

## PLANNING COMMITTEE – Thursday 18 June 2026

### 26/0039/FUL – Erection of two self-build detached dwellings, alterations to existing vehicular access and land levels and proposed associated landscaping at The Dell, Long Lane, Heronsgate, Hertfordshire, WD3 5DJ

Parish: Chorleywood Parish Council

Ward: Chorleywood South And  
Maple Cross

Expiry of Statutory Period: 16.03.2026

Case Officer: David Heighton

Extension of time agreed: 26.06.2026

**Recommendation:** That subject to the completion of a Section 106 Agreement securing an off-site affordable housing financial contribution, two self-build dwellings and associated monitoring fee(s) that the application be delegated to the Head of Regulatory Services to **grant planning permission** subject to conditions as set out at section 8 below.

**Reason for consideration by the Committee:** This application has been called in by three members of the Planning Committee and Chorleywood Parish Council for the following reasons: Green Belt, harm to Heronsgate Conservation Area and sustainability.

To view all documents forming part of this application please go to the following website:  
<https://www3.threerivers.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=T8SI7DQFJL00>

#### 1 Relevant Planning and Enforcement History

1.1 W/4786/72: Dog kennels, cat pens.

1.2 24/0055/COMP: Unauthorised Erection of gates, bollards, entrance, signage and bunding / excavation – Pending consideration (access, gates and associated elements require planning permission).

1.3 25/1199/FUL: Construction of 2no. selfbuild single storey detached dwellings with lower ground floor level, with associated garage, bin store, parking, access alterations and landscaping works (phased development). Refused, for the following reasons:

R1: The proposed development would fail to comply with any of the exceptions as set out within paragraph 154 and would not comply with paragraph 155 of the NPPF (2024), therefore resulting in an inappropriate form of development in the Green Belt, which, by definition, would be harmful. The development would result in substantial harm to the openness of the Green Belt. Whilst material planning considerations exist, no very special circumstances exist to outweigh the harm to the Green Belt and any other harm identified. The proposed development would therefore be contrary to Policy CP11 of the Core Strategy (adopted October 2011), Policy DM2 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2024).

R2: The proposed access alterations by virtue of its width and scale, associated walls, gates, extent of hardsurfacing and loss of trees along the front boundary would fail to preserve or enhance the rural character and appearance of the area and would also adversely impact the setting of the adjacent Heronsgate Conservation Area. The development would lead to less than substantial harm to the Heronsgate Conservation Area, and, no public benefits have been demonstrated which would outweigh the harm. The development would therefore be contrary to Policies CP1 and CP12 of the Core Strategy (adopted October 2011), Policies DM1, DM3 and Appendix 2 of the of the Development Management Policies LDD, the Heronsgate Conservation Area (2012) and the NPPF (2024).

R3: The application site is not located within a sustainable location; it lies within an area with no footway, no street lighting, very limited public transport links and no local amenities. It therefore has poor accessibility and connectivity options to other settlements therefore relying on the extensive use of private motor travel. It has also not been demonstrated that there would be safe and adequate means of access to the dwellings and ensure there would be no harm to the safe movement and free flow of other highways users. The development would therefore be contrary to Policy CP1, CP2 and CP10 of the Core Strategy (adopted October 2011) and Policy DM13 of the Development Management Policies LDD (adopted July 2013) and the NPPF 2024.

R4: In the absence of an agreement under the provisions of Section 106 of Town and Country Planning Act 1990, the development would not contribute to the provision of affordable housing. The proposed development therefore fails to meet the requirements of Policy CP4 of the Core Strategy (adopted October 2011) and the Affordable Housing Supplementary Planning Document (approved June 2011).

## **2 Description of Application Site**

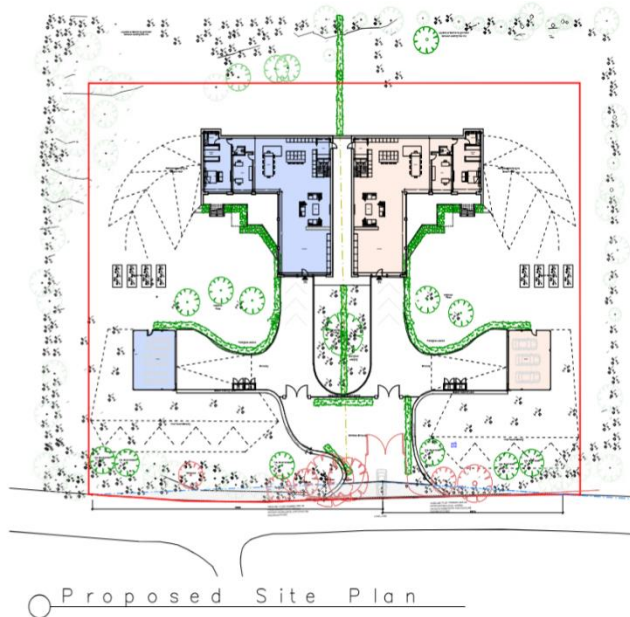
- 2.1 The application site is rectangular in shape and located to the east of Long Lane, Heronsgate.
- 2.2 The site has the character of a dell with the north, eastern and southern boundaries located on a considerably higher land level, with boundary trees and low level fencing enclosing the site. The western boundary adjoins the highway with access to the site. A metal gate has been constructed (unlawfully) and is the subject of enforcement case 24/0055/COMP.
- 2.3 Long Lane generally consists of detached dwellings located on the western side forming part of Heronsgate. The eastern side of Long Lane is rural in character with the road enclosed by tree belts serving open fields.
- 2.4 The application site, having been cleared of vegetation prior to the application submission, contains low level walls, low level structures and areas of hardstanding / paths pertaining to the site's historic use for dog kennels and cat pens.
- 2.5 In terms of policy designations, the application site falls within the Metropolitan Green Belt and a section of the front of the site is within the Heronsgate Conservation Area.

## **3 Description of Proposed Development**

- 3.1 This application seeks full planning permission for the construction of 2no. self-build single storey detached dwellings with lower ground floor level, with associated garage, bin store, parking, access alterations and landscaping works (phased development).
- 3.2 The proposed two detached dwellings would be back approximately 30m from the front boundary of the site with Long Lane and each would have a 'L' shaped layout, accommodating a ground floor and sub-ground / basement floor level with access to a lowered patio area. The dwellings would be separated by a 3m wide open area, which would include the provision of cycle and bin storage. The two dwellings would be integrated into the site topography.
- 3.3 The dwellings would have a flat roof form, but each including a 12.2m gabled front projection, the former of which would be green roofed and incorporate rooflights. The dwellings would have an overall collective width of 44m and have glazing to the front in the form of three full length window panels. Each dwelling would accommodate 5 bedrooms (including guest room). High energy efficient glazing, timber cladding and a stone coloured render are proposed to the exterior of the dwellings. Gravel aggregate is proposed for hardstanding permeable surface areas.

- 3.4 The dwellings would have a ridge height of 5.4m from the ground floor level to the front elevation with an eaves height of 2.3m. Within each roof slope 14 photovoltaic panels are proposed, a total of 28 per dwelling.
- 3.5 To the front of the dwelling, new driveways would be constructed, extending from an access via Long Lane. The driveways would each provide for 3 parking spaces. Upon entering the site, two gates are to be proposed, which would be set back approximately 9.5m and 90 degrees from the highway and would serve each dwelling respectively. The proposed access adjacent to Long Lane would be unaltered apart from the provision of visibility splays.
- 3.6 Some of the trees to the site boundaries are proposed to be removed with the addition of new trees and soft landscaping within the site and to the front area. Areas of wildflower banking would be proposed to the front boundaries. Two bin storage collection areas serving each proposed dwelling would be located within the driveway.
- 3.7 An air source heat pump and garden store/plant room would be located within the lower ground floor courtyard area of each dwelling. Steps would allow for access from lower ground to upper ground floor level.
- 3.8 In terms of the key differences from the previous refused scheme these include:
- Removal of gabion walls and gates adjacent to the highway,
  - Removal of garages to the front of the site,
  - Removal of bunds to the front of the site,
  - Reduced the extent of hardstanding to the front,
  - Reduced the width of the vehicle access into the site and maintaining it at its current width,
  - Increased landscaping to the front of the site,
  - Retain trees along the front of the site where possible apart from the proposed splay.

This is also demonstrated below with the previous block plan for the refused development (left) and new proposed block plan for the current application (right).



