

## PLANNING COMMITTEE – Thursday 23 April 2026

**25/2202/FUL - Demolition of an existing building to the rear of No.126 and construction of 2no. two storey detached self build dwellings with associated subdivision of the site and alterations to access, parking, landscaping works and construction of workshop and garage at 126 TOMS LANE, KINGS LANGLEY, HERTFORDSHIRE, WD4 8NR**

Parish: Abbots Langley Parish Council                      Ward: Gade Valley  
Expiry of Statutory Period: 01.05.2026 (Agreed      Case Officer: Lilly Varnham  
Extension)

**Development Type:** Minor dwellings

**Recommendation:** That PLANNING PERMISSION BE REFUSED.

**Reason for consideration by the Committee:** The agent for this application is a Three Rivers District Council Ward Councillor. The application has also been called in by three members of the Planning Committee to discuss overdevelopment, backland development, impact on the green belt and overlooking concerns.

To view all documents forming part of this application please go to the following website:  
[25/2202/FUL | Demolition of an existing building to the rear of No.126 and construction of 2no. two storey detached self build dwellings with associated subdivision of the site and alterations to access, parking, landscaping works and construction of workshop and garage | 126 Toms Lane Kings Langley Hertfordshire WD4 8NR](#)

### 1 Relevant Planning History

- 1.1 W/695/49 – Garage.
- 1.2 W/2587/71 - Extension to lounge, study, cloakroom.
- 1.3 95/0336 - Single storey side extension and loft conversion – Permitted.
- 1.4 98/0785 - Single storey side extensions and loft conversion – Refused.
- 1.5 99/01192/FUL - Single storey side extensions and loft conversion – Permitted.
- 1.6 02/00226/FUL - Erection of detached garage with room over and additional vehicular access – Refused, for following reason:

*The site is within the Metropolitan Green Belt where it is the policy of the local planning authority as set out in the Hertfordshire County Structure Plan Review 1991-2011 (adopted April 1998) and the Three Rivers Local Plan 1996-2011 not to allow development unless it is essential for the purposes of agriculture or other uses appropriate to the rural area. No evidence has been presented to indicate that the proposed development would comply with this policy. The addition would, by reason its size and extent, be excessive and would result in an erosion of space around the building, all to the detriment of the openness of the Metropolitan Green belt, contrary to the provisions of GB1 and GB6 of the Three Rivers Local Plan 1996-2011.*

- 1.7 05/0909/CLPD - Certificate of lawfulness proposed use: Conversion of detached garage into habitable accommodation – Permitted.

### 2 Description of Application Site

- 2.1 The application site is located on the southern side of Toms Lane, Kings Langley. The application site contains a detached bungalow with accommodation in the roofspace, the existing residential dwelling has a dark tiled Dutch hipped roof and exterior finish consisting of a white render. The dwelling fronts Toms Lane, and to the frontage there is an existing gravelled carriage driveway. To the rear of the dwelling is an amenity garden predominantly laid as lawn with an area of raised decking extending from the rear elevation to provide a level threshold to the level of the lawn.
- 2.2 Land levels drop from the highway to the rear of the site. To the west of the existing vehicular access to the residential dwelling is a gravelled track which runs along the western boundary of the site and provides access to a detached outbuilding at the rear. The lawful use of this outbuilding was established under the planning reference 05/0909/CLPD, for the conversion of a detached garage into habitable accommodation. It is understood from the submitted statement that this use has ceased and the building to the rear of No. 126 Toms Lane is being operated as an Air BnB, no Lawful Development Certificate has been submitted to date to confirm the current lawful use of the building.
- 2.3 This outbuilding is partially separated from the immediate residential curtilage of No. 126 Toms Lane by existing fencing running east to west across the site. Surrounding the building is an area of hard and soft landscaping. Levels rise again towards to rearmost boundary.
- 2.4 The site is located within the Metropolitan Green Belt.

### **3 Description of Proposed Development**

- 3.1 This application seeks planning permission for the demolition of an existing building to the rear of No. 126 and construction of 2no. two storey detached self-build dwellings with associated subdivision of the site and alterations to access, parking, landscaping works and construction of workshop and garage.
- 3.2 The existing building referred to on the plans as 'The Barn' is proposed to be demolished. The existing amenity space of the residential dwelling is separated from the area of land to the rear of No. 126 by virtue of an existing fence across the width of the site, there is an existing gap which enables free access between the two. The proposal would result in the construction of two two-storey detached dwellings to the rear of No. 126; this would result in a reduction in depth of the rear amenity space of No. 126 by approximately 15m to accommodate the proposed plots.
- 3.3 The proposed dwellings would utilise the existing dropped kerb serving No. 126 from Toms Lane, there is an existing single gravelled track along the western boundary of the site which provides existing access to the outbuilding proposed for demolition. This access would be utilised to facilitate access to the proposed dwellings. The mature tree in the northwestern corner of the site is proposed to be removed; vegetation is also proposed to be removed from the western boundary.
- 3.4 Metal gates are proposed on the gravelled access track to separate the accesses for the proposed dwellings. Bin Stores are proposed for both dwellings, a new 1.8m high close boarded fencing is proposed to the rear of No. 126 to separate it from the proposed 'Garden House'. The same fencing is proposed to the rear and western flank elevation of the garden house to separate it from the proposed 'The Barn'. The existing boundary treatment (vegetation) between the application site and No. 126a Toms Lane is proposed to be retained as existing. A section of close boarded fencing on the western elevation of the residential curtilage of No. 126 would be removed to create a 'new' access into the area of the proposed 'Garden House'. Both dwellings propose bins stores adjacent to the western flank elevation however no elevations have been provided.

- 3.5 Amendments were requested and received during the course of the application omitting the extension to the existing vehicular crossover onto Toms Lane and amending the flank windows in the eastern elevation of both dwellings to translucent fixed shut glass.
- 3.6 Further amendments were then received omitting the first floor flank windows from the eastern elevation of both dwellings.

#### *The Barn*

- 3.7 The proposed dwelling referred to on the plans as 'The Barn' is sited to the rear boundary of the site, the dwelling would be set off the rear boundary by approximately 14.4m, off the western flank boundary by approximately 9.1m and off the eastern flank boundary by approximately 3m.
- 3.8 The resultant dwelling is rectangular in shape and would a gabled roof form. The resultant dwelling would have a depth of approximately 13.6 (inclusive of the ground floor front and rear projecting roof canopies), and a width of approximately 18.7m. As above, the dwelling has a gabled roof with two rear projecting gables as well metal projecting roofs to the front and rear at the ground floor. The dwelling would have a total height of approximately 6.3m, with an eave's height of approximately 4.8m. The front and rear metal canopy projections would sit at a total height of approximately 2.6m, supported by painted metal posts to match the roof.
- 3.9 A metal log burner flue is proposed on the eastern flank elevation which would project approximately 0.7m from the outer face of the wall and sit approximately 0.8m above the resultant ridge height. Fenestrations are proposed within the front, side and rear of the dwelling at both ground and first floor level including two projecting balconies from the first-floor rear elevation and full height glazing within the front and rear gables.
- 3.10 The dwelling is proposed to be finished in square edge timber cladding with stained finish, a grey brick plinth to the bottom of the dwelling, knapped flint stonework, solar roof standing seam metal roof in Anthracite, Anthracite Grey Aluminium Fenestrations, Conservation Style Rooflights and Anthracite Aluminium Rainwater Goods.
- 3.11 Forward of the Barn is a proposed detached garage/workshop sited along the boundary with No. 126a Toms Lane and the rear boundary of the residential curtilage of the proposed 'Garden House'. Amended plans were requested and received during the course of the application to provide elevations of the detached outbuilding. The proposed block plan indicates that it would be rectangular in shape with a depth of approximately 6.1m and a width of approximately 12m. The outbuilding would have a gabled roof form with a ridge height of approximately 4.4m and an eaves height of approximately 2.7m. A garage door is proposed within the western and southern elevation and a door in the southern elevation facing the dwelling. The garage/workshop would be finished in square edge timber cladding with a stained finish, single ply membrane roof in anthracite colour to match the host roof and anthracite grey aluminium garage doors. Four conservation style rooflights are proposed within the southern roofslope of the garage.

