would not accord with Policy CP4 of the CS which seeks to meet local need for more affordable housing in the district.”

- **APP/P1940/W/21/3277747: 3 Grove Cottages, Pimlico**

Decision Date: 16th March 2022

“Policy CP4 of the Core Strategy addresses the provision of affordable housing and under it the Council has identified a requirement for a commuted affordable homes contribution of £58,650 to be paid. The appellant has indicated a willingness to make such a contribution. A draft Unilateral Undertaking (UU)3 submitted with the planning application includes an obligation intended to secure the making of an affordable housing contribution. I am content that there is a need for an affordable housing contribution to be made, with the Council having justified why such a contribution should be paid, even though the development would not be a ‘major’ one for the purposes of paragraph 64 of the Framework.”

- **APP/P1940/W/21/328373448: Altham Gardens, South Oxhey**
Decision Date: 29th April 2022
"The latest statistics indicate that the Council has a shortage in its supply of housing land. Although the statistics do not specify affordable housing, the SPD indicates that there is a requirement for affordable housing in and around the Three Rivers Area and given the scale of the shortfall, it is reasonable to assume that it includes affordable housing. Given the policy requirement and the identified shortage of housing generally I am satisfied that the need for the contribution sought by the Council arises from the development and satisfies the three tests in Regulation 122(2) of the CIL Regulations 2010."
- **APP/P1940/W/22/3291286: 27 Gable Close, Abbots Langley**
Decision Date: 30th August 2022
"I am mindful that the Framework suggests 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). However, the Council has provided clear and compelling evidence to demonstrate an acute need for affordable housing in the District, including reference to numerous other appeal decisions which have supported the Council's case. There is no substantive evidence before me which would lead me to a different conclusion, including with regard to the primacy of the development plan. There would therefore be an expectation that the appeal scheme would contribute financially towards the provision of affordable housing."
- **APP/P1940/W/21/3284630: The Puffing Field, Windmill Hill**
Decision Date: 23rd September 2022
"The Council's evidence sets out a robust case for an acute need for affordable housing in the area and the importance of small sites in contributing to the provision of such housing. On the evidence before me, I have no substantive reason to disagree with this position."
- **APP/P1940/W/22/3291193: Rear of The Woodyard, Sarratt**
Decision Date: 27th October 2022
"The Council's evidence sets out a robust case for an acute need for affordable housing in the area and the importance of small sites in contributing to the provision of such housing. The requirement for and the amount of the affordable housing contribution are detailed in the Council's submissions."
- **APP/P1940/W/22/3291601: Meadow Farm, Hyde Lane, Nash Mills**
Decision Date: 10th May 2023
The Council's evidence sets out a robust assessment of the identified need for affordable housing, the reasons for a lower threshold than that required by national policy, and why small sites are so important in contributing to the provision of such housing in the district. Accordingly, I attach substantial weight to this evidence and consider that affordable housing provision is required in this case
- **APP/P1940/W/22/3313385: Greenways, Seabrook Road, Kings Langley**
Decision Date: 8th August 2023
As set out in Policy CP4 of the Core Strategy and amplified in the Affordable Housing Supplementary Planning Document (the SPD), all new housing is required to contribute to the provision of affordable housing in the District, without exceptions. Due to the scale of the appeal scheme, the use of a commuted payment, secured by a Section 106 agreement, towards provision off-site would be appropriate.
- **APP/P1940/W/23/3315063: Dell Cottage, Dog Kennel Lane, Chorleywood**
Decision Date: 20th June 2023
In relation to affordable housing, Policy CP4 of the Core Strategy requires that contributions to affordable housing will be sought for all new housing development with the use of commuted payments towards off site provision considered for small sites. The submitted UU obligates the appellant to pay an agreed sum to the Council prior to the commencement of development on the site. In

accordance with paragraph 57 of the Framework, I have considered the UU against the three tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. I am satisfied that the provisions are necessary to make the appeal scheme acceptable in planning terms and are fairly and reasonably related in scale to the proposed development, thereby meeting the three tests identified above

- **APP/P1940/W/23/3320530: Ved House, Topilts Lane, Rickmansworth**

Decision Date: 7th February 2024

The Council's Housing Needs Analysis [2023] provides an up-to-date and robust assessment of the Council's affordable housing need. This demonstrates that the need for annual affordable housing need for rent and to buy represents 80% of the district's total housing need. The Council identifies that it has been securing a provision of 22.5% affordable housing units between 2001 and 2022, substantially below its policy requirement. Furthermore, the Council has demonstrated that around 89% of applications received for residential development, over a recent 5-year period, have been small sites. The contributions collected from these have enabled the Council to deliver a significant number of affordable dwellings. The Council's Housing Needs Analysis is of significant weight in my assessment of this proposal and supports the need for an affordable housing contribution and explains its importance

- **APP/P1940/W/23/3327431: 1 Gade Bank, Croxley Green**

Decision Date: 18th March 2024

Policy CP4 of the CS requires commuted payments towards the provision of off-site affordable housing. A completed planning obligation has not been submitted to provide the necessary commuted payments, and I note the appellant's statement in their final comments that one would not be provided at this stage.