## 4 Consultation

### 4.1 Statutory Consultation

#### 4.1.1 Chorleywood Parish Council: [Objection]

*The committee had objections to this application on the following grounds and wish to CALL IN unless the officers are minded to refuse.*

*Sustainability – The site is not in a sustainable position as it is not within an appropriate walking distance from local amenities & facilities and is not supported by regular public transport. The site does not provide safe walking or cycling routes to local facilities / amenities as it is only served by narrow unlit singles track lanes with no pavements.*

*Green Belt – It is accepted that the site could be considered as grey belt and, if so, the development would not be considered as inappropriate for development in the Green Belt under NPPF paragraph 155 (a) in isolation. However, as the site is not considered sustainable (see above), the application fails the test in paragraph 155 (c) and therefore must be considered inappropriate development when viewed against the whole of paragraph 155.*

*Heritage – Site lies partially within the Heronsgate Conservation Area with the remainder of the site forming part of the setting of the Conservation Area. The development would impact the boundaries of the sunken lane (Long Lane), which forms part of the character of the settlement and is specifically referred to in the Conservation Area Appraisal. In addition, development outside of the boundary of the Conservation Area would have an impact on the rural feel of the setting of the Conservation Area. Bearing in mind the purpose of the creation of the Heronsgate settlement, this rural feel is critical to the setting of the Conservation Area. As such there must be considered to be harm to the Heritage Asset and it is not considered that there is sufficient public benefit by the provision of two new dwellings to outweigh this harm.*

*Ecology – A reptile survey should be undertaken of the site as the form of it is highly suitable for endangered reptiles such as slow worms.*

*Should the plans or supporting information be amended by the Applicant, please advise the Parish Council so the comments can be updated to reflect the amended.*

#### 4.1.2 Hertfordshire County Council: Highway Authority: [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 recommends that permission be refused for the following reasons:*

*1. The potential to support and promote sustainable forms of travel is limited and unsatisfactory and contrary to policy guidelines as outlined in the National Planning Policy Framework (NPPF), specifically paragraphs 115a, b and 117a, b, c and Hertfordshire County Council's Local Transport Plan 4 (LTP4), specifically Policy 1: Transport User Hierarchy and Policy 5: Development Management.*

*The Highway Authority has received notification of another application for two dwellings at this location. It previously recommended refusal on an application (25/1199/FUL) for the same reasons and as the sustainability situation remains the same, the Highway Authority's recommendations are reapplied.*

*Following consideration of the location of the site, the potential to promote and encourage sustainable forms of travel (including cycling; walking and public transport) to and from the proposed site is poor and limited. The proposed dwellings would therefore be reliant on the use of a private motor vehicle.*

*The site is located to the north-east of the village of Heronsgate. The proposed dwellings would be accessed via Long Lane, which is designated as a local distributor 'C' road and subject to a speed limit of 40mph. The speed limit changes to 60mph approximately 300m south-east of the access to the site. Long Lane is classed as a P1/M1 (e.g. Rural Lane) on HCC's Place and Movement Network. Hertfordshire County Council consider Long Lane a traffic sensitive road during peak hours (07:00 - 09:30 and 16:00 - 18:30). The carriageway is made up of a single lane and there are no public footways and therefore there is no safe or suitable access for pedestrian users to and from the site.*

*A roundabout which allows entry and exit from the M25 (Junction 17) as well as Denham Way, (A405) a dual-carriageway, is approximately 400m south-east of the site, will likely increase the levels of traffic during peak hours above the expected level of a standard rural lane.*

#### *Conclusion*

*Following consideration of the above points, HCC as Highway Authority is therefore recommending that the application be refused. The sustainable travel options to and from the site are limited and not satisfactory and the application does not demonstrate that safe and suitable access can be provided for all users, particularly when taking into account the nature of Long Lane as a traffic sensitive road as well as its link with the M25 and A405 to the south-east.*

#### 4.1.2.1 Officer Comment: Further clarification was sought during the course of the application.

*We feel this way for the following reasons:*

*Active Travel England states that “bus stops should be easily accessible... the routes to bus stops should be safe, direct, convenient and accessible for people of all abilities. Development sites should be served by frequent and reliable bus services which provide connections between the development and key destinations”. ([Bus stops | Active Travel England](#)). The nearest marked bus stop (identified by both the HA and the applicant in the TTN as Stockport Road) is further than the recommended walking distance outlined in Planning for Walking by the CIHT (400m). The 400m referenced above is typically expected to be a walk within segregated or separated footways, rather than walking with traffic on the road of this type. On the day of checking services, Stockport Road will see two buses, one at 10:05 and one at 12:15, in one direction. This means that the bus stop is not accessible for people of all abilities and does not have frequent bus services. A nearer, unmarked bus stop, highlighted directly outside of the site on google maps has no data on our system associated with it. Our bus infrastructure team have told me that it is likely this stop is almost never used. The bus operator has in fact been asked to remove this service from the road altogether due to the use as a ‘rat-run’ whenever the M25 is congested. The use of this road as a ‘rat-run’ provides further evidence that Long Lane is not a road in which it is expected that network users, including vulnerable pedestrians, could safely access the site (or purported nearby amenities – which seemingly appear to be noted as two pubs as stated in the TTN) by walking or by cycling.*

*We feel that there should be no expectation on pedestrians of proposed dwellings to walk along a distributor road with no footpath which connects to the M25 roundabout to the south.*

*Additionally, as outlined in LTN 1/20 ([Cycle Infrastructure Design](#)) Figure 4.1 states that for 40mph roads, cycle provision which is suitable for ‘most people’ can only be via a ‘fully kerbed cycle track’ in its own protected space for cycling. Mixing cycling with road traffic is ‘suitable for few people and will exclude most potential users and/or have safety concerns’. We are therefore of the opinion that it would be unsuitable to expect residents of the dwellings to rely upon cycling to nearby amenities on a site which according to LTN1/20 is not suitable for mixed transport.*

*The above would result on a complete reliance on motor vehicles which would go against policies in Hertfordshire County Council's Local Transport Plan 4 (LTP4) and the NPPF.*

*No concerns relating to highway safety in terms of access.*

*I would recommend the inclusion of the following condition:*

*COND1): Provision of Visibility Splays*

*Prior to the first occupation of the development hereby permitted a visibility splay measuring 2.4 x 47 metres shall be provided to each side of the access where it meets the highway and such splays shall thereafter be retained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.*

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

*Additional comments*

*We are content with internal access road widths. Particularly the 5.5m at the start of the access road as this allows two large vehicles to pass each other. A decrease in width to 4.5m when the road splits off is also acceptable as there is a smaller likelihood of traffic meeting each other.*

*Applicant has provided speed surveys confirming speeds are lower than the limit (40mph). This was confirmed in a pre-app and we recommended vis splays of 2.4m by 47m in line with Manual for Streets Table 7.1. This has been included by condition to ensure this is kept in perpetuity as we are aware of vegetation lining the site boundary.*

4.1.3 *Environmental Health Officer:* Comments remain relevant from the previous application.

*A Phase 1 has been submitted which has identified historic use of the site which could result in potential contamination and pathways for the intended use. Based on this, further investigation will be required and therefore a contaminated land condition is recommended on this and any subsequent applications for the site.*

- 1. Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority),
  - i) A Phase 2 Contamination Assessment is required as detailed in section 3.5 of the Geo – Environmental Desk Study submitted (BRD4586-R1-B) dated April 2025.*
  - ii) Following the site investigation results and a detailed risk assessment, an options appraisal and remediation strategy giving full details of the remediation measures will be required along with details of how they are to be undertaken.*
  - iii) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (iii) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.**

*Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and*

ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

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

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

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

3. *Reporting of Unexpected Contamination: In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 1, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 1.*

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

#### 4.1.4 Conservation Officer: [Objection]

*The application is for Construction of 2no. self-build single storey detached dwellings with lower ground floor level, with associated garage, bin store, parking, access alterations and landscaping works (phased development).*

*The site does not contain any nationally or locally listed buildings. A small section of the site on the western side adjacent to Long Lane is in the Heronsgate Conservation Area. Most of the site is outside the Conservation Area and forms part of its setting.*

*The character of the Conservation Area is rural, with houses on Long Lane set in large plots with the houses set well back from the road, with most of the properties facing Long Lane designated as Locally Important Buildings including Sherwood and Herons Lodge, which are attractive historic buildings and are mentioned in the Heronsgate Conservation Area Appraisal (CAA).*

*There is no existing development along the eastern side of Long Lane bordering the Conservation Area. It is noted that the site was previously developed with buildings as an animal home, although this appears to have been for a relatively short period of time, as OS maps from 1960 show a small gravel pit with no buildings. However, in its current state it appears rural and non-developed, albeit with some hard surfacing at ground level inside the site, which is not easily visible from Long Lane. On this basis it currently makes a positive contribution to the Conservation Area as part of its rural edge. In addition, the site*

*is raised well above the ground level on Long Lane and therefore development at the site has the potential to be prominent and have an impact on the Conservation Area.*

*This application follows a response 25/1199/FUL dated 18th September 2025.*

*In the previously refused application, heritage concerns were raised over harm to the character of the Conservation Area, with the houses representing a change of character from relatively undeveloped to residential.*

*In the current proposal, the following amendments have been highlighted:*

- The existing lawful access will be improved but not widened.*
- The extent of hardstanding will be reduced.*
- The previously proposed garages gabion walls, gates and bunding would be omitted.*
- Trees and soft landscaping will be retained/increased as far as possible.*

