

PLANNING COMMITTEE – 24 JUNE 2021

PART I - DELEGATED

7. 21/0540/RSP- Part Retrospective: Demolition of existing five bedroom dwelling and construction of two five-bedroom detached dwellings including basement, bin stores to front, associated works and alterations to access arrangements to VIVIKT, CHORLEYWOOD ROAD, RICKMANSWORTH, WD3 4EP (DCES)

Parish: Chorleywood
Expiry of Statutory Period: 28.04.2021

Ward: Chorleywood North and Sarratt
Case Officer: Aaron Roberts

Recommendation: That Part Retrospective Planning Permission be Granted.

Reason for consideration by the Committee: Called in by three Members of the Planning Committee due to concerns relating to overdevelopment, impact on character and the provision of basements.

1 Relevant Planning History

- 1.1 17/2299/FUL - Demolition of existing five bedroom dwelling and construction of two five-bedroom detached dwellings and double garages – Withdrawn in January 2018.
- 1.2 18/0570/FUL - Demolition of existing five bedroom dwelling and construction of two five-bedroom detached dwellings with associated works including bin stores to front- Permitted, demolition has commenced.
- 1.3 21/0344/DIS - Discharge of Condition 3 (Materials), Condition 4 (Landscaping), Condition 6 (Drainage), Condition 7 (Visibility), Condition 8 (Construction management plan), Condition 9 (Energy Statement) and Condition 10 (Boundary treatment) pursuant to planning permission 18/0570/FUL – Permitted.
- 1.4 21/1195/DIS - Discharge of Condition 5 (Bat Survey) pursuant to planning permission 18/0570/FUL – Pending consideration.

2 Description of Application Site

- 2.1 The application site is located on southern side of Chorleywood Road and contains a two storey detached dwelling which is in the process of being demolished. The pre-existing dwelling is constructed close to both of the flank boundaries at ground floor level whilst the first floor level is set in. The dwelling is set back from the front boundary and is served by generous amenity space provision to the front and rear. A brick wall forms the front boundary treatment with a single point of access into the frontage from Chorleywood Road.
- 2.2 The neighbouring dwelling to the west (Little Orchard) consists of a detached Chalet style dwelling with the first floor accommodation served by dormers. The application site and Little Orchard have a similar front building line; the ground floor side and rear projection of the pre-existing dwelling extends beyond the rear elevation of Little Orchard.
- 2.3 The neighbouring dwelling to the east (Raydons) is a two storey detached dwelling that extends beyond the rear elevation of the pre-existing dwelling at two storey level.

3 Development description

- 3.1 This application seeks part retrospective planning permission for the demolition of the existing five bedroom dwelling and the construction of two, five-bedroom detached

dwellings including basement, bin stores to front, associated works and alterations to access arrangements.

3.2 This application is part retrospective due to the commencement of the demolition of the house which was permitted under 18/0570/FUL and granted planning permission for two, five bed dwellings.

3.3 The main differences between the current pending application and the scheme granted under 18/0570/FUL are:

- Addition of basements to both dwellings
- Full width single storey rear projections
- Removal of integral garages
- Re-siting of access point
- Addition of porch canopies

The description for the proposed development is therefore as follows:

3.4 The existing site would be sub-divided resulting in Plot 1 (eastern most plot) measuring 14.8 metres in width and Plot 2 measuring 16.3 metres and plot depths of approximately 75m. Both of the new detached dwellings would contain five bedrooms. The dwellings would each have a maximum width of 11.6 metres and a maximum depth of 16.9 metres which would include 4.3 metre deep single storey rear projections. The dwellings would have crown roof forms measuring a maximum height of approximately 9 metres, sloping down to an eaves height of 5.7 metres. The crown roof of each dwelling would measure approximately 14sq. metres and would contain a rooflight which would lay flush within the crown roof. The front elevation of the dwellings would be staggered with a central 7.5 metre wide and 1.8 metre deep two storey projection with a hipped roof set down 0.2 metres from the main roof and a further 3.4 metres wide and 0.7 metre deep two storey gable projection set down 1.9 metres down from the ridge of the hipped front projection. Additionally, both dwellings would benefit from a porch canopy, with columns. The porch would have a depth of approximately 1.5m, an overall width of 3.3m and a flat roof with a height of approximately 3m. At ground level, the dwellings would be finished in red brick and render at first floor level. The roof tiles would be grey clay tiles.