#### *The Garden House*

- 3.12 The proposed dwelling referred to on the plans as the 'Garden House' is sited within the middle of the application site, in a broadly similar position to the outbuilding proposed for demolition, albeit it is acknowledged that it would be positioned closer to the rear of No. 126 than the outbuilding currently is, resulting in a reduction in the level of amenity space to the existing residential dwelling on the site. The Garden House would be sited approximately 41m from the rear boundary of the site and approximately 18m from the principal front elevation of 'The Barn'. The 'Garden House' would be set off the western flank boundary by approximately 9.7m and the eastern flank boundary with No. 126a by approximately 6m.

- 3.13 The resultant dwelling is also rectangular in shape and would have a gabled roof. The resultant dwelling would have a depth of approximately 11.9m (inclusive of the ground floor front and rear projecting roof canopies), and a width of approximately 15.3m. As above, the dwelling would have a gabled roof form with an eaves overhang to the front and rear of the dwelling. Projecting roof canopies are proposed to the front and rear of the dwelling at the ground floor level. The dwelling would have a total height of approximately 6.3m and an eaves height of approximately 5.1m. The front and rear metal canopy projections would sit at a total height of approximately 2.5m, supported by painted metal posts to match the roof.
- 3.14 A metal log burner flue is proposed to the eastern flank elevation projecting approximately 0.6m from the outer face of the wall and would sit approximately 0.7m above the resultant ridge height. Fenestrations are proposed within the front, side and rear of the dwelling at both ground and first floor level including two projecting balconies from the first-floor rear elevation and full height glazing within the centre of the front elevation.
- 3.15 The dwelling is proposed to be finished in square edge timber cladding with stained finish, a grey brick plinth to the bottom of the dwelling, knapped flint stonework, solar roof standing seam metal roof in Anthracite, Anthracite Grey Aluminium Fenestrations, Conservation Style Rooflights and Anthracite Aluminium Rainwater Goods.

## **4 Consultation**

### **4.1 Statutory Consultation**

- 4.1.1 National Grid – [No response received]
- 4.1.2 Abbots Langley Parish Council – Members are concerned that this back land development will set a precedent in a green belt area and refer this to the planning committee.
- 4.1.3 Hertfordshire County Council Highways – [Recommend Refusal]

### **Recommendation**

Notice is given under article 22 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that Hertfordshire County Council as Highway Authority recommends that permission be refused for the following reasons:

The proposed extended vehicle crossover (VXO) is not in accordance with Hertfordshire County Council's (HCC) specifications and has the potential to negatively impact on the free and safe flow of pedestrian highway user on the adjacent local access road due to the unnecessarily long VXO / dropped kerb in which pedestrians would need to cross. The proposals are therefore contrary to policy guidelines as outlined in the National Planning Policy Framework (NPPF) 2019 and Hertfordshire's Local Transport Plan (LTP4) 2018.

### **Comments:**

Toms Lane is a class C local access road subject to a 30mph speed limit. It is classed as P2/M1 on HCC's Place and Movement Network and is Highway maintainable at public expense.

The proposal intends to retain 2no. existing dropped kerb vehicle crossovers (VXO), with the western access to facilitate access to the rear proposed properties only (separated by a timber fence). The submitted proposed site plans demonstrate a proposed extension to the existing Western VXO. At present the existing VXO consists of 4no. flat kerbs flanked by 2no. transition kerbs (total width 5.4m). The proposed extended VXO measures approximately 8.5m from submitted plans which is above the maximum width allowed for shared VXO's required in the Residential Dropped Kerbs Policy. An overly long VXO could increase the potential area of conflict between vehicles entering/exiting the site, pedestrians travelling across Toms Lane and the perpendicular flow of traffic. The HA therefore considers the development as contrary to policies outlined in the local transport plan -

having the potential to impact the safe operation on the surrounding highway and therefore recommends refusal.

4.2 Hertfordshire County Council Highways [Second Response dated 08 April 2026] – No Objection.

**Recommendation**

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

**INFORMATIVES**

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

AN1) Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence.

Further information is available via the website:

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

AN2) Obstruction of public highway land: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence.

Further information is available via the website:

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

AN3) Debris and deposits on the highway: It is an offence under section 148 of the Highways Act 1980 to deposit compost, dung or other material for dressing land, or any rubbish on a made-up carriageway, or any or other debris on a highway to the interruption of any highway user. Section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development and use thereafter are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available by telephoning 0300 1234047.

**COMMENTS**

Context: Toms Lane is an unclassified local access road and is highway maintainable at public expense. A 30mph speed limit applies. It is classed as P2/M1 on HCC's Place and Movement Network. No reported highway collisions recorded within the vicinity of the application site (5-year rolling). No Public Right of Way (as shown on the PRow map) directly affects the site or would be affected by the proposal.

Proposed development: Involves the demolition of an existing building to the rear of No.126 and construction of 2no. two storey detached self build dwellings with associated subdivision of the site, alterations to parking, landscaping works and construction of workshop and garage Access: 2no. existing dropped kerb and vehicle crossovers provides an acceptable form of vehicular access from the highway to the site. The application form states that no new or altered vehicular or pedestrian access is proposed to or from the public highway. The HA has no further comments in this respect.

Development proposals do not prejudice or impact existing space for turning within the site.

Trip Generation: The additional habitable spaces to be created as a result of the proposed development is unlikely to result in a material increase in additional vehicle trips to and from the site. No significant, or severe, impact on the transport network is identified.

Parking: The LPA shall be responsible for assessing the proposed development against local parking standards and to satisfy for itself that any level of parking it requires can be achieved. The proposed development intends to create 7 total car spaces within the site boundary. A cycle store is indicated within the block plan. Its provision is supported by the Highway Authority and is consistent with policies 1 and 8 of the Hertfordshire Local Transport Plan (LTP4).

Accessibility: A footway is located to the front of the application site, providing pedestrian access to the local area. The site is not considered to be within convenient walking distance of the nearest train station (Kings Langley) which is located approximately 2000m to the site (walking route). Bus services are located within walking distance of the site (200m).

Planning for Walking, issued by the Chartered Institution of Highways and Transportation (CIHT) places emphasis on developments being located and designed, where practical, to give priority to pedestrian (and cycle) movements and have access to high quality public transport facilities. In terms of accessibility, 400m walking distance to bus stops is considered to represent a reasonable catchment, further for a railway station (800m). The site is considered to be in an acceptable location with regard to sustainability = due to the availability of bus routes and local amenities.

Emergency Vehicle Access: Consistent with the NPPF (2021), para. 112 (d), applications for development should allow for access by emergency vehicles. Guidance is set out in Manual for Streets (MfS) (6.7.2) (Requirements are set out in Building Regulations). Access for a pumping appliance should be provided to within 45m of a single dwelling (and within 45m of all points within a dwelling).

The access route is wider than 3.1m allowing for a fire tender to access the rear buildings. As far as it can be reasonably ascertained from submitted plans, the proposed development would be within the recommended emergency vehicle access distance from the highway.

Access for Refuse Vehicles: The proposal will not affect existing access arrangements for kerbside collection.

Refuse vehicles must be able to stop within a maximum carry distance of 25m from a bin collection point (Manual for Streets, 6.8.9). Residents should not be required to carry waste more than 30m to a storage point (Manual for Streets, 6.8.9).