*The proposal would be less harmful than the previous proposal. However, the proposal would still involve excavation to alter the existing ground levels, with the houses at two storeys with pitched roofs, at ground levels above that of Long Lane. This would alter the existing uniformly green boundary to the Conservation Area on Long Lane, detracting from its setting by bringing residential development to the edge of the Conservation Area and undermining the existing rural character.*

*This would not preserve the existing character of the Conservation Area, contrary to Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. In NPPF terms, the degree of harm would be less than substantial as per para 215 and great weight should be given to the asset's conservation as per para 212. In addition, harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use as per para 215, which should be taken into consideration in the overall planning assessment.*

#### 4.1.5 Hertfordshire Ecology: [No objection, subject to conditions]

##### *Comments*

*This application is exempt from BNG as it meets the required criteria for self-build or custom build.*

*The ecology appraisal reports recommendations for presence/ likely absence surveys for reptiles. These have not been carried out. Given the lack of reptile records in the area and having reviewed the site photos a precautionary method of working for reptiles is required. There are no other comments on the documents submitted with the application.*

##### *Recommended Planning Conditions*

*1. Before any works commence a survey to check for the presence of badger setts is required to be completed and submitted to the LPA. Should any be recorded a mitigation plan will need to be prepared.*

*Reason: to ensure that badgers will be protected during construction and that the baseline has not changed.*

*2. Before any works commence a precautionary method statement for reptiles shall be prepared and submitted to the LPA for approval.*

*Reason: to ensure that reptiles will be protected during construction.*

*3. Before any works commence a District Level Licence for Great Crested Newt shall be obtained from Natural England and submitted to the LPA.*

*Reason. To mitigate for loss of suitable habitat for Great Crested Newts.*

4.1.6 Landscape Officer: [Advisory comments]

*The trees proposed for removal are all either infected with ash dieback, or in too poor condition to TPO and growing along the highway verge.*

*The tree protection measures should be installed in accordance with the Arboricultural Impact Assessment and Method Statement dated December 2025 and a condition is recommended for the landscape/planting plan to ensure proactive planting to screen the development from the surroundings and the road.*

4.1.7 Thames Water: [Advisory comments]

**WASTE COMMENTS:**

*With regard to SURFACE WATER drainage, Thames Water would advise that if the developer follows the sequential approach to the disposal of surface water we would have no objection. Management of surface water from new developments should follow guidance under sections 167, 168 & 169 in the National Planning Policy Framework. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. Should you require further information please refer to our website. <https://www.thameswater.co.uk/help/home-improvements/how-to-connect-to-asewer/sewer-connection-design>*

*Public sewers are crossing or close to your development. Build over agreements are required for any building works within 3 metres of a public sewer and, or within 1 metre of a public lateral drain. This is to prevent damage to the sewer network and ensures we have suitable and safe access to carry out maintenance and repairs. Please refer to our guide on working near or diverting our pipes: <https://www.thameswater.co.uk/developers/larger-scaleddevelopments/planning-your-development/working-near-our-pipes> Please ensure to apply to determine if a build over agreement will be granted.*

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

*The foul water network in this catchment is impacted by high infiltration flows during certain groundwater conditions. Care must be taken when designing new networks to ensure they don't surcharge and cause flooding. Whilst design and construction guidance for sewers allows for an element of infiltration, we would expect in high risk areas such as this that additional precautions are taken to minimise infiltration; this should be in the form of the installation of leak tight liners within sewers and resin injection to seal chambers. This will help to mitigate the risk of flooding in the vicinity of the development (e.g. reduce property flood risk and travel disruption in the locality) and also help to reduce the risk of pollutions in the wider environment, particularly considering the impact of climate change. In the longer term, Thames Water, along with other partners, are working on a strategy to reduce groundwater entering public sewer networks.*

*The surface water network in this catchment is impacted by high infiltration flows during certain groundwater conditions. Care must be taken when designing new networks to ensure they don't surcharge and cause flooding. Whilst design and construction guidance for sewers allows for an element of infiltration, we would expect in high risk areas such as this that additional precautions are taken to minimise infiltration; this should be in the form of the installation of leak tight liners within sewers and resin injection to seal chambers. This will help to mitigate the risk of flooding in the vicinity of the development (e.g. reduce property flood risk and travel disruption in the locality) and also help to reduce the risk of pollutions in the wider environment, particularly considering the impact of climate change. Developers must liaise with the LLFA to agree an appropriate sustainable surface water*

strategy following the sequential approach before considering connection to the public sewer network. This must also ensure that the design of any SUDS or surface water management solution conveys exceedance flows away from public sewer networks. In the longer term, Thames Water, along with other partners, are working on a strategy to reduce groundwater entering public sewer networks.

#### **WATER COMMENTS:**

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

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

4.1.8 National Grid: No response received.

## **4.2 Public/Neighbour Consultation**

4.2.1 Neighbours consulted: 2.

4.2.2 Summary of responses received:

### **Objection – 48**

Urbanising development  
Detrimental heritage impact and impact on setting of Conservation Area.  
Loss of vegetation and trees  
Visual harm/damage to rural Lane.  
Green Belt harm and significant harm to openness.  
Vegetation screening would take time to establish.  
Winter and night time impact.  
Lighting impact.  
Unsustainable location.  
Impact on highway safety.  
Unauthorised works.

### **Support – 4**

Proposed homes blend into the local landscape  
Green design.  
Modest development.  
Intended landscaping, diverse environment and habitation for wildlife.

4.2.3 Site Notice: Posted: 22.01.2026 Expired: 12.02.2026.

4.2.4 Press Notice: Published: 30.01.2026. Expired: 20.02.2026.

## **5 Reason for Delay**

5.1 Additional information required.

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

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

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

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

The 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 National Planning Policy Framework and National Planning Practice Guidance

In 2024 the National Planning Policy Framework was updated. This is read alongside the National Planning Practice Guidance (NPPG). The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another. The NPPF is clear that “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework”.

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

- 6.3 The Three Rivers Local Development Plan

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

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

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

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

## 6.4 Other Material Considerations

Heronsgate Conservation Area Appraisal (April 2012).

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

Housing Delivery Test Action Plan 2022 (December 2024 update).

Housing Land Supply Update 2025 (April 2026).

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 dwellings on the application site. The site is not identified as a housing site in the Site Allocations LDD (SALDD) (adopted November 2014). However, as advised in this document, where a site is not identified for development, it may still come forward through the planning application process where it will be tested in accordance with relevant national and local policies.

7.1.2 Policy CP2 of the Core Strategy (adopted October 2011) advises that in assessing applications for development not identified as part of the District's housing land supply, including windfall sites, applications will be considered on a case by case basis having regard to:

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

7.1.3 The application site is located outside of the main settlement boundaries and is not located within any of the Settlement Hierarchies as set out within the Core Strategy. The application site is not allocated nor is it in a sustainable location for transport or local services (assessed in further detail below). Consequently, the unsustainable location of the site would weigh against the proposal and is discussed in detail at section 7.12.

### 7.2 Impact on the Green Belt

7.2.1 The National Planning Policy Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence. The National Planning Policy Framework sets out that Green Belt serves five purposes:

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

7.2.2 The NPPF sets out that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness (Other than in the case of development on previously developed land or grey belt land, where development is not inappropriate). Inappropriate

development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

- 7.2.3 Core Strategy Policy CP11 sets out that there is a general presumption against inappropriate development that would not preserve the openness of the Green Belt, or which would conflict with the purposes of including land within it. Policy DM2 of the Development Management Policies document also advises that within the Green Belt, except in very special circumstances approval will not be given for new buildings other than those specified in national policy and other relevant guidance. The adopted policies of the Three Rivers District Council Local Plan are reflective of the of the NPPF.
- 7.2.4 Paragraph 153 of the NPPF sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 7.2.5 The construction of new buildings in the Green Belt is considered inappropriate however Paragraph 154 sets out six exceptions to inappropriate development which include:
- 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 they preserve its openness and do not conflict with the purposes of including land within it. These are:
    - i. mineral extraction;
    - ii. engineering operations;
    - iii. local transport infrastructure which can demonstrate a requirement for a Green Belt location;
    - iv. the re-use of buildings provided that the buildings are of permanent and substantial construction;
    - v. material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and
    - vi. development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order.
- 7.2.6 The application site is largely open in character, well enclosed by trees which are set on a higher land level which assist in forming the character of a dell. A historic planning permission in 1972 (W/4786/72) included buildings associated with the use as dog kennels and a cattery on the application site. These buildings have subsequently been removed although the remnants of the buildings and their location on site corroborates with the plans submitted under W/4786/72. Following a site visit during the course of this application, officers observed areas of hardstanding, steps, paths, and small brick built structures. From comments received and from the information provided with the application the site was

cleared of overgrown vegetation and various trees were removed, prior to the submission of the previous application.

7.2.7 The applicant's approach to the Green Belt is that the application site forms previously developed land and does not result in substantial harm to the openness of the Green Belt. Accordingly, the applicant contends that the development would accord with paragraph 154 (g) of the NPPF.