3.5 To the rear of each dwelling, the single storey projection would have a depth of 4.3 metres, and would extend the full width of the dwelling. This single storey rear projection would have a flat roof form measuring a maximum of 3.4 metres in height. Roof lanterns are proposed within the roof. Two dormer windows and a rooflight set in between would be located within the rear roofslope of each dwelling. The dormers would measure 1.4 metres in width; 1.6 metres in height and project 1.8 metres from the roofslope. Two rooflights are proposed to each flank roofslope of the dwellings.

3.6 The basement within Plot 1 would be primarily located under the main footprint of the house. It would have a width of approximately 11.6m and a total depth of 16.2m (excluding external stairs at the rear). The basement under Plot 2 would be primarily beneath the rear garden and would have a width of approximately 13.5m and a depth of 20.1m. Within Plot 1, there would be external access to the basement via a staircase at the rear, which would be partly enclosed by vegetation. Within Plot 2, given the basement would be primarily within the rear garden, the external staircase would be sited relatively centrally within the garden and also partly enclosed by vegetation. There would also be a lightwell adjoining the single storey rear projection of Plot 2. The external staircases for both plots would go down a depth of approximately 2.9m from the garden level. Within Plot 1, the basement would serve a plant store, cinema, shower, W.C, utility room, gym, indoor pool and open plan lounge area. To

the south of the basement, there would be bi-fold doors leading to the external access point. There would also be internal access via stairs provided from the main house. Within Plot 2, the basement would serve a utility room, storage area, cinema, seating area, bar, glazed courtyard, pool, gym, sauna and plant room. To the south of the basement, there would be bi-fold doors leading to the external access point, where there would be an external BBQ area. There would also be internal access via stairs provided from the main house.

- 3.7 Both dwellings would be set back from the highway by approximately 22 metres and would be set in 1.5 metres from the common boundary between the two new dwellings. The dwelling in Plot 1 would be set off the shared boundary with Raydons by 1.8 metres and the dwelling within Plot 2 would be set off the boundary with Little Orchard by 3.3 metres. The two new dwellings would have a relatively mirrored appearance.
- 3.8 Both dwellings would share an access point from Chorleywood Road and it is proposed to install separate gated entrances with metal railings further into the site. The existing access point would be blocked up and a new one created closer to the centre of the existing plot. Further details of the gates have not been provided, although they are shown to be set back a minimum of 8 metres from the highway. Each dwelling would benefit from a driveway providing off street parking for at least three cars.
- 3.9 Each dwelling would benefit from an individual bin storage area. The storage areas would be located forward of the principal elevation of the dwellings and would measure 2.8 metres in width, 1.1 metres in depth and would have a flat roof form measuring 1.4 metres in height. The storage areas would be of timber construction.
- 3.10 During the course of the application, the description of the proposal was amended to include 'alterations to access arrangements'. As such an amended Location Plan and Site Plan were submitted. Additionally, a new application form was submitted with Herts County Council served notice as owners of the highway which forms part of the application site given the alterations to the access arrangements.

4 Consultation

4.1 Statutory Consultation

4.1.1 Chorleywood Parish Council: [Concerns raised]

The Committee had serious concerns with this application. 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.

The Committee has no objection in principle to the demolition and the erection of two dwellings.

However, there are serious concerns and objections to the extent of the proposed basement development and the impact on the ground water resources. It is requested that a flood management/drainage strategy report is submitted before a decision is made.