## CONCLUSION

HCC as Highway Authority has considered the proposal and concludes that it would not give rise to an unacceptable impact on the safety or operation of the surrounding highway. It raises no objections but recommends the inclusion of the above highway informative / advisory notes.

### 4.3 Public/Neighbour Consultation

4.3.1 Number consulted: 6 No of responses received: 14 [14 objections received]

4.3.2 Site Notice Posted: 25.02.2026, Expired: 18.03.2026

4.3.3 Press Notice: [Not required]

4.3.4 Summary of Responses:

#### Green Belt

- Inappropriate development
- No Very Special Circumstances
- Harmful to Green Belt
- Materially reduce openness
- Set a precedent for other backland development
- Misapplication of “grey belt” policy
- Direct contradiction of NPPF goal to prevent urban sprawl and protect openness
- “test case” if approved
- Site assessed as Green Belt not Grey Belt [BM9] in Councils Stage 4 Green Belt Review. Applicants attempt to reinterpret the Councils strategic Green Belt evidence is inappropriate and if accepted would risk incremental rear garden development along Toms Lane – such reinterpretation cannot reasonably be undertaken through a planning application and should be considered, if at all through the plan making process.
- General assertion that rear garden land along southern side of Toms Lane constitutes Grey Belt.
- Rear gardens in Toms Lane form transition between built frontage and open countryside beyond.
- Encroachment into the countryside – encroachment into land forming transition between settlement edge and surrounding countryside.
- DAS provides no equivalent strategic assessment capable of displacing Councils Stage 4 Green Belt Review – assertion that the rear garden land along the southern side of Toms Lane constitutes Grey Belt should be afforded little weight.
- DAS does not demonstrate compliance with 143c) or 155 of NPPF.
- Absence of a streetscape assessment renders DAS Grey Belt assessment against NPPF paragraph 143 incomplete and inconclusive.
- Green belt land should be protected
- Proposal incorrectly described as “limited infill”. Scheme is backland or tandem development.
- Self-build does not constitute exemption to Green Belt Policy.

- Single storey development would be less harmful to Green Belt.
- Legal risk if Council were to accept that rear garden land behind established frontage of Toms Lane is Grey Belt simply because it lies within an “urban context” without a structured assessment of openness and encroachment, the decision would risk being based on a misinterpretation of national policy.
- New builds should be focused on brownfield land.

#### Character

- Cramped and incongruous development
- Erosion of established layout
- Intensification of site
- Tandem and backland development
- Destroys open garden character
- Overdevelopment of plot
- Threatens long term character of Toms Lane
- Visually intrusive
- Erode semi-rural character of the area
- Harmful design, excessive massing against stated need and visually intrusive. 2 storey barn style forms, metal roofing, extensive glazing and prominent external flues form an incongruous semi-industrial appearance.
- Industrial architectural style inconsistent / conflict with character of Toms Lane and Policy DM1.
- Two storey development significantly increases visual prominence.

#### Amenity

- Overlook neighbouring gardens
- Material loss of privacy
- Increased perception of invasion of privacy
- Overbearing impact due to scale and proximity
- Loss of light and outlook
- Overshadowing
- Height of dwellings will reduce privacy and increase overlooking
- Disproportionate
- Threat to local character and rural nature of lane

- Upper floor glazing and balconies would cause overlooking and loss of privacy to adjacent gardens/houses.
- 28m distance back to back distance not complied with.

#### Highways

- Inappropriate access
- Increase in vehicle movements/traffic
- Lack of safe parking
- Greater pressure on adjacent highway
- Introduction of multiple access points on Toms Lane raises serious concerns over road safety and increased pressure on local parking
- Infrastructure not designed for this level of residential density on single plot
- Unnecessary congestion
- Introduces potential conflicts between pedestrians and vehicles increasing traffic use.
- Highways impacts understated with adjacent heavy plant depot entrance.
- No swept path tracking or junction interaction assessment.

#### Affordable Housing

- No provision proposed.

#### Other

- Application prepared by professional architect who serves as an elected District and Parish Councillor – request application be determined with full transparency by the Planning Committee
- Serious concerns regarding conflict of interest.
- Loss of amenity space
- Increase in footfall and general use will affect overall tranquillity of the area
- Pollution
- Congestion from construction vehicles
- Loss of wildlife
- Reliance on approvals at 1 and 132 Toms Lane misplaced.
- Applicant asserts “The Barn” is an existing residential unit, Certificate 05/0909/CLPD confirms that it forms part of the same planning unit as the main dwelling and is not an independent dwelling. This means there is a net addition of two dwellings in the garden.
- DAS relies on cases that are materially different.

- 19 Toms Lane 20/0556/OUT was refused and dismissed at appeal. The proposal was for 4 additional dwellings. Failed to meet the exceptions at paragraph 145 of NPPF. Inspector concluded inappropriate development, not limited infilling, spatial impact on openness.
- Decision exposed to legal challenge on basis of misinterpretation of national policy and failure to apply established Green Belt principles.
- Excessive relative to stated family requirement – 12 bedrooms across site.

## **5 Reason for Delay**

5.1 Committee cycle. Extension of Time 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).

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

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

The Environment Act 2021.

### **6.2 Planning Policy and Guidance**

#### National Planning Policy Framework and National Planning Practice Guidance

In December 2024 the revised NPPF was published, to be read alongside the online National Planning Practice Guidance. 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 retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits unless there is a clear reason for refusing the development (harm to a protected area).

#### The Three Rivers Local Development Plan

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

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies CP1, CP2, CP3, CP4, CP8, CP9, CP10, CP11 and CP12.

The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM1, DM2, DM4, DM6, DM8, DM9, DM10, DM13, Appendix 2 and Appendix 5.

TRDC has published a Decision Statement in respect of the Abbots Langley Neighbourhood Plan 2025-2041 (March 2026 version) and on the basis that it is now proceeding to referendum in May 2026, in accordance with PPG Significant Weight can be given to the plan in Decision Making. Relevant Policies include: AL1, AL2, AL3, AL4, AL5, AL10 and AL11.

### Other

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

Affordable Housing Supplementary Planning Document (adopted June 2011).

## **7 Planning Analysis**

### **7.1 Principle of Development**

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

7.1.2 The NPPF sets out that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodation objectively assessed needs, in a way that makes as much use as possible of previously developed or 'brownfield' land. It should be noted that Annex2: Glossary of the NPPF defines that 'previously developed land' excludes 'land in built-up areas such as residential gardens.' The application site when viewed holistically is therefore not considered to be previously developed however it is also recognised that the NPPF does not include a presumption against development on or within private residential gardens. The application would therefore need to be assessed against all other material planning considerations.

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

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

7.1.4 The application site is located outside of the settlement boundary of Kings Langley and therefore does not fall within this settlement boundary, which is identified as a Secondary Centre within the Core Strategy. The site lies outside of any defined settlement boundary as defined by the LPA's Proposals Map and would fall within 'other settlements'. The Spatial

Strategy of the Core Strategy advises that future development will be focused predominantly on sites within the urban area and on previously developed land.

7.1.5 The application site does not lie within a Conservation Area and the existing residential dwelling (No. 126 Toms Lane) or 'The Barn' proposed for demolition to the rear of the residential dwelling are not a Listed or Locally Important Buildings. As such, there are no overriding policy requirements to retain the outbuilding to the rear of the existing residential dwelling. The site is not an allocated development site and is therefore a windfall site. The dwelling would be sited on garden land to the rear of the existing residential dwelling on the site (No. 126 Toms Lane) and the land that serves the existing ancillary outbuilding permitted under planning reference 05/0909/CLPD and thus would not result in the development of previously developed land. Nevertheless, there is no in principle objection to residential development of the application site in the context of Policy CP2, subject to consideration against all other material considerations as discussed below.