7.2.8 When considering whether the application site forms previously developed land it is necessary to have regard to its definition, as set out within Annex 2 of the NPPF:

*'Land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed). It also includes land comprising large areas of fixed surface infrastructure such as large areas of hardstanding which have been lawfully developed. Previously developed land excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.'*

7.2.9 With regards to previously developed land, it is agreed from the available evidence under the previous refused scheme that the land was lawfully developed for its purpose as dog kennels and a cattery. However, it is evident that this use ceased a significant time ago. Nevertheless, the land "was" occupied by structures and fixed surface infrastructure which was associated with the historic use. However, whether the site is previously developed rests on whether officers consider that the remains of the structures or fixed surface structure have blended into the landscape.

7.2.10 As above, the buildings have been since demolished, although large areas of hardstanding, paths, low remaining walls and smaller scale structures remain in-situ. These are widely spread across the open site at different land levels and remain visible from public vantage points within the vicinity. The existing gate is unlawful by virtue of its height. The application site was previously very overgrown, full of trees and had been this way for an extensive period of time prior to application. However, notwithstanding the removal of vegetation and trees it is considered that the pre-existing and current site has a different character to that of the adjacent fields, whose extent and boundary to the north in the wider landscape is marked by the boundary trees. As such, given this, it is not considered that the site has blended into the landscape, when considered in the wider sense. It is therefore considered that notwithstanding the previous clearance works to overgrown vegetation and tree removal, the remnants on site are sufficient to meet the definition of previously developed land, which was the approach taken in the previously refused application.

7.2.11 On the basis of the above, it then must be considered whether the two proposed dwellings and associated development would result in substantial harm to the openness of the Green Belt in context of paragraph 154 (g) of the NPPF. The term "substantial harm" is not defined. Planning Policy Guidance with respect to considering the potential impact of development on the openness of the Green Belt includes both spatial and visual aspects, the visual impact including volume, any improved state of openness and the degree of activity likely to be generated.

7.2.12 In this case, given the proposed revised design (including reduction to a 5.5m wide access and associated soft landscaping enhancement including tree planting) and with the dwellings integrated into the landscape would limit views of the development from Long Lane, such that it would not be readily visible from the public realm. It is considered that visually the impact of the current proposal would be an improvement compared to the

previous application, with particular regard to the proposed changes to the front of the site noted. Further, the previously proposed alterations to the frontage were considered as an urbanising change. The proposed reduction in the width of the proposed access, removal of garages and gates including reduction in hardstanding and re-introduction of previously removed soft landscaping would re-establish more of a rural feel, thus reducing the impact on the openness of the Green Belt. In the context of the site and surroundings, the proposed dwellings by virtue of their set back from the road, coupled with screening would not be readily visible, although views from the road would still be possible.

- 7.2.13 With regards to the visual impact, whilst it is considered that there would be an impact through the access and associated hardstanding, which would enable views of the development, however, this would be at a distance. The proposed gates and areas of parking would be relatively well screened and set back, such that the visual impact would be reduced with the dwellings appearing single storey in form and would largely be contained from any other views given the presence of existing trees and new landscape enhancements on-site. A Landscape Management Plan would be secured through a condition to ensure that the existing trees would remain, which would also limit and reduce the impact from the spread of domestic paraphernalia. Likewise, given the limited hardstanding, that the proposed dwellings would be built into the landscape, with the extent of soft landscaping including green roofs; limiting visual harm to the openness of the Green Belt. Furthermore, the location of the application site is set within a dip in the landscape and trees enclosing the site restricts, to some degree, the presence of the development and the visual impact on the openness of the Green Belt. Whilst there would be some visual impacts on the Green Belt, however, this would be considered limited and localised.
- 7.2.14 With regard to the spatial impact on the openness, the development, would spread built form across the site. Whilst acknowledging that existing hardsurfacing and structures exist, they are at a very low level, primarily at surface level and within only certain areas, not across the whole site, therefore their presence is not that perceivable from outside the site. The current scheme, compared to the previous scheme, particularly with the removal of urbanising features across the application site would limit the impact on the openness of the site. Whilst the dwellings, and associated works would combine to erode the sense of openness currently sensed and viewed on site, it is considered that the proposed development would not result in substantial harm to the openness of the Green Belt.
- 7.2.15 The introduction of two 5 bed dwellings and the associated activity arising from their use would result in movements and activity which is absent from the site at present. Consequently, the two new 5-bedroom dwellings would result in an increase in activity given the existing circumstances, however, such movements would not be significant.
- 7.2.16 It is therefore considered that given the revised proposal that collectively whilst harm to the openness of the Green Belt would still arise, the level of harm to the openness of the Green Belt would not be substantial. As a result, the proposed development would comply within the scope of paragraph 154 (g) of the NPPF and thus would constitute appropriate development in the Green Belt.
- 7.2.17 As such, paragraph 155 of the NPPF (2024) does not apply, however, if a view is reached that the site does not comply with paragraph 154, it would be necessary to consider paragraph 155. Having regard to the characteristics of the site, it is considered that the site can be defined as 'grey belt' and the development site would not fundamentally undermine the purposes of remaining Green Belt land. However, the location would not be considered as a sustainable location and thus, would fail to comply with Paragraph 155 of the NPPF 2024.
- 7.2.18 To conclude, the development would not result in substantial harm to the openness of the Green Belt and would therefore comply with the exception as set out within Paragraph 154 (g) of the NPPF (2024). The proposed development would therefore comply with Policy

CP11 of the Core Strategy (adopted October 2011), Policy DM2 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2024).

### 7.3 Impact on the character and appearance of the streetscene and landscape

- 7.3.1 Policy CP1 of the Core Strategy (adopted October 2011) seeks to promote buildings of a high enduring design quality that respect local distinctiveness and Policy CP12 of the Core Strategy (adopted October 2011) relates to design and states that in seeking a high standard of design the Council will expect development proposals to 'have regard to the local context and conserve or enhance the character, amenities and quality of an area'. Development should make efficient use of land but should also respect the 'distinctiveness of the surrounding area in terms of density, character, layout and spacing, amenity, scale, height, massing and use of materials'; 'have regard to the local context and conserve or enhance the character, amenities and quality of an area' and 'incorporate visually attractive frontages to adjoining streets and public spaces'.
- 7.3.2 Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013) set out that new residential development should not be excessively prominent in relation to the general street scene and should respect the character of the street scene, particularly with regard to the spacing of properties, roof form, positioning and style of windows and doors and materials.
- 7.3.3 As the site is located partially within the Heronsgate Conservation Area, Policy DM3 of the Development Management Policies document is also applicable. Policy DM3 sets out that within Conservation Areas, development will only be permitted if the proposal is of a scale and design that preserves or enhances the character and appearance of the area; uses building materials and finishes that are appropriate to the area; and results, where relevant, in the removal of unsympathetic features and the restoration or reinstatement of missing features. Given the location of the proposal, the Council encourages that the proposed character and appearance of the dwellings would have regard to the Heronsgate Conservation Area Appraisal.
- 7.3.4 The Design Criteria at Appendix 2 of the Development Management Policies LDD state that in order to prevent a terracing effect and maintain appropriate spacing between properties in character with the locality, development at first floor level should be set in a minimum of 1.2 metres from flank boundaries, although this distance must be increased in low density areas.
- 7.3.5 The local area of Heronsgate comprises largely of detached houses on large plots with purposefully low density. Paragraph 5.8 of the Heronsgate Conservation Area Appraisal provides guidance on all forms of new development including ensuring that new development preserves and reinforces the distinctive pattern of historical development including retaining open spaces, maintains key views, reinforces the distinctive architectural character of the Conservation Area, reinforces the scale and massing of surrounding buildings and reinforces existing building lines and orientation of existing development. The presiding character of the immediate area is rural in nature, particularly as the site is surrounded by fields. Given that it does not have any immediately adjacent neighbours, the proposal would not result in a terracing effect and is indicated to be set in from the flank boundaries. It is noted that the immediate areas to the boundaries of the site would be free from built form.
- 7.3.6 In respect of the proposed alterations to the front of the site, one of the characteristics of the area and adjacent conservation area is its verdant nature along a narrow rural lane, which is heavily tree-lined. The existing accesses are limited in nature and some have mirrors with assist in terms of visibility. It is considered that the proposed access, front boundary soft landscaping treatment with access gates, which would be well set back at right angles to the highway would not appear urbanising and be considered in keeping and

not out of character with that of other existing accesses along Long Lane. The resultant impact from improving the existing access visibility splays and ensuring replacement tree planting would preserve the character of this part of - the conservation area on Long Lane.