I conclude that the proposal does not make adequate provision for affordable housing. The proposal would therefore conflict with Policy CP4 of the CS and the Framework, which seek to increase the provision of affordable homes in the District.

- **APP/P1940/W/23/3314469: 35 Lower Road, Chorleywood**

Decision Date: 10th April 2024

The Council's Affordable Housing Supplementary Planning Document ('the SPD') identifies that average house prices within the district are some of the highest in the country outside of London. It identifies that the lack of suitable and affordable housing within the area impacts on the ability of the district to attract and retain workers. Although the SPD was published in 2011, more recent evidence from 2020 indicates that an affordability issue persists within the district; at that time, it had the fourth worst affordability ratio for local authority areas in England and Wales.

Accordingly, Three Rivers Local Development Framework Core Strategy ('CS') Policy CP4 requires the provision of affordable housing of 45% for all new housing development. The policy identifies that whilst in most cases, affordable housing provision should be made on site, on smaller sites of up to 9 dwellings, that a commuted payment ('AHP') towards off-site provision would be acceptable in lieu of delivery on-site.

Both the supporting text to CS Policy CP4 and the SPD acknowledge that affordable housing provision can have viability implications for development proposals, with the SPD stating that it will consider reductions to AHPs where informed by viability. The SPD also sets out that the onus is on a developer to demonstrate that viability would be jeopardised, by means of a robust financial appraisal.

The need for the proposal to deliver an AHP in order to accord with CS Policy

CP4 is not a matter of dispute. However, there is dispute with regard to the amount of the AHP, and subsequently, whether the provision of a commuted sum would render the proposal unviable

....On the basis of this reasoning, in reaching my conclusion, I have taken the Council's surplus figure adjusted for the additional commercial cost of £38,500. This indicates that the proposal would return a surplus, albeit this would be unlikely to be sufficient to allow the full payment of an indexed AHP. However, it is possible that an AHP of some form could be secured.

I therefore conclude that as the proposal would be likely to deliver a surplus, that an AHP, albeit reduced from the full indexed AHP figure, would be applicable in this instance.

On this basis, the proposal would fail to make adequate provision for affordable housing. It would be contrary to CS Policy CP4, the content of which I have set out above. It would also fail to accord with advice within the SPD.

... for the reasons given above, the appeal scheme would fail to make appropriate provision for affordable housing in an area with a significant need for such, and I cannot be certain that it would not harm protected species.

Consequently, the adverse effects of granting planning permission would, in this case, significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

- **APP/P1940/W/23/3333829: Ravenswood Farm, Church Lane, Sarratt**
Decision Date: 3rd July 2024

The Council's fourth reason for refusal refers to the absence of a legal agreement. Core Strategy Policy CP4 requires commuted payments towards the provision of off-site affordable housing. This point is not disputed by the appellant and they have indicated a willingness to provide such a contribution and a draft legal agreement was submitted with the appeal.

The Procedural Guide: Planning Appeals – England May 2024 is clear that if the appellant intends to send a planning obligation and wants to be certain that it will be taken into account by the Inspector an executed and certified copy of the planning obligation should be provided at the time of making the appeal.

I note the appellant's statement in their final comments that one would be provided. However, a completed planning obligation has not been submitted to provide the necessary commuted payments. As such, the proposal does not make adequate provision for affordable housing. The proposal would therefore conflict with Policy CP4 of the Core Strategy and the Framework, which seek to increase the provision of affordable homes in the District.

- **APP/P1940/W/23/3324209: Cottage Farm, Redhall Lane, Rickmansworth**
Decision Date: 3rd October 2024

Policy CP4 of the Core Strategy seeks an overall provision of around 45% of all new housing as affordable housing. In relation to small sites delivering between one and nine dwellings, the use of commuted payments towards provision off site is considered.

The Council's evidence sets out a robust case for an acute need for affordable housing in the area and the importance of small sites in contributing to the provision of such housing. The Council and the appellant have come to an agreement on a commuted payment of £122,267 towards off site affordable housing provision. Based on the evidence before me, I have no reason to dispute this. The appellant has provided a completed

Unilateral Undertaking which would secure the required financial contribution.