## 7.2 Affordable Housing

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

7.2.2 As there would be a net gain of two units, the proposed development would be liable for a commuted sum payment towards affordable housing. This site lies within the Langley and Croxley Green market area where the figure is £750 per square metre. The Council have calculated the net gain in habitable floor space to be approximately 241.5sqm. The affordable housing payment required is therefore £181, 147.5 (excluding indexation). At the current RPI figure (408.2 (February 2026)), the commuted sum including indexation would be £314,389.

7.2.3 The application has been accompanied by a viability assessment which contested the viability of the scheme. This report was reviewed by the Council's independent viability consultant acting on behalf of the LPA, who concluded that the appraisal shows a residual land value of £71,557 and that this is below any reasonable benchmark land value for the scheme either as garden land or taking into account the existing building on site. The report concludes that this demonstrates that the proposed scheme is not able to support an affordable housing payment.

7.2.4 The proposed development would therefore be acceptable in this regard in accordance with Policy CP4 of the Core Strategy (adopted October 2011) and the Affordable Housing Supplementary Planning Document (approved June 2011).

## 7.3 Housing Mix

7.3.1 Policy CP3 of the Core Strategy advises that housing proposals take into account the range of housing needs, in terms of size and type of dwellings as identified by the SHMA and subsequent updates. The most recent Local Housing Needs Assessment (LHNA) is shown below:

1 bedroom 5% of dwellings

2 bedrooms 23% of dwellings

3 bedrooms 43% of dwellings

4+ bedrooms 30% of dwellings

7.3.2 The SHMA and the Core Strategy recognise that these proportions may need to be adjusted taking account of market information, housing needs and preferences and specific site factors. The nature of the proposed development means that it would provide one four-

bedroom dwelling and one five-bedroom. This means that one of the dwellings would be the second most required within the district. It is considered that a development of this nature, which proposes two new homes would not prejudice the ability of the Council to deliver overall housing targets and the development is therefore considered acceptable in accordance with policy CP3.

#### 7.4 Impact on Green Belt

7.4.1 Paragraph 142 of the National Planning Policy Framework states that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

7.4.2 Paragraph 143 states that Green Belt serves five purposes:

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

7.4.3 Paragraph 153 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 its harm to 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 its inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

7.4.4 Paragraph 154 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;
- 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 that 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 a 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 or burial grounds); and
  - vi. Development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order.

7.4.5 Paragraph 155 of the NPPF states that the development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where all 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 a demonstrable unmet need for the type of development proposed;
- c) The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework; and
- d) Where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157.

7.4.6 Paragraph 156 of the NPPF states that, 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.

7.4.7 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.

7.4.8 Policy DM2 of the Development Management Policies LDD (adopted July 2013) sets out that the construction of new buildings in the Green Belt is inappropriate and, except in very special circumstances, approval will not be given for new buildings other than those specified in national policy and other relevant guidance.

7.4.9 The Design and Access Statement submitted with this application states that *“the area is uniquely positioned for “infill development”, a process that focuses on small, vacant plots*

*with existing built up areas*. In terms of whether the proposal meets the NPPF exception criterion e) *limited infilling within a village*. It is necessary to consider whether the site is located within a village. The NPPF identifies that limited infilling in villages may not be inappropriate. In determining the appeal referenced APP/P1940/W/22/3305196 (at Belair, which is accessed off of a track access between No. 57 and No. 59 Toms Lane, north west of the application site, this site is within closer proximity to Kings Langley) the Inspector considered that the proposed development would fall within the exception of limited infilling in villages, as set out in paragraph 154(e) of the NPPF 2023. The appeal site was considered to represent an example of linear urban sprawl away from the central built-up area of the village. It was considered the appeal site had a close functional, physical, and visual relationship within reasonable proximity of the village centre of Kings Langley and constitutes part of the village. Consequently, the Inspector considered that the appeal development would not be inappropriate development within the Green Belt and there would be no conflict with policy CP11 of the Core Strategy or Policy DM2 of the Development Management Policies LDD.

- 7.4.10 The conclusion reached in respect of whether the site is within a village is considered to be applicable to the current application site. Whilst it is noted the appeal site reference above is within closer proximity to Kings Langley than the application site, there are other examples on Toms Lane where it has been concluded that the sites had a close functional, physical and visual relationship to Bedmond. Northeast of the application site at No. 132 Toms Lane it was concluded that the development would fall within the exception at Paragraph 154 (e) of the NPPF. Whilst the application site in this case is not within a village boundary of either Kings Langley or Bedmond as defined in the Core Strategy this would not preclude a judgement that the site is located within a village for the purposes of Green Belt exceptions. The application site is within approximately an 18-minute walk (0.8 miles) of Bedmond Village stores and other local services which are contained within Bedmond. Toms Lane has a footway adjacent to road which is accessible to pedestrians with most of the walk being along the lit footpath to Bedmond Village. As such, it is considered that the application site can be considered as being within the village of Bedmond for the purposes of Paragraph 154 e) of the NPPF.
- 7.4.11 It is also noted that the LPA has received an appeal decision for a site which is closer to the village centre of Bedmond than proposed in this case. However, the appeal decision is still considered of relevance, 'Greenways, Seabrook Road' (APP/P1940/W/17/3187494) was considered by the LPA and Appeal Inspector to be within the village of Bedmond and is located approximately 0.7m away (14 minute walk) from Bedmond village centre.
- 7.4.12 Notwithstanding the above, in order for the development to not comprise inappropriate development within the Green Belt, the application site would need to support "limited infilling." There is no definition of limited infilling, but it is considered to constitute a "small gap" having regard to both the scale and form of the development, interpreted in the context of the overall aim of the Green Belt.
- 7.4.13 In this particular instance, the applicant has provided a block plan which shows the layout of the two dwellings to the rear of No. 126 Toms Lane against the grain of the linear pattern of development in this portion of the streetscene. The area to the east, south and west of the application site remains free of significant built form, whilst it is noted that there is built form to the southwest of the site this is read in isolation. Therefore, whilst the proposal would be limited given the uplift of two dwellings it is not considered that it would constitute infill development and would therefore fail to meet the criteria at Paragraph 154 (e) of the NPPF.
- 7.4.14 The Planning Statement also contends that the site would constitute Grey Belt land and therefore Paragraph 155 is relevant to the proposed development. In considering whether the application site contributes to the purposes (a), (b) or (d) regard must be had to Planning Practice Guidance a paragraph 005 Reference ID: 64-005-20250225 which provides guidance in relation to information judgements as to whether land can be considered as

Grey Belt. In addition, Paragraph 007 Reference ID: 64-007-20250225 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.'*

7.4.15 The NPPF Glossary defines "Grey Belt" 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 purposes of (a), (b), or (d) in Paragraph 143. For the proposed development to be regarded as not inappropriate, all criteria listed under Paragraph 155 must apply.

7.4.16 In respect of 155a, purposes (a), (b) and (d) are set out in turn below:

*a) To check the unrestricted sprawl of large built-up areas:*

7.4.17 At present, the site itself consists of the existing residential dwelling No. 126 Toms Lane, an ancillary detached outbuilding to its rear and garden land. The area south of the existing barn is free of built form. To the north, east and west, the site is contained but built form and garden land of the neighbouring dwellings as well as the highway Toms Lane. Officers acknowledge that the site is not well contained site on all four sides by physical features particularly to its south where land remains open. However, the parcel of land land to which application relates is not considered to strongly contribute to purpose (a) in so far as the application site is confined to the existing residential planning unit of No. 126 Toms Lane. Therefore, officers consider that the site makes a weak contribution to purpose (a).