- 7.3.7 This proposal is considered to be significantly different from the previously proposed application, with the garages, gabion walls and gates adjacent to the front boundary removed, hardstanding limited, access width maintained and soft landscaping enhanced including tree planting.
- 7.3.8 The Conservation Officer notes that the existing site makes a positive contribution to the Conservation Area as part of its rural edge. It is also noted that the current proposal would be less harmful than the previously proposed refused scheme.
- 7.3.9 The site is previously developed and is considered at odds with the prevailing character of the area on this side of the road, which is open fields. Residential development is also evident on Long Lane, including accesses, driveways and fencing. Therefore, the proposed frontage would not in itself be out of character with the vicinity, streetscene or conservation area. The proposed frontage changes are considered sympathetic, supplemented by mitigation of soft landscaping, which ensures that the character of the conservation area would be preserved and is considered to overcome the previous reason for refusal.
- 7.3.10 The size of the plots and residential curtilage of each dwelling are considered in keeping with the character of the vicinity and would preserve the distinctive low density spacious character of the area. No objection is raised in relation to the siting of the dwellings in terms of their impact on the streetscene, incorporated into the slope of the site, set back approximately 30m from the highway. The proposed design and low-key appearance on the site is noted due to the limited upper bulk and massing being set into the slope of the site. The proposed mass of the built form would therefore be partially submerged, appearing single storey in nature. It is acknowledged that many of the dwellings within Heronsgate are true two storey dwellings and as such, it is not considered that the development would be uncharacteristic in this regard. With regard to the design and appearance of the proposed dwellings, it is noted that they have a 'L' shape footprint, which is considered would break up the actual massing of the dwellings.
- 7.3.11 The appearance would have two centralised gable roof forms with flat roofs to the rear and flanks which would incorporate green roofs including solar panels. The duo pitched roof form would be appropriate in the Conservation Area which is characterised by dwellings with a traditional duo pitched roof forms, which respond to the historic character of the locality. Whilst the provision of a flat roof form would appear somewhat out of character with the area, it is noted that the dwellings would be set back and built into the topography of the application site, which would result in two dwellings of low bulk and massing, which would be considered as being sympathetic to the setting of the Conservation Area and wider surrounding landscape. The flat roofs would also be green roofs which would soften their appearance. Whilst the proposed large expanse of glazing is not a design feature sympathetic to the areas character, , on balance, the design and appearance of the proposed dwellings given their single storey nature and setback from the road, would ensure that they preserve the character and appearance of the Heronsgate Conservation Area and thus would comply with Policy DM3 of the Development Management Policies LDD.
- 7.3.12 No objection is raised with regard to the use of materials proposed. The plans indicate timber cladding for the walls, and green roof forms incorporating solar panel and rooflights. It is noted that a gravel aggregate would be used for permeable surfaces throughout the site. These are considered to be reflective of the site heritage and adjacent conservation area. The timber detailing is also considered to be traditional in style, thus again responding to the character of the adjacent conservation area. It is, however, considered appropriate

to control permitted development rights at the site and the impact of any external lighting to ensure that any unacceptable impacts are avoided.

7.3.13 In summary, it is considered that the development would preserve the character and appearance of the vicinity of the application site, Heronsgate Conservation Area and its wider setting. The proposal would therefore be in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011), Policies DM1, DM3 and Appendix 2 of the of the Development Management Policies LDD and the Heronsgate Conservation Area Appraisal.

#### 7.4 Impact on amenity of neighbours

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

7.4.2 Given the significant separation distances from the neighbouring plots to the application site; it is not considered that the introduction of residential built in the form of two dwellings would result in an overbearing form of development or have a detrimental impact on both the visual and residential amenities of neighbouring dwellings. It is not considered that the proposal would result in an overbearing form of development or harmful loss of light to the residential amenities of the occupiers of any neighbouring dwelling.

7.4.3 The proposed dwellings would be sited adjacent to one another and would introduce fenestrations at ground floor level. It is not considered that the proposed dwellings would result in any unacceptable loss of light or overbearing impact on one another. The 3m separation distance between the dwellings, together with the proposed boundary hedging separating the amenity spaces, would ensure that no impact would occur to either dwelling. It is also not considered that the proposal would result in any unacceptable overlooking of neighbouring properties.

7.4.4 Given the site circumstances, it is considered reasonable to have a Construction Management Plan (CMP) to mitigate impacts on neighbours and highway users during construction including mitigation of noise from the construction. This would be subject to a condition.

7.4.5 In summary, it is not considered that the proposed dwellings, subject to conditions would result in adverse harm to residential amenity. The development is acceptable in this regard in accordance with Policy CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies LDD.

#### 7.5 Amenity Space

7.5.1 Appendix 2 of the Development Management Policies LDD sets out the requirements of for amenity space, advising that a five-bedroom dwelling should have 126 square metres of amenity space. It is noted that the site benefits from a large amenity space significantly exceeding 126 square metres of each dwelling. As such, no objections are raised in this regard.

#### 7.6 Highways, Parking and Access

7.6.1 Policy CP10 of the Core Strategy requires development to demonstrate that it will provide a safe and adequate means of access. Policy DM13 and Appendix 5 of the Development Management Policies LDD requires a dwelling with four more bedrooms to have three off-street car parking spaces.

- 7.6.2 Paragraph 115 of the NPPF states that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that: a) sustainable transport modes are prioritised taking account of the vision for the site, the type of development and its location; b) safe and suitable access to the site can be achieved for all users; c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code<sup>48</sup>; and d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree through a vision-led approach.
- 7.6.3 There are no alterations proposed the existing vehicular access to the dwellings, apart from creating enhanced visibility splays. Hertfordshire Highways had no objection in regards to the proposed access, subject to a condition to ensure suitable visibility splays.
- 7.6.4 With regard to car parking, the plan indicates that each dwelling would be able to accommodate three vehicles, in accordance with the provisions of Appendix 5. In addition, the gravel surface would be a porous material and thus there would be appropriate provision for onsite drainage.
- 7.6.5 It is also considered that a Construction Management Plan would be subject to a condition to ensure the management of existing spoil on site and mitigate the impact of construction traffic on the Highway Network.
- 7.7 Trees & Landscape
- 7.7.1 Policy DM6 of the Development Management Policies LDD relates to trees and landscaping. It states that 'development proposals on sites which contain existing trees and hedgerows will be expected to retain as many trees and hedgerows as possible, particularly those of local amenity or nature conservation value or hedgerows considered to meet the criteria of the Hedgerow Regulations 1997. It is noted that as the site is located within the Heronsgate Conservation, that all trees are afforded protection.
- 7.7.2 The trees along the highway verge would be protected by virtue of falling within the Heronsgate Conservation Area. The submitted Arboricultural Impact Assessment, however, does specify that a large number of trees, approximately 15 would be removed adjacent to Long Lane, some associated with the creation of the visibility splays. The trees which are proposed for removal have been surveyed and due to their poor condition are considered acceptable to be removed. The Landscape Officer has raised no objection on the proposed tree removal, subject to a condition, requiring the development to be in accordance with the submitted tree protection plan and method statement.
- 7.7.3 Whilst the initial removal of the trees could make the development more visible given that the trees being removed would be of a poor quality with a life expectancy of less than 10 years and that there is a significant volume of mature trees that are proposed, approximately 44, to be planted to a significant height of between 3-6m, having regards to the planting schedule. Furthermore, areas of hedging, shrubs and perennials including wildflower meadow and green roofs, would enhance the existing soft landscaping and its overall longevity. On any grant of planning permission, a condition would be recommended to be in accordance with the submitted planting plan and schedule to ensure soft landscaping is reinstated in the form of a Landscape Management Plan to ensure that the proposed landscaping is planted and so maintained.
- 7.7.4 In summary, it is not considered that the proposed development would result in harm to any significant trees subject to conditions and no objections are raised in this regard. The development is acceptable and in accordance with Policy DM6 of the Development Management Policies LDD.

## 7.8 Biodiversity and BNG

- 7.8.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive. The Habitats Directive places a legal duty on all public bodies to have regard to the habitats directive when carrying out their functions.
- 7.8.2 The current application has been accompanied by an Ecological Appraisal and Herts Ecology. The response from Herts Ecology raising no objection apart from recommending conditions in respect of badgers, reptiles, given the lack of reptile records in the area, and a District Level Licence for Great Crested Newts.
- 7.8.3 Subject to these above conditions, the ecological survey provides a reasonable assessment of the ecological conditions on site including the impact of the proposal on bats, badgers, birds, amphibians including habitats and vegetation/plant species. The likelihood of an adverse impact on species is negligible, given the lack of evidence of protected species being found. However, recommendations for enhancement and mitigation measures have been recommended, which would be considered to form part of a condition on any approval and are as noted by Herts Ecology.
- 7.8.4 It is also noted that vegetation would be removed during the course of the proposed development. Consequently, in the event, that a development was considered to be acceptable, a condition could be recommended advising that tree/shrub works should be undertaken outside of the bird nesting season.
- 7.8.5 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.
- 7.8.6 In this case the biodiversity net gain condition does not apply as the applicant has confirmed that the development would comply with the self-build and custom build exemption, detailed with the submitted application form and Supporting Statement, with would be subject to a S106 agreement.