The Committee agree with Thames waters concerns. Concerns that the extent of the basement would impact the natural environment and local amenity.

4.1.2 National Grid: No comments received

4.1.3 Hertfordshire Highways : [No Objection, subject to conditions]

Decision

Notice is given under article 18 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that the Hertfordshire County Council as

Highway Authority does not wish to restrict the grant of permission subject to the following conditions:

1) Prior to the first use of the development hereby permitted the vehicular access shall be provided and thereafter retained at the position shown on the approved plan drawing number E101 to a maximum width of 5.4 metres (4 dropped kerbs and 2 risers) in accordance with HCC Dropped Kerbs: Terms and Conditions.

Reason: To ensure satisfactory access into the site and onto the highway in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018).

2) Prior to the first use of the development hereby permitted arrangement shall be made for surface water to be intercepted and disposed of separately so that it does not discharge onto the highway carriageway.

Reason: To avoid the carriage of extraneous material or surface water onto the highway in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018).

3) Prior to the first use of the development hereby permitted a visibility splay measuring 2.4 x 43 metres shall be provided to each side of the access where it meets the highway and such splays shall thereafter be maintained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.

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

4) Prior to the first use of the development hereby permitted vehicular and pedestrian (and cyclist) access to and egress from the adjoining highway shall be limited to the access(es) shown on drawing number E101 only. Any other access(es) or egresses shall be permanently closed, and the footway / highway verge shall be reinstated in accordance with a detailed scheme to be agreed with the Local Planning Authority, concurrently with the bringing into use of the new access.

Reason: To ensure construction of a satisfactory development and in the interests of highway safety and amenity in accordance with Policies 5 and 7 of Hertfordshire's Local Transport Plan (adopted 2018).

5) Prior to the first use of the development hereby permitted any access gate(s), bollard, chain or other means of obstruction shall be hung to open inwards, set back, and thereafter retained a minimum distance of 6 (may be reduced to 5.5) metres from the edge of the highway.

Reason: To enable vehicles to safely draw off the highway before the gate(s) or obstruction is opened and/or closed in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018).

6) Prior to the first use of the development hereby permitted 0.65 metre x 0.65 metre pedestrian visibility splays shall be provided and permanently maintained each side of the access. They shall be measured from the point where the edges of the access way cross the highway boundary, 0.65 metres into the site and 0.65 metres along the highway boundary therefore forming a triangular visibility splay. Within which, there shall be no obstruction to visibility between 0.6 metres and 2.0metres above the carriageway.

Reason: To ensure construction of a satisfactory development and in the interests of highway pedestrian safety in accordance with Policies 5 and 7 of Hertfordshire's Local Transport Plan (adopted 2018).

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

- a. Construction vehicle numbers, type, routing;
- b. Access arrangements to the site;
- c. Traffic management requirements
- d. Construction and storage compounds (including areas designated for car parking, loading / unloading and turning areas);
- e. Siting and details of wheel washing facilities;
- f. Cleaning of site entrances, site tracks and the adjacent public highway;
- g. Timing of construction activities (including delivery times and removal of waste) and to avoid school pick up/drop off times;
- h. Provision of sufficient on-site parking prior to commencement of construction activities;
- i. where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes and remaining road width for vehicle movements.

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

Highway Informatives

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

AN 1) Construction standards for 278 works within the highway: The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> or by telephoning 0300 1234047.

AN 2) Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

AN 3) Obstruction of public highway land: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the

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

AN 4) Road Deposits: It is an offence under section 148 of the Highways Act 1980 to deposit mud or other debris on the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.

Comments

The proposal is for the demolition of the existing five bedroom dwelling and construction of two five-bedroom detached dwellings including basement, bin stores to front and associated works at Vivikt, Chorleywood Road, Rickmansworth. Chorleywood Road, is a 40 mph, principle A, Main distributor route that is highway maintainable at public expense. This site has had prior approval concerning a similar proposal but with different access arrangements in terms of Highways.