*b) To prevent neighbouring towns merging into one*

7.4.18 The PPG states that this specifically relates to the merging of towns, rather than villages. As set out above, officers consider Toms Lane is akin to a village rather than a "large built up area" or town and therefore b) does not apply in this instance. The PPG sets out that the development of a site having a strong contribution to this purpose would be likely to result in the loss of visual separation between the towns. As above, the site is of limited scale and remains contained to the existing residential planning unit of No. 126 Toms Lane and the proposed development is not considered to result in a loss of visual separation between the nearest towns being Rickmansworth, Hemel Hempstead, Watford or St Albans. Officers conclude that the site makes a weak contribution to purpose (b).

*d) to preserve the setting and special character of historic towns*

7.4.19 The PPG sets out that areas that make no or only a weak contribution area likely to include those are likely to include those that *'have no visual, physical or experiential connection to the historical aspects of the town.'* In this case, officers consider that the application site would make a weak contribution to this purpose on the basis that Toms Lane has no areas of historical significance.

7.4.20 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 recognised that there is some impact on checking unrestricted sprawl, however it is not considered that the application site would undermine the purposes of the remaining Green Belt across the plan area, given its limited scale when viewed against the totality of Green Belt Land within the district. The LPA consider that the site does not strongly contribute to the three relevant purposes, consequently, it is concluded that the proposal complies with 155a).

7.4.21 In respect of 155b, the Council cannot demonstrate a five-year housing land supply as required by the NPPF, with the current housing land supply 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, it is acknowledged that the proposal is for self-build dwellings rather than market housing. Despite this, there is still a demonstrable unmet need for the type of development proposed both nationally and locally and it is considered that the proposed development would be in accordance with criteria (b) of Paragraph 155.

- 7.4.22 In respect of 155c, officers consider the location of the site is considered to be sustainable given its edge of settlement location adjacent to other existing residential properties, and its proximity to both Kings Langley and Bedmond. As above, the site is approximately an 18-minute walk from Bedmond (0.8 miles) along a public footway, with bus links to Hemel Hempstead and Watford, from which wider journeys can be achieved to Rickmansworth, Maple Cross, St Albans, Harpenden and Welwyn Hatfield. There is also a rail station in Kings Langley which is approximately a 34-minute walk (1.5 miles) from the application site. As such, officers are of the view that the proposed development would be in a sustainable location, and this would be in accordance with criteria (c) of Paragraph 155 of the NPPF.
- 7.4.23 Finally, with regards to Paragraph 155d, this is not considered to be relevant to the proposal as the site is minor development with a site area of less than 0.5 hectares, therefore the golden rules are not applicable.
- 7.4.24 In summary, officers consider that the site is Grey Belt as it does not strongly contribute to purposes (a), (b) or (d). In addition to this, as outlined above, there is a clear demonstrable unmet need for residential development in view of the fact that TRDC is unable to demonstrate a five-year housing supply and that the site is located in a sustainable location in accordance with clauses (a)-(d) of Paragraph 155 of the NPPF. As such, it is considered that the development is an appropriate form of development in the Green Belt and consequently is acceptable in accordance with the provision of the NPPF, Policy CP11 of the Core Strategy (adopted October 2011) and Policy DM2 of the Development Management Policies LDD (adopted July 2013).

## 7.5 Design and Impact on the Street Scene

- 7.5.1 Policy CP1 of the Core Strategy (adopted October 2011) seeks to promote buildings of a high enduring design quality that respect local distinctiveness. Policy CP12 of the Core Strategy states that development should 'have regard to the local context and conserve or enhance the character, amenities and quality of an area' and 'conserve and enhance natural and heritage assets'.
- 7.5.2 Policy DM1 and Appendix 2 of the Development Management Policies Local Development Document (adopted July 2013) set out that development should not lead to a gradual deterioration in the quality of the built environment, have a significant impact on the visual amenities of the area and that extensions should respect the existing character of the dwelling, particularly with regard to the roof form, positioning and style of windows and doors, and materials.
- 7.5.3 In terms of new residential development, Policy DM1 of the Development Management Policies LDD (adopted July 2013) advises that the Council will protect the character and residential amenity of existing areas of housing from forms of '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 (to be considered in highways section below)
  - iii) The generation of excessive levels of traffic (to be considered in highways section below)

iv) Loss of residential amenity (to be considered in neighbour impact section below)

v) Layouts unable to maintain the particular character of the area in the vicinity of the application site in terms of plot size, plot depth, building footprint, plot frontage width, frontage building line, height, gaps between buildings and streetscape features (e.g. hedges, walls, grass verges etc.).

- 7.5.4 The Design Criteria at Appendix 2 of the Development Management Policies document further advises that new development should take into consideration impacts on neighbouring properties, both within and surrounding the development, and visual impacts generally. Oversized, unattractive and poorly sited development can result in loss of light and outlook for neighbours and detracts from the character and appearance of the street scene.
- 7.5.5 Policy AL1 of the Abbots Langley Neighbourhood Plan set out that development proposals outside the defined settlement boundaries will only be supported where it meets the following criteria:
- i. it is in accordance with national and Three Rivers development plan policies in respect of appropriate uses in the countryside and in accordance with the provisions of the NPPF in relation to development within the green belt and, where identified, grey belt.
- 7.5.6 Policy AL2 of the Neighbourhood Plan sets out that development proposals for self- and custom build housing will be supported where they otherwise comply with development plan policies. Medium (5 habitable rooms) dwellings will be particularly supported. Policy AL3 states that as appropriate to their scale, nature and location development proposals should strive to (ii) take into account and adhere to the Abbots Langley Design Guidance and Codes and, where appropriate, the Conservation Area Appraisals.
- 7.5.7 Policy AL4 of the Neighbourhood Plan states that development proposals should demonstrate a high quality of design, which responds and integrates well with its surroundings, and meets the changing needs of the population of the neighbourhood area. In addition, they should minimise their impacts on the natural and historic environment.
- 7.5.8 Policy AL5 of the Neighbourhood Plan sets out that development proposals should incorporate design and environmental performance measures and standards to reduce energy consumption and mitigate climate change and prevent overheating of homes in summer. They should have regard to climate change mitigation at all stages of the construction process.
- 7.5.9 Policy AL10 of the Neighbourhood Plan states that Development proposals should conserve and, where practicable, enhance the natural environment, landscape character and rural setting of the Parish. Development proposals should be informed by, and where possible should seek to deliver the aims of, the Hertfordshire Landscape Area Assessment (Area 9), incorporating natural features typical of the parish, for instance trees, woodland, hedgerows, parkland, water sources (natural springs, etc.) and mature, planted gardens.
- 7.5.10 The proposed development would result in the creation of two two-storey detached dwellings. The plots would be set back from the main pattern of development on Toms Lane to the rear of No. 126 Toms Lane. The character of development that fronts Toms Lane is linear in its form, predominantly characterised by a mix of detached chalet style bungalows with accommodation in the roofspace and two storey dwellings. To the rear of No. 126 is an existing detached outbuilding that remains ancillary to the use of the existing residential dwelling.
- 7.5.11 With regards to the site layout, the submitted design and access statement sets out that the current site is already occupied, and that has played a significant element in the proposed layout of the progression of the site. The statement concludes in this regard that the

proposed site layout mirrors the current arrangement which is an accepted existing arrangement and one which they feel enhances the current character of the site whilst providing much needed housing within an existing urban landscape. Whilst there is an existing detached outbuilding to the rear of No. 126, this structure remains within the established residential planning unit and is considered ancillary to the main dwelling. Such arrangements are not uncommon, with residential dwellings frequently accommodating ancillary outbuildings within their curtilage. In contrast, the proposed development would introduce two detached, two-storey dwellings positioned perpendicular to the existing dwelling. This arrangement would represent a form of tandem development, and present an intensification of the site, resulting in a form of development that would detract from the prevailing character of the area. Although the submitted design and access statement identifies the general need for housing, the proposal is limited to the provision of two self-build dwellings. Furthermore, while reference is made to the surrounding urban context, the streetscene on Toms Lane has a linear pattern and is largely characterized by dwellings which front and address the highway. Thus, officers consider that the proposal does not respond appropriately to the established character of the area.