## 7.9 Energy Use

- 7.9.1 Policy CP1 of the Core Strategy requires the submission of an Energy and Sustainability Statement demonstrating the extent to which sustainability principles have been incorporated into the location, design, construction and future use of proposals and the expected carbon emissions.
- 7.9.2 Policy DM4 of the DMLDD requires applicants to demonstrate that development will produce 5% less carbon dioxide emissions than Building Regulations Part L (2013) requirements having regard to feasibility and viability. This may be achieved through a combination of energy efficiency measures, incorporation of on-site low carbon and renewable technologies, connection to a local, decentralised, renewable or low carbon energy supply. The policy states that from 2016, applicants will be required to demonstrate that new residential development will be zero carbon. However, the Government has announced that it is not pursuing zero carbon and the standard remains that development should produce 5% less carbon dioxide emissions than Building Regulations Part L (2013) requirements having regard to feasibility and viability.
- 7.9.3 In this case, an Energy and Sustainability Statement has been submitted which indicates that the proposed dwellings would achieve a 10% uplift over Part L (2013). This would be achieved through the such the provision of photovoltaics air source heat pumps. This would

be subject to a condition for any approval so that energy saving and the measures by which this will be achieved will be implemented.

## 7.10 Affordable Housing

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

7.10.2 As there is a net gain of two units the proposed development would be liable for a commuted sum payment towards affordable housing in line with Policy CP4 and the Affordable Housing Supplementary Planning Document (SPD). This site lies within Highest Value Three Rivers market area where the figure is £1250 per square metre.

7.10.3 Two 5-bedroom two storey dwellings at over 500sqm of habitable floorspace per dwelling (1,044 sqm) would require an affordable housing contribution of £1,305,000 (excluding indexation) to be policy compliant. This approach is fully in accordance with Policy CP4 and the SPD.

7.10.4 The application was, however, accompanied by a Viability Statement which set out that an affordable housing contribution would not be viable This was assessed by the Council's Independent Consultant, who concluded that the scheme is not able to support the full affordable housing payment and remain viable. However, the independent review determined that an £87,747 contribution for affordable housing would be viable. The differences between the viability reports appear to be in the external cost, total fees, contingencies and profit level. This fee has been agreed by the applicant.

7.10.5 A deed would need to be entered into in accordance with Section 106 of Town and Country Planning Act 1990. The applicant would need to provide a Unilateral Undertaking for the agreed viability fee. In the absence of a Section 106 Agreement to secure a commuted sum payment in lieu of on-site affordable housing provision, the proposed development would not contribute to the provision of affordable housing. However, the applicant is aware that they need to provide a Unilateral Undertaking for the agreed revised contribution, subject to the outcome of the application at planning committee.

7.10.6 Any grant of planning permission would be subject to the completion of a Section 106 Agreement. The Section 106 Agreement would include Heads of Terms securing the provision of an agreed affordable housing off-site contribution and indexation from the date of the deed.

## 7.11 Land Contamination

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

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

7.11.2 Paragraph 185 of the NPPF states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution health, living conditions and the natural environment.

7.11.3 The application was supported by a Phase 1 site investigation report including Geo-Environmental Desk Study to identify possible constraints to the development relating to the ground conditions.

7.11.4 Environment Protection have been consulted and have commented that the historic use of the site could result in potential contamination. Based on this, further investigation would be required. Therefore, a contaminated land condition prior to the commencement of development would be recommended on any approved application.

## 7.12 Location & Sustainability

7.12.1 For the purposes of paragraph 84 of the NPPF, it is not considered that the development is isolated on the basis that it is located close to other residential properties, however, for reasons expressed above, it is considered that its location would be unsustainable.

7.12.2 In this instance, there are no public footpaths or street lighting within the vicinity and as such the walking distances to public transport and community facilities are not apparent in the context of the site. Further there is limited public transport within the proximity of the location nor any shops. Given the lack of pedestrian footpath and distance to shops, it is highly unlikely that future occupiers would use such services. As such, any future occupiers would be solely reliant on motor vehicles for modes of travel, which would fail to comply with the social and environmental objective of achieving sustainable development as set out within the NPPF. In addition, the accessibility of the site would be contrary to the aims of Section 9 (Promoting sustainable transport) of the NPPF (2024) and it is further noted that Hertfordshire Highways have raised an objection to the proposal on similar grounds of sustainable travel.

7.12.3 Whilst it is acknowledged that the application site is located within a semi-rural area, it is not considered that the development would enhance or maintain the vitality of the community on the basis that the immediate area lacks amenities and services. In respect of paragraph 84 of the NPPF it is not considered that the site is isolated. Therefore, taking the above into account, it is considered that the location of the application site is unacceptable and would fail to comply with Policy CP2 and the NPPF (2024), which weighs against the development.

## 7.13 Planning Balance and Tilted Balance

7.13.1 The LPA has a current 1.2 years' worth of housing supply, and therefore paragraph 11 of the NPPF (2024) is required to be considered. Paragraph 11 and footnote 8 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:

d) i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area; or

d) ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

- 7.13.2 The NPPF identifies that there are 3 dimensions to sustainable development: social, economic and environmental. The development would make a contribution towards making up the shortfall in housing in the district is given significant weight. The affordable housing contribution would also help contribute to a demonstrable need and is also given significant weight. Whilst there is a pressing need for housing, the same can be said for affordable housing, hence the requirement for affordable housing contributions for small sites. The policy context thereby provides the ability for small housing sites to positively contribute towards affordable housing and in this instance, there would be a significant financial contribution required. Given the present local circumstances relating to the acute need for affordable housing, this should attract significant weight.
- 7.13.3 Further, given that the site is previously developed land, the NPPF makes it clear that the use of previously developed land should be encouraged where suitable opportunities exist and would be therefore considered as an effective use of the land. The future occupiers can assist in supporting local settlements by using nearby amenities and there would also be the short term benefits of the construction of the dwellings are noted.
- 7.13.4 The environmental benefits of the proposal are also noted, to reduce carbon emissions, improve energy efficiency and enhance environmental sustainability such as through a green roof system to promote biodiversity, triple glazed units to limit heat transfer, solar panels to provide 80-90% of on-site electricity requirements and are also given weight in favour.
- 7.13.5 Notwithstanding, the proposed development has been assessed to result in an adverse impact, specifically in respect of its unsustainable location and the reliance on the use of private vehicles by future occupants. Given the scale of the development, this attracts moderate weight against the development.
- 7.13.6 In the planning balance, the LPA therefore consider that whilst the adverse impact relating to its unsustainable location has been identified, it does not significantly and demonstrably outweigh the benefits of the proposal. On this basis, having regard to paragraph 11 of the NPPF planning permission should be approved.

## 8 Recommendation

- 8.1 That subject to the completion of a Section 106 Agreement securing an off-site affordable housing contribution, two self-build dwellings and associated monitoring fee(s), that the application be delegated to the Head of Regulatory Services to **GRANT PLANNING PERMISSION** subject to the following conditions:

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

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

- C2 The development hereby permitted shall be carried out in accordance with the following approved plans: 2407-PL-L&B, 2407-PROP SITE, 2407-CIL, 2407-PL-101A, 2407-PL-101B, 2407-PL-102A, 2407-PL-102B, 2407-PL-103, 2407-PL-103A, 2407-PL-104, 2407-PL-105, 2407-PL-106, 2407-PL-107, 2407-PL-ROOF, 2407-PL-SITE SG, 2407-PL-SITE-G 005 REV 01, 006 REV 1.

Reason: For the avoidance of doubt, to protect the character of the area and amenities of neighbouring properties and in the proper interests of planning in accordance with Policies CP1, CP2, CP3, CP4, CP6, CP8, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM3, DM4, DM6, DM7, DM8, DM9, DM10 and DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013), the Heronsgate Conservation Area Appraisal (2012) and the NPPF (2024).

- C3 Prior to the commencement of development approved by this planning permission:
- i) A Phase 2 Contamination Assessment shall be submitted to and approved in writing by the Local Planning Authority as detailed in section 3.5 of the Geo – Environmental Desk Study submitted (BRD4586-R1-B) dated April 2025.
  - ii) Following the site investigation results and a detailed risk assessment, an options appraisal and remediation strategy giving full details of the remediation measures shall be submitted to and approved in writing by the Local Planning Authority along with details of how they are to be undertaken.
  - iii) A verification plan shall be submitted to and approved in writing by the Local Planning Authority providing details of the data that will be collected in order to demonstrate that the works set out in (i) and (ii) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CP1 of the Core Strategy (adopted October 2011) and Policy DM9 of the Development Management Policies LDD (adopted July 2013).

- C4 Before any works commence a survey to check for the presence of badger setts is required to be completed and submitted to the Local Planning Authority. Should any be recorded a mitigation plan will need to be submitted to the Local Planning Authority for approval and implemented thereafter in accordance with the approved details.

Reason: This is a condition in the interests of safeguarding badgers from harm during construction to meet the requirements of Policies CP1 and CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

- C5 Before any works commence a precautionary method statement for reptiles shall be prepared and submitted to the Local Planning Authority for approval and implemented thereafter in accordance with the approved details.