The contribution sought has been demonstrated to be necessary to make the development acceptable in planning terms, is directly related to the development and is fairly and reasonably related in scale and kind to the development. Consequently, the obligation would comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the Framework.

I therefore conclude that the proposal would make appropriate provision for affordable housing in accordance with Policy CP4 of the Core Strategy.

- **APP/P1940/W/24/3342047: Land to the Rear of 51-53 Greenfield Avenue**

Decision Date: 14th October 2024

CS Policy CP4 requires that contributions to affordable housing will be sought for all new housing development with the use of commuted payments towards off site provision considered for small sites.

The submitted UU obligates the appellant to pay an agreed sum to the Council prior to the commencement of development on the site. In accordance with the National Planning Policy Framework (the Framework), I have considered the UU against the three tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. I am satisfied that the provisions are necessary to make the appeal scheme acceptable in planning terms and are fairly and reasonably related in scale to the proposed development, thereby meeting the three tests identified above.

- **APP/P1940/W/24/3340719: Land Adjoining 10 Gypsy Lane, Hunton Bridge**

Decision Date: 21st February 2025

CS Policy CP4 expects 45% of all new housing to be affordable. For small sites such as the proposal, this may be provided through commuted payments for housing elsewhere. Such contributions are payable, unless it can be shown that they would make the scheme unviable.

Policy CP4 was adopted prior to the publication of the Written Ministerial Statement in November 2014. This made clear that affordable housing should not be sought for developments such as the proposal. As a result, for a time, the Council did not require affordable housing contributions from some schemes, including for the development now built at 18 Hunton Bridge Road.

*However, the Council has recommenced requiring such contributions. This follows evidence of the very high house prices and pressing need for affordable housing in the District, which is not disputed. The Council's Annual Monitoring Report for 2023/2024 shows that, out of 17 sites of one or more houses, six made commuted sums. **The use of such sums from small-scale development therefore makes a meaningful contribution to addressing the housing needs of the District.***

The PPG and Paragraph 65 of the new Framework state that affordable housing should not be sought for non-major residential developments, as here. The need to make financial contributions, or to justify non-viability, results in additional costs and delay particularly to small-scale housing schemes. I understand that some development plan policies in other areas, including in parts of London, do not seek contributions from small-scale proposals.

*Even so, policy CP4 remains the adopted policy within the District. I am mindful that the new Framework re-states previous national policy, rather than indicating a change in the direction of the Government. As such, **given the acute need for affordable housing locally, and the contribution that small sites make to reducing this***

need, I give greater weight to CS policy CP4 than to Framework Paragraph 65.

Where non-viability is cited for non-compliance with these requirements, policy CP4 requires justification by way of a financial viability assessment. Viability was a matter of dispute between the main parties, including in respect of land values and build costs. However, at the Hearing, the Council and the appellant were able to agree on a contribution that would make some provision for affordable housing whilst not making the proposal unviable. I see no reason to dispute the amount, and the contribution, secured by the UU, would meet the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010.

For the reasons given above, I conclude that the proposal would need to make a contribution towards affordable housing provision, and that the amount secured would be sufficient to comply with CS policy CP4. Given its size, this attracts limited positive weight in favour of it.

Conclusion

- 2.34 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, February 2022, February 2023, April 2024 and July 2025 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 2016-2024 ONS data shows that the affordability of housing in Three Rivers has remained low year on year and the need for affordable housing units 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 (3230911, 3230458, 3213370, 3229038, 3238285, 3229189, 3249107, 3259397, 3260602, 3244533, 3260554, 3276715, 3277747, 328373448, 3291286, 3284630, 3291193, 3291601, 3313385, 3315063, 3320530, 3327431, 3314469, 3333829, 3324209, 3342047, 3340719)

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

Sources Used:

1. Core Strategy (October 2011)

[https://cdn.threerivers.gov.uk/files/2023/01/945fc600-9ff2-11ed-8d80-6dc425ce7e94-core-strategy-adopted-17-oct-2011%20\(1\).pdf](https://cdn.threerivers.gov.uk/files/2023/01/945fc600-9ff2-11ed-8d80-6dc425ce7e94-core-strategy-adopted-17-oct-2011%20(1).pdf)

2. Annual Monitoring Report 2023/2024 (December 2024)
<https://cdn.threerivers.gov.uk/files/2024/12/a48e36b0-bee0-11ef-96f7-11db50b6bf11-FINAL%20Annual%20Monitoring%20Report%202023-2024.pdf>
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 Update (March 2024)
<https://cdn.threerivers.gov.uk/files/2025/02/87ecbcc0-e46a-11ef-91c0-6b9ca2e0e81d-2024%20LHNA%20Report.pdf>
5. Office of National Statistics Housing Data 2002-24
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

July 2025