- 7.5.12 The new plot for the 'Garden House' has an area of approximately 628sqm and the new plot for the 'Barn House' has an area of approximately 999sqm. Plot sizes are considered to vary in width and depth; the proposed plots are on the smaller side for the area, however, would not be considered dissimilar to plot sizes of the existing residential dwellings east of the application site towards the bend in the highway where plots sizes are naturally smaller. As such, the proposed plots sizes in themselves would not appear to be at odds with the prevailing character of the area. With regards to boundary spacing, the new dwelling 'The Barn' is sited within the southernmost portion of the site and would be set a minimum of 3m off the shared boundary with No. 126A Toms Lane. The 'Garden House' would be set a minimum of 5.9m from the shared boundary with this neighbouring dwelling. To the western boundary 'The Barn' would be set a minimum of 7.9m from this boundary and the 'Garden House' would be set a minimum of 8.4m from this boundary. Thus, with regards to spacing to the boundaries in isolation sufficient spacing would be retained.
- 7.5.13 Whilst appropriate spacing would be maintained, the proposed dwellings would occupy a large portion of the width of the site. Whilst the dwellings would be set in from the boundaries, this spacing does not in itself automate that the dwellings sit comfortably within their plots. . By virtue of their overall footprint, and two storey form the proposed development would as above appear at odds with existing development in the area which remains predominantly single storey in its form. The dwellings would front the access track, orientated to face north which would to some degree replicate the orientation of the dwellings along Toms Lane which are all predominantly road fronting.
- 7.5.14 Whilst appropriate spacing to the site boundaries would be retained, the proposed development of two dwellings, although partly replacing the existing ancillary outbuilding, introduces a markedly more substantial form of built development. In particular, the scheme comprises two two-storey dwellings which occupy a rectangular footprint, a wide gabled roof form with projecting elements to the front and rear, a prominent flue is located on the side elevation of both dwellings. The overall bulk and massing of the dwellings appear overly bulky and block like in their form, with little articulation to the façades resulting in an overdevelopment of the plot. Furthermore, the immediate context is not characterized by two storey development, and there are fundamental concerns regarding the proposed layout and its relationship to the established streetscene. This section of Toms Lane is relatively uniform in character, with dwellings consistently fronting and addressing the highway. In contrast, the proposed scheme fails to respond to this pattern of development and would represent tandem or backland development. It is acknowledged that the submitted statement draws reference to other schemes within the area for similar forms of development, notably reference is drawn to planning reference 24/0530/FUL (132 Toms Lane) which is sited east of the application site and was as scheme which approved the construction of two dwellings. In the case of this application however, the proposed

dwellings maintained a clear and active frontage to the highway, following the pattern of linear development and is therefore not considered to be a direct comparison to this proposal. Whilst the land levels appear to drop in a north to south direction to the rear boundary of the site, it is still considered that the height and massing of the proposed two storey built form of the dwellings would remain visually prominent within the context of the site and surrounding development, which would appear unduly prominent within the streetscene particularly when viewed from the north along the northern side of Toms Lane.

- 7.5.15 In terms of the design, the submitted design and access statement sets out that the site is currently occupied by a timber clad building, and it is this character that has generated the overall design ethos of the scheme. The statement sets out that the look of the buildings will be seen as a transition from the urban character of the streetscene of Toms Lane to the rural industry character of the area behind the houses which is dominated by a farming landscape. So, whilst the building has a simplified rural industrial look, this is very much in character with the area. Whilst it is acknowledged that the design ethos seeks to respond to the rural character to the south of the application site, the incongruous nature of the scale and bulk of the dwellings would be exacerbated by the design approach. The proposed materials and overall architectural approach would result in a form of development that appears overly industrial in character, failing to respond positively to the prevailing rural context in which the application site is read. The use of grey brick, knapped flint and timber cladding when combined with the scale, massing and bulk of the dwellings creates a stark appearance that appears at odds with the more modest, domestic qualities of surrounding developments, which is typically characterized by chalet style bungalows with a softer, more traditional material finish. The use of materials exacerbates the incongruous nature of the development and present a form of development which is considered to be harmful to the character and appearance of the streetscene and wider area. The proposed flue on the side of both of the dwellings and the use of metal projecting elements exacerbates the industrial design approach and would appear as an overly functional and visually intrusive element, which exacerbates the discordant relationship with the surrounding built form. Collectively, the two-storey form, wide rectangular gabled form, industrial design approach and use of materials results in a form of development which fails to integrate within its context and would result in demonstrable harm to the character and visual amenities of the area.
- 7.5.16 The proposal also includes a large, detached outbuilding within the plot of 'The Barn' sited close to the boundary with No. 126A Toms Lane, this occupies a rectangular footprint and has a gabled roof form, whilst this remains single storey in nature, it presents additional bulk and massing to the application site which is considered to exacerbate the incongruous pattern of development on the site.
- 7.5.17 Both dwellings would utilise an existing access off of Toms Lane, which serves both the existing residential dwelling No. 126 and its ancillary outbuilding to its rear. Given that the existing access would remain unchanged from a character point of view there would be no detrimental impact in this regard.
- 7.5.18 With regards to amenity, it is considered that the proposed dwellings would provide good internal light and amenity space provision in terms of living conditions.
- 7.5.19 In summary, the proposed development by virtue of its layout, two storey-built form, bulk and massing, wide gabled form and overall design approach would result in an incongruous pattern of development which fails to respond to the local character resulting in adverse harm to the character or appearance of the wider area. The development would therefore be contrary to Policies CP1 and CP12 of the Core Strategy (2011), Policy DM1 and Appendix 2 of the Development Management Policies LDD (2013) and Policy AL4 of the Abbots Langley Neighbourhood Plan 2025-2041 (March 2026 version).

## 7.6 Impact on amenity of neighbours

- 7.6.1 Policy CP12 of the Core Strategy states that development should 'protect residential amenities by taking into account the need for adequate levels of disposition of privacy, prospect, amenity and garden space'.
- 7.6.2 Policy DM1 and Appendix 2 of the Development Management Policies document set out that development should not result in the loss of light to the windows of neighbouring properties nor allow overlooking, and should not be excessively prominent in relation to adjacent properties.
- 7.6.3 The proposed development, by reason of its scale, massing, overall height, layout and design, would give rise to a number of harmful impacts on neighbouring amenity. The introduction of two substantial two storey dwellings, incorporating the wide gabled forms, projecting elements and high levels of glazing within the rear elevations, represents a marked intensification compared to the existing single storey, ancillary built form to the rear. This increased bulk and height would result in a visually intrusive form of development.
- 7.6.4 It is acknowledged that in relation to No. 126A Toms Lane the 'Garden House' would be set some 20m and 'The Barn' would be set some 46m from this dwelling's rear elevation. In relation to No. 122, the application site remains set off the boundary with this neighbour by approximately 10m by virtue of the adjacent access road to the West, and the proposed 'Garden House' would remain separated by approximately 25m. However, despite a separation distance from the rear of neighbouring dwellings it is still considered that the proposed development would disrupt the more open outlook currently enjoyed by neighbouring occupiers.
- 7.6.5 In terms of overlooking and loss of privacy, the rear glazing within the 'Garden House' would afford direct views over the frontage of 'The Barn', despite the separation distance of 20m between the rear of the 'Garden House' and front elevation of 'The Barn', the extent of glazing including the proposed balconies would result in an inherent and harmful degree of mutual overlooking between the proposed dwellings. Whilst it is acknowledged that the submission sets out that the dwellings would be occupied by family members of the occupant of No. 126 Toms Lane, the LPA has a responsibility to protect the amenities of future occupiers of the development. This relationship is further exacerbated by the inclusion of projecting balconies paired with the overall level of glazing proposed, which would increase opportunities for direct and perceived overlooking between properties.
- 7.6.6 The first-floor flank windows within the eastern elevation of both dwellings have been omitted from the proposal thereby reducing perceived/actual overlooking of neighbouring dwellings. However, the harm in this case is not solely attributed to overlooking and their omission from the proposal would not address the harm identified above particularly in relation to the scale of the proposed built form.
- 7.6.7 Overall, the combination of increased scale, two storey-built form, extensive glazing and the siting of the openings would result in a development which would appear overbearing, visually intrusive to No. 126a and gives rise to unacceptable levels of overlooking and a perceived loss of privacy which would be detrimental to residential amenity of No. 126a and future occupiers of the development. The proposal would therefore be contrary to Policies CP1 and CP12 of the Core Strategy (2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (2013).