Reason: This is a condition in the interests of safeguarding reptiles from harm during construction to meet the requirements of Policies CP1 and CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

- C6 Before any works commence a District Level Licence for Great Crested Newt shall be obtained from Natural England and submitted to the Local Planning Authority.

Reason. To mitigate for loss of suitable habitat for Great Crested Newts to meet the requirements of Policies CP1 and CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

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

- i. Phasing Plan.
- ii. Parking of vehicles of site operatives and visitors
- iii. Construction of access arrangements including the routing of vehicles
- iv. Loading and unloading of plant and materials
- v. Storage of plant and materials used in constructing the development
- vi. Siting and details of wheel washing facilities
- vii. Cleaning of site entrances, site tracks and the adjacent public highway
- viii. Removal of existing spoil/hardcore resulting from the development

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

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

- C8 Before any building operations above ground level hereby permitted are commenced, samples and details of the proposed external materials shall be submitted to and approved in writing by the Local Planning Authority and no external materials shall be used other than those approved.

Reason: To prevent the buildings being constructed in inappropriate materials in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM3 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C9 Prior to the first occupation of the development hereby permitted, a landscape management plan, including long term design objectives, management responsibilities, timescales and maintenance schedules for all landscape areas, shall be submitted to and approved in writing by the Local Planning Authority.

The landscape management plan shall incorporate all soft landscaping works including sedum/green roofs required by the approved scheme, which shall be carried out in accordance with submitted plan No. 005 Rev 01 (Planting Plan) & 006 Rev 01 (Planting Schedule) before the end of the first planting and seeding season following first occupation of any part of the dwellings or completion of the development, whichever is sooner. If any existing tree shown to be retained, or the proposed soft landscaping, are removed, die, become severely damaged or diseased within five years of the completion of development they shall be replaced with trees or shrubs of appropriate size and species in the next planting season (ie November to March inclusive).

The landscape management plan and soft landscaping works shall be carried out as approved.

Reason: This condition is required to ensure existing and approved landscaping is satisfactorily maintained and the completed scheme has a satisfactory visual impact on the character and appearance of the area in the interests of the visual amenity of the area in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

- C10 Prior to the first occupation of the development hereby permitted a hard landscaping scheme, which shall include a specification of all hard landscaping including locations, materials and method of drainage shall be submitted to and approved in writing by the Local Planning Authority.

All hard landscaping works required by the approved scheme shall be carried out and completed prior to the first occupation of the development hereby permitted.

Reason: In the interests of the visual amenity of the area in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

- C11 Prior to any works to construct the dwellings including hereby permitted including any excavation, the vehicular access and visibility splay shall be completed and thereafter retained as shown on drawing number 2407-PROP SITE in accordance with details/specifications submitted and approved in writing by the Local Planning Authority. Prior to use appropriate arrangements shall be made for surface water to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

Reason: In the interests of highway safety in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011).

- C12 Prior to the first occupation of the development hereby permitted a visibility splay measuring 2.4 x 47 metres shall be provided to each side of the access where it meets the highway and such splays shall thereafter be retained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.

Reason: To ensure that the level of visibility for cyclists and vehicles is satisfactory in the interests of highway safety in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

- C13 The parking and turning space shall be constructed in accordance with the approved plan No. 2407-PROP SITE prior to the first occupation of any part of the development hereby permitted. The parking and turning space shall thereafter be kept permanently available for the use of residents and visitors to the site.

Reason: To ensure that adequate off-street parking and manoeuvring space is provided within the development so as not to prejudice the free flow of traffic and in the interests of highway safety on neighbouring highways in accordance with Policies CP1, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

- C14 The development hereby permitted shall not be first occupied until the bin stores have been implemented in accordance with Drawing No. 2407-PROP SITE and these facilities should be retained permanently thereafter.

Reason: To ensure that satisfactory provision is made, in the interests of amenity and to ensure that the visual appearance of such provision is satisfactory in compliance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM10 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C15 Prior to the first occupation of each new dwelling hereby approved a scaled plan indicating the positions, design, materials and type of all boundary treatment to be erected to that dwelling, including fencing and gates shall be submitted to and approved by the Local Planning Authority. The boundary treatment shall be erected in accordance with the approved details prior to first occupation of the dwellings.

Reason: To safeguard the character of the locality in accordance with Policies CP1, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM2, DM3 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C16 Following completion of measures identified in the approved remediation scheme and prior to the first use or occupation of the development, a verification report that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the Local Planning Authority for approval. The approved monitoring and maintenance programme shall be implemented.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CP1 of the Core Strategy (adopted October 2011) and Policy DM9 of the Development Management Policies LDD (adopted July 2013).

- C17 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 1, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CP1 of the Core Strategy (adopted October 2011) and Policy DM9 of the Development Management Policies LDD (adopted July 2013).

- C18 The development shall be undertaken in full compliance with the construction methods detailed in the Arboricultural Impact Assessment and Method Statement prepared by AAA dated 19th December 2025, including the Tree Protection Plan (Appendix 8).

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

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

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

- C19 No external lighting shall be installed on the site or affixed to any buildings on the site unless the Local Planning Authority has first approved in writing details of the position, height, design and intensity. The lighting shall be installed in accordance with the approved details before the use commences.

Reason: In the interests of visual amenity, biodiversity and the openness of the Green Belt and to meet the requirements of Policies CP1, CP9 and CP12 of the Core Strategy (adopted October 2011) and Policies DM3, DM6 and DM9 of the Development Management Policies LDD (adopted July 2013).

- C20 Immediately following the implementation of this permission, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any other revoking and re-enacting that order with or without modification) no development within the following Classes of Schedule 2 of the Order shall take place.

Part 1

Class A - enlargement, improvement or other alteration to the dwelling

Class B - enlargement consisting of an addition to the roof

Class F - any hard surface

Part 2

Class A - erection, construction, maintenance or alteration of a gate, fence, wall or other means of enclosure

No development of any of the above classes shall be constructed or placed on any part of the land subject of this permission.

Reason: To ensure adequate planning control over further development having regard to the limitations of the site and in the interests of the visual amenities of the site and the surrounding Conservation Area, in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1, DM3 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C21 Prior to the first occupation of each dwelling hereby permitted, the measures detailed within the submitted Energy and Sustainability Assessment shall be incorporated into that dwelling.

Reason: To ensure that the development meets the requirements of Policy CP1 of the Core Strategy (adopted October 2011) and Policy DM4 of the Development Management Policies LDD (adopted July 2013) and to make as full a contribution to sustainable development principles as possible.

- C22 The flat roofs of the dwellings hereby permitted, shall not at any times be used for amenity purposes other than for maintenance purposes.

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

- C23 Should they be required, detailed proposals for fire hydrants serving the development as incorporated into the provision of the mains water services for the development, whether by means of existing water services or new mains or extension to or diversion of existing services or apparatus, shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of development. The development shall thereafter be implemented in accordance with the approved details prior to occupation of any building forming part of the development.

Reason: To ensure that there is adequate capacity for fire hydrants to be provided and to meet the requirements of Policies CP1 and CP8 of the Core Strategy (adopted October 2011).

## 8.2 Informatives

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

All relevant planning conditions must be discharged prior to the commencement of work. Requests to discharge conditions must be made by formal application and include a fee.

There may be a requirement for the approved development to comply with the Building Regulations. Please contact Hertfordshire Building Control (HBC) on 01438 879990 or at [buildingcontrol@hertfordshirebc.co.uk](mailto:buildingcontrol@hertfordshirebc.co.uk) who will be happy to advise you on building control matters and will protect your interests throughout your build project by leading the compliance process. Further information is available at [www.hertfordshirebc.co.uk](http://www.hertfordshirebc.co.uk).

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

Following the grant of planning permission by the Local Planning Authority it is accepted that new issues may arise post determination, which require modification of the approved plans. Please note that regardless of the reason for these changes, where these modifications are fundamental or substantial, a new planning application will need to be submitted. Where less substantial changes are proposed, the following options are available to applicants:

(a) Making a Non-Material Amendment

(b) Amending the conditions attached to the planning permission, including seeking to make minor material amendments (otherwise known as a section 73 application).

It is important that any modifications to a planning permission are formalised before works commence otherwise your planning permission may be unlawful and therefore could be subject to enforcement action. In addition, please be aware that changes to a development previously granted by the LPA may affect any previous Community Infrastructure Levy (CIL) owed or exemption granted by the Council. If you are in any doubt whether the new/amended development is now liable for CIL you are advised to contact the Community Infrastructure Levy Officer (01923 776611) for clarification. Information regarding CIL can be found on the Three Rivers website (<https://www.threerivers.gov.uk/services/planning/community-infrastructure-levy>).