## 7.7 Wildlife and Biodiversity

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

- 7.7.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of this application in accordance with Policy CP9 of the Core Strategy and Policy DM6 of the Development Management Policies LDD. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications where biodiversity may be affected prior to the determination of a planning application.
- 7.7.3 The application is accompanied by a biodiversity checklist which states that no protected species or biodiversity interests will be affected as a result of the application. The Local Planning Authority is not aware of any records of protected species within the immediate area that would necessitate further surveying work being undertaken.
- 7.8 Mandatory Biodiversity Net Gain
- 7.8.1 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, and an exemption applies in relation to planning permission for a development which is the subject of a householder application, within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order (2015).
- 7.9 Policy AL11 of the Abbots Langley Neighbourhood Plan sets out that as appropriate, development proposals should aim to deliver a measurable biodiversity net gain of 20%, where possible, but at a minimum, a net gain of at least 10%. Where biodiversity net gain units cannot be delivered on site, they should be prioritised for use within the parish, focusing on maintaining and improving identified biodiversity opportunity areas.
- 7.9.1 The applicant has confirmed that if permission is granted for the development to which this application relates the biodiversity gain condition would not apply because the application relates to self-build development. However, in the event permission were to be granted a condition would be imposed to ensure that the development meets the self-build definition.
- 7.10 Trees and Landscaping
- 7.10.1 Policy DM6 of the DMP LDD sets out that development proposals should seek to retain trees and other landscape and nature conservation features, and that proposals should demonstrate that trees will be safeguarded and managed during and after development in accordance with the relevant British Standards.
- 7.10.2 The application site is not located within a Conservation Area; the protected trees map indicates that there is a group (G1) of Ash trees within the rear of the site protected by TPO322 on the boundary with No. 126A. At the time of the officer site visit no trees were present on this boundary or in the location of the TPO. The boundary treatment between the site and No. 126A is predominantly a vegetated hedgerow.
- 7.10.3 A tree in the northwestern corner of the site and along the western boundary is also proposed for removal. This tree does not appear to be protected by any existing Tree Preservation Order; therefore, their removal would not justify a reason for refusal in this case.
- 7.10.4 Whilst an indicative layout of amenity space and the proposed access have been outlined on the submitted block plan, further details would be required in relation to proposed hard and soft landscaping. As such a condition would be attached to any planning permission seeking details of hard and soft landscaping within the application site.
- 7.11 Rear amenity

- 7.11.1 Policy CP12 of the Core Strategy states that development should take into account the need for adequate levels and disposition of amenity and garden space. Section 3 (Amenity Space) of Appendix 2 of the Development Management Policies document provides indicative levels of amenity/garden space provision.
- 7.11.2 The proposed dwelling referred to as the 'Garden House' would benefit from approximately 333sqm of rear amenity space which would exceed the required 105sqm of rear amenity space for a four-bedroom dwelling,
- 7.11.3 The proposed dwelling referred to as 'The Barn' would benefit from approximately 507sqm of rear amenity space which would exceed the required 126sqm of rear amenity space for a five-bedroom dwelling,
- 7.11.4 The amenity space provision for the existing residential dwelling No. 126 Toms Lane is proposed to be reduced to facilitate the subdivision and construction of the two new dwellings. The existing residential dwelling would retain approximately 687sqm of rear amenity space which is considered to be sufficient for a dwelling of this size.
- 7.11.5 The amenity space for both new dwellings and the reduced amenity space for the existing residential dwelling would be smaller than the prevailing plots in the immediate vicinity of the site, however, are some smaller plots towards the east which are not dissimilar to the provision proposed in this case. The amenity space provision for the new dwellings and that retained for the existing residential dwelling (No. 126) would exceed the amenity space standards set out within the DMP LDD and would therefore be acceptable in this regard.
- 7.11.6 Details of boundary treatments have been provided on the submitted proposed site plan [2444-SK-105 A], in the event permission were to be granted a condition would be added to secure these details.

## 7.12 Highways, Access and Parking

- 7.12.1 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.
- 7.12.2 The development would utilise one of the existing crossovers which serves No. 126 Toms Lane. The submission previously proposed to extend the crossover to a width of 8.5m, this has since been omitted from the proposal. The Local Highway Authority (LHA) reviewed the proposal and had originally recommended that planning permission be refused on grounds that the width of the dropped kerb would be above the maximum width allowed for shared vehicular crossovers required in Hertfordshire County Councils Residential Dropped Kerb Policy. The LHA considered that the proposal had the potential to impact the safe operation of the surrounding highway and therefore recommends refusal. However, as above, this element of the proposal has now been omitted, the width of the dropped kerb would be retained as existing. In light of this, it is considered that the highways objection has been satisfactorily addressed. The LHA have been reconsulted on the amended plans and have removed their objection within their second response dated 08 April 2026 and have set out within their response that the development is unlikely to result in a material increase in additional vehicle trips to and from the site. No significant, or severe impact on the transport network has been identified by the LHA and the proposal is therefore considered acceptable in this regard.
- 7.12.3 With regards to parking, the new dwellings would have four and five bedrooms respectively. Appendix 5 of the DMP LDD sets out that four or more-bedroom dwellings require 3 assigned spaces within the dwelling's curtilage. The total requirement for both dwellings is therefore 6 spaces; this is notwithstanding the existing requirement for the existing residential dwelling No. 126 Toms Lane. Floor plans for the existing residential dwelling

have not been provided and therefore the number of bedrooms is unclear. In any case, officers consider that sufficient parking would be retained across the site as a whole to reasonably accommodate the policy compliant level of parking for the existing residential dwelling on the existing driveway and to both new dwellings to the rear. It is noted that the existing residential dwelling currently benefits from a carriage driveway, given that the northeast access would likely need to remain free at all times due to the intensification of its use, the parking for the existing residential dwelling would become tandem in fashion. However, this is not considered to be an uncommon arrangement for single residential dwellings.

7.12.4 In summary, the proposal is considered acceptable in this regard. a

#### 7.13 Sustainability

7.13.1 Policy DM4 of the Development Management Policies LDD sets out that development must produce at least 5% less carbon dioxide emissions than the Building Regulations Part L (2013) requirements having regard to feasibility and viability. This may be achieved through a combination of energy efficiency measures, incorporation of on-site low carbon and renewable technologies, connection to a local, decentralised, renewable or low carbon energy supply.

7.13.2 The applicant has not submitted an Energy Statement with the application and therefore has not demonstrated compliance with the policy. Officers requested the submission of an Energy Statement at the Validation Stage; however, this was not provided. In the event that permission were to be granted, an Energy Statement would be conditioned to ensure that the development would surpass the 5% better than Part L Building Regulations Standards and comply with Policy DM4 of the DMP LDD.

#### 7.14 Refuse/Recycling

7.14.1 Policy DM10 (Waste Management) of the Development Management Policies LDD (adopted July 2013) 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

7.14.2 The application does not indicate how refuse and recycling will be collected from the new dwellings; the submitted Design and Access Statement identifies that the site has independent refuse collection with the bins being collected from the existing curtilage road. Bin stores have been shown on the plans for both new dwellings, when considering the nature of the development, it is considered that kerb side collection would be appropriate in line with the current arrangement within the road. A condition would be attached to any planning permission seeking details of refuse collection within the application site.

#### 7.15 Planning Balance

7.15.1 The LPA cannot current demonstrate a 5 year housing land supply, and therefore paragraph 11 of the NPPF is engaged. Paragraph 11 and footnote 7 clarifies that in the context of decision-taking "the policies which are most important for determining the application are out-of-date when the LPA cannot demonstrate a five year supply of deliverable housing sites". The most important policies for determining a housing application are considered to be Policies CP2 (Housing Supply) and Policy CP3 (Housing Mix and Density). Paragraph

11 continues, “plans and decisions should apply a presumption in favour of sustainable development... where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: a) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or b) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.” It is considered that the lack of a 5 year housing land supply should be afforded significant weight in the planning balance.

7.15.2 For the purposes of the weightings hereafter referred to within this section the following scale has been used:

- Significant
- Moderate
- Limited.

7.15.3 The NPPF identifies that there are 3 dimensions to sustainable development: social, economic and environmental. In terms of economic benefits, there would be very limited short term benefits weighing in favour of the scheme as a result of construction activities. Whilst the proposed dwellings would it appear to be deliverable is only proposing the uplift of two residential units, both of which would be self-build dwellings, occupied by relatives of the occupant of No. 126 Toms Lane. Thus, the social benefits of the scheme would be limited as the proposal is not proposing the provision of market housing.

7.15.4 From the planning assessment harm has been identified from the unacceptable impact the development has to the character and appearance of the area which is given significant weight. Additionally, further harm is identified to the impact on neighbouring amenity which is afforded moderate weight.

7.15.5 Whilst the uplift of two residential dwellings is noted in relation to its contribution to the Districts Housing supply this is afforded moderate weight owing to the uplift of only two units and that the units proposed would be self-build dwellings.

7.15.6 On this basis, it is not considered that the proposal would constitute sustainable development in the context of Paragraph 11 of the NPPF and the adverse impacts of granting planning permission are not considered to be significantly and demonstrably outweighed by the benefits. The weightings attributed to the development are set out within the table below.

<b>Considerations</b>	<b>Weighting</b>
<b><u>Harms</u></b>	
Impact on Character and Appearance	Significant
Neighbouring Amenity	Moderate
<b><u>Benefits</u></b>	
Contribution towards housing supply and deliverability	Moderate
Short/long term economic benefits	Limited

## 8 Recommendation

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

R1 The proposed development, by reason of its layout, two storey-built form, bulk, massing, wide gabled form and overall design approach would result in an incongruous pattern of development that fails to respond positively to the established local character. As such, the proposal would cause demonstrable harm to the character and appearance of the area. The development is therefore contrary to Policies CP1 and CP12 of the Core Strategy (adopted October 2011), Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013) and Policy AL4 of the Abbots Langley Neighbourhood Plan 2025-2041 (March 2026 version).

R2 The proposed development, by virtue of its increased scale, two-storey built form, extensive glazing and siting of openings, would appear overbearing and visually intrusive to No. 126a Toms Lane. The proposal would also give rise to unacceptable levels of overlooking and a perceived loss of privacy, resulting in harm to the residential amenity of neighbouring occupiers of No. 126a and future occupiers of the development. The development is therefore contrary to Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

### 8.2 Informative

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

## Appendix A:

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

#### a) 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 31<sup>st</sup> 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 11<sup>th</sup> May 2016 the Court of Appeal reversed the High Court decision. The NPPG was subsequently amended to reflect the WMS on 19<sup>th</sup> May 2016.
- 1.2 In light of the above developments, between November 2014 and August 2015 and May 2016 and 1<sup>st</sup> 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 1<sup>st</sup> 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 24<sup>th</sup> July 2018 a new version of the National Planning Policy Framework<sup>1</sup> (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:
  - b) *“...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.”*

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<sup>1</sup> 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)<sup>2</sup>** 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

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<sup>2</sup> 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.

between 1 October 2011 and 31 March 2024, 288 planning permissions were granted for minor residential developments which contribute a net dwelling gain. Of those only 19 have been permitted to lapse which is only 6.6% of all such schemes<sup>3</sup>.

- 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 determined<sup>4</sup> 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
- c) • 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
- d) • Consider up to date evidence on housing needs

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<sup>3</sup> 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.

<sup>4</sup> Includes refused and approved applications. Excludes prior approval developments.

- e) • Consider whether the Framework should outweigh the weight to be given to the local evidence of affordable housing need and the breach of the adopted development plan policy.

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

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

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

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

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

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

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

- **General House Price Affordability in Three Rivers**

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

### **General House Price Affordability in Three Rivers**

2.5 Due to the District's close proximity to London, Three Rivers has traditionally been situated within a high house price area. According to data published by the Office of National Statistics (ONS) in the third quarter of 2016<sup>5</sup>, the lowest quartile house price in Three Rivers in 2016, representing the cheapest properties in the District was £325,000.00, making it the **fifth**<sup>6</sup> 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
<b>5</b>	<b>Three Rivers</b>	<b>£325,000.00</b>

**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 £404,500<sup>7</sup>. 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'

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

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

<sup>6</sup> 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).

<sup>7</sup> Office for National Statistics (2025) *Dataset: House price to residence-based earnings ratio Table 6a*  
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

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	<b>Three Rivers</b>	<b>£404,500.00</b>
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 £33,056.00<sup>8</sup>, 12.24 times below the lowest quartile house prices (ratio of lower quartile house prices to lower quartile gross annual, residence based earnings<sup>9</sup>). 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 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 11.57<sup>10</sup> (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

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

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

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

7	St Albans	11.60
8	<b>Three Rivers</b>	<b>11.57</b>

**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 12.24<sup>11</sup>, 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 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

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

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 sites<sup>12</sup> 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

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<sup>12</sup> Sites with completions in the monitoring year 2023/24

- 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%
2023/24	39	36	92%

**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)	% of total applications determined (for net gain) being 1-

				determined that year	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%)<sup>13</sup>. 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 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

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<sup>13</sup> See footnote 3.

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.”<sup>14</sup>*

- 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 22<sup>nd</sup> October 2019:**

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

- **APP/P1940/W/19/3230458, 19 Lynwood Heights, Rickmansworth, Decision date 11<sup>th</sup> 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)*

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<sup>14</sup> Paragraph 7, Planning Inspectorate Letter, March 2017.

*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 7<sup>th</sup> 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 22<sup>nd</sup> 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 10<sup>th</sup> 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 9<sup>th</sup> 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 7<sup>th</sup> 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: 21<sup>st</sup> 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 8<sup>th</sup> 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 18<sup>th</sup> 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 4<sup>th</sup> 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 15<sup>th</sup> 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: 10<sup>th</sup> 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: 16<sup>th</sup> 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: 29<sup>th</sup> 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: 30<sup>th</sup> 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: 23<sup>rd</sup> 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: 27<sup>th</sup> 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: 10<sup>th</sup> 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: 8<sup>th</sup> 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: 20<sup>th</sup> 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: 7<sup>th</sup> 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: 18<sup>th</sup> 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: 10<sup>th</sup> 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: 3<sup>rd</sup> 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: 3<sup>rd</sup> 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: 14<sup>th</sup> 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: 21<sup>st</sup> 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**