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

Where possible, energy saving and water harvesting measures should be incorporated. Any external changes to the building which may be subsequently required should be discussed with the Council's Development Management Section prior to the commencement of work. Further information on how to incorporate changes to reduce your energy and water use is available at: <https://www.threerivers.gov.uk/services/environment-climate-emergency/home-energy-efficiency-sustainable-living#Greening%20your%20home>

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The applicant is reminded that the Control of Pollution Act 1974 allows local authorities to restrict construction activity (where work is audible at the site boundary). In Three Rivers such work audible at the site boundary, including deliveries to the site and running of

equipment such as generators, should be restricted to 0800 to 1800 Monday to Friday, 0900 to 1300 on Saturdays and not at all on Sundays and Bank Holidays.

- 13 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The applicant and/or their agent and the Local Planning Authority engaged in pre-application discussions which result in a form of development that maintains/improves the economic, social and environmental conditions of the District.
- 14 The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition)" that development may not begin unless:
- a) a Biodiversity Gain Plan has been submitted to the planning authority, and
  - b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Three Rivers District Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not apply.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because the following statutory exemption or transitional arrangement is considered to apply.

Self and Custom Build Development, meaning development which:

- a) consists of no more than 9 dwellings;
- b) is carried out on a site which has an area no larger than 0.5 hectares; and
- c) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

Where the local planning authority considers that the permission falls within paragraph 19 of Schedule 7A to the Town and Country Planning Act 1990, the permission which has been granted has the effect of requiring or permitting the development to proceed in phases. The modifications in respect of the biodiversity gain condition which are set out in Part 2 of the Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024 apply.

Biodiversity gain plans are required to be submitted to, and approved by, the planning authority before development may be begun, and, if subject to phased development, before each phase of development may be begun.

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans. The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat. The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

More information can be found in the Planning Practice Guidance online at <https://www.gov.uk/guidance/biodiversity-net-gain>.

- 15 The applicant is reminded that this planning permission is subject to either a unilateral undertaking or an agreement made under the provisions of Section 106 of the Town and Country Planning Act 1990. It is extremely important that the applicant is aware of the stipulations, covenants and obligations set out within any legal agreements tied to the planning permission. This may include the requirement to notify the Council prior to commencement of the development (as defined within the legal agreement) if certain obligations are required to be paid, for example, an affordable housing contribution including indexation.
- 16 In order to protect breeding birds, their nests, eggs and young, demolition activities should only be carried out during the period October to February. If this is not possible then a pre-development (same-day) search of the area should be made by a suitably experienced ecologist. If active nests are found, then clearance work must be delayed until the juvenile birds have left the nest and are fully independent or professional ecological advice taken on how best to proceed.
- 17 With regard to SURFACE WATER drainage, Thames Water would advise that if the developer follows the sequential approach to the disposal of surface water we would have no objection. Management of surface water from new developments should follow guidance under sections 167, 168 & 169 in the National Planning Policy Framework. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. Should you require further information please refer to our website. <https://www.thameswater.co.uk/help/home-improvements/how-to-connect-to-sewer/sewer-connection-design>

Public sewers are crossing or close to your development. Build over agreements are required for any building works within 3 metres of a public sewer and, or within 1 metre of a public lateral drain. This is to prevent damage to the sewer network and ensures we have suitable and safe access to carry out maintenance and repairs. Please refer to our guide on working near or diverting our pipes: <https://www.thameswater.co.uk/developers/larger-scaleddevelopments/planning-your-development/working-near-our-pipes> Please ensure to apply to determine if a build over agreement will be granted.

## Appendix 1

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

#### Background

- 1.1 In November 2014, the Minister of State for Housing and Planning issued a Written Ministerial Statement (WMS) setting out changes to national planning policy. The WMS stated that financial contributions towards affordable housing should no longer be sought on sites of 10 units or less and which have a maximum combined gross floor area of 1,000sqm. National Planning Practice Guidance (NPPG) was amended to reflect this. However, on 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:
  - a) “...All new development resulting in a net gain of one or more dwellings will be expected to contribute to the provision of affordable housing.”
  - e) “In most cases require affordable housing provision to be made on site, but in relation to small sites delivering between one and nine dwellings, consider the use of commuted payments towards provision off site. Such payments will be broadly equivalent in value to on-site provision but may vary depending on site circumstances and viability.”

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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 between 1 October 2011 and 31 March 2024, 288 planning permissions were granted for minor residential

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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.

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

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

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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.

***“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,

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

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

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' 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

<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>

<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>

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
7	St Albans	11.60
<b>8</b>	<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

<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>

<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>

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

- 2.12 In addition to needs arising from those in unsuitable housing, the LNHA also analyses affordable need to rent arising from newly-forming households within the District. The LNHA estimates 724 new households forming per annum in Three Rivers over the period 2021 to 2041. 48% of these newly-forming households are estimated to be unable to afford market housing (to rent) resulting in 350 new households with a need for affordable housing to rent each year over the period 2021 to 2041.
- 2.13 The LNHA also considers newly arising need for affordable rent from existing households (i.e. households residing in market accommodation now requiring affordable housing). The LNHA estimates an additional 48 existing households falling into need for affordable rent per year over the period 2021 to 2041.
- 2.14 Taking into account the figures of need noted above and other factors set out in the study, such as existing housing stock, **the LNHA calculates the annual affordable housing need to rent over the period 2021 to 2041 as 364 in Three Rivers** (totalling 7,280 units over a 20-year period). This need involves households who cannot afford anything in the market without subsidy and is equivalent to 44% of the District's total local housing need requirement calculated by the standard methodology. This indicates the substantial scale of need for this type of affordable housing.

#### *Affordable Housing Need - To Buy*

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

#### *Total Affordable Housing Need*

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

#### **Affordable Housing Provision in Three Rivers**

- 2.17 Core Strategy CP4 requires around 45% of all new housing in the District to be affordable. As stated previously, prior to the WMS, all new developments that had a net gain of one or more dwellings would, subject to viability, be expected to contribute towards this.
- 2.18 Since the start of the plan period from 1 April 2001 to 31st March 2024 (the latest date where the most recent completion figures are available) 5,664 gross dwellings were completed. From this, 1,226 were secured as affordable housing, a total of 21.6%. This percentage is significantly below the Core Strategy target of 45% which means there was a shortfall of a further 1,323 or 23.4% affordable dwellings in order to fulfil the 45% affordable housing requirement up to 31 March 2024. This shortfall only exacerbates the already pressing need for small sites to contribute towards the provision of affordable housing.

2.19 In the latest monitoring period of 2023/24 (financial year), 17 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
- 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%

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

2023/24	39	36	92%
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**Table 4.**

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

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

**Table 5.**

2.23 In terms of numbers of completed dwellings proposed by small site schemes, between 2011-2024 (financial years) some 498 net dwellings were completed which equates to approximately 38 net dwellings per annum and to 21.6% over the 2011-2024 period. 21.6% is a significant proportion of the overall supply. Whilst such numbers are significant, it is acknowledged that major developments, whilst far less frequent, provided significantly greater quantities of housing. However CP4(e) does not generally require small site schemes to provide on-site affordable housing (small-scale piecemeal development is unattractive to RP's). Instead commuted sums in lieu of on-site provision are required and thus it is the sums of money secured and the contribution those make towards the provision of additional much needed affordable housing in the District which the policy should be tested against. This has been acknowledged by Planning Inspectors on appeal, as referred to at paragraph 2.21 below:

APP/P1940/W/19/3230999, 27 Gable Close, Abbots Langley: *"It also identifies the importance of small sites in providing affordable housing with contributions from small sites*

*amounting to over £2.1 million since 2011 being spent towards the delivery of 38 affordable dwellings.”*

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

- 2.24 As set out at paragraphs 1.7 and 1.8 above, the Council has received approximately £3.9 million in commuted payments to date, with a further £1.5million secured. £2.9million of those monies have been spent enabling the delivery of 55 affordable housing units: an important contribution towards the identified affordable housing shortfall in the district. The Council is currently preparing a proposed scheme utilising the monies received which will deliver an additional 8 affordable housing units and it is also in discussions with partner Registered Providers to deliver a further 12 housing units by way of loans/grants in return for 100% nomination rights. The Council will continue to work with Registered Providers to deliver further affordable housing in the District in the medium term future, utilising those additional affordable housing contributions as and when they are received.
- 2.25 It is clear therefore that CP4(e) has made and will continue to make a significant contribution towards the provision of much needed affordable housing in the District in the future.

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

- 2.26 As set out at paragraph 1.9 above, Policy CP4 makes it clear that a requirement for a scheme to contribute towards the provision of affordable housing is subject to viability considerations and is therefore consistent with paragraph 129 of the Framework. The application of CP4, which includes this in-built viability allowance, cannot properly be said to be a barrier to delivery. The Council accepts that if, properly tested, viability cannot be established on current day costs and values then a scheme should not currently be required to provide or contribute to affordable housing delivery. Between 1 October 2011 and 31 March 2024 there were 288 planning permissions granted for minor (net gain) residential developments in the District. Of those only 19 have lapsed (6.6%)<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

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

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

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

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

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

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

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

*of the District, I attach substantial weight to this local evidence and consider that the national policy position does not outweigh the development plan and Policy CP4 in this instance.”*

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

**Decision date 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) 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 UJ 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**