Vehicle Access and Parking

The existing dwelling is accessed via a dropped kerb fronting the east of the site. This access is fronted by large brick walls that reduce visibility for both vehicles and pedestrians. The new proposal is proposing a new access centering the two new dwellings. The new access will remove the walls and instead front the dwellings with a low 600mm wall topped by metal railings to ensure pedestrian and vehicle visibility is improved. Normally, as per the HCC design guide, we do not allow new accesses onto main distributor routes. However, in this case, I consider the new access to be a replacement of the existing access (which will be closed) and therefore is not deemed to be a new access for the site per se. The existing access will have to be closed and the footpath reinstated - Please see condition 4 above. The dropped kerb should be built to no greater than 5.4 metres as condition 1 above. Both dwellings have a large hardstanding fronting the properties which allows for vehicles to manoeuvre on site to enter and exit the highway network in forward gear which is required. Each property will be accessed by gates which have been set back more than 6 metres as seen in drawing number E101.

The applicant has not alluded to any vehicle visibility splays and therefore condition 3 has been provided above to ensure that an appropriate visibility splay of 2.4 metres x 43 metres is achievable. This is to ensure that highway safety is maintained. Owing to the scale of highway work concerning the closure of the existing access and creation of a replacement access, a section 278 agreement will need to be entered into with HCC Highways - please see informative 1 above.

Parking is a matter for the Local Planning Authority (LPA). However, HCC Highways would comment that each property is fronted by a large hardstanding that the applicant states can fit 3 cars each.

Drainage

The proposed new driveways would need to make adequate provision for drainage on site to ensure that surface water does not discharge onto the highway. Surface water from the new driveway would need to be collected and disposed of on site. These can be seen within drawing number E108.

Sustainability

The proposed dwellings will be located 20 metres from the nearest bus stop and 1.2 km from Rickmansworth Station. Both these locations are within achievable cycling and or walking distance from the dwelling and therefore are in line with HCC Local Transport Plan Policies (adopted 2018).

Why a construction management plan?

The applicant would need to submit a construction management plan/statement as detailed in the included condition to ensure that any inconvenience to users the adjacent highway is minimised. This is particularly important due to the high traffic levels on Chorleywood Road.

Refuse / Waste Collection

Provision has been made for an on-site bin-refuse store within 30m of each dwelling and within 25m of the kerbside/bin collection point and considered to be acceptable. The collection method must be confirmed as acceptable by TRDC waste management.

Emergency Vehicle access

The proposed plot is within the recommended emergency vehicle access of 45 metres from the highway to all parts of the buildings. This is in accordance with the guidance in MfS, Roads in Hertfordshire; A Design Guide and Building Regulations 2010: Fire Safety Approved Document B Vol 1 – Dwellingshouses.

Conclusion

HCC has no objections or further comments on highway grounds to the proposed development, subject to the inclusion of the above highway informative (in relation to entering into a Section 278 Agreement) and conditions

4.1.4 Updated Herts Highways comments: [No Objections]

'As long as the proposals are not materially different, I do not think it would be necessary to be consulted again although of course take note of any recommended conditions and informatives that George included in his original response'

Officers Note: The amended location and site plans did not materially alter the scheme assessed originally by the Highways Officer. The amended plans were submitted as a result of a technicality (to ensure that the red line was around the entirety of the application site, including the pavement).

4.1.5 Herts Ecology: [No Objection]:

'Thank you for consulting Hertfordshire Ecology on the above. A daytime bat survey in 2017 found moderate potential for the building to support roosting bats, and follow-on nocturnal surveys were recommended to determine their presence / absence, and to provide mitigation to safeguard bats from harm if present and affected by the proposals (which include demolition). Nocturnal emergence / re-entry surveys were undertaken in September and October 2020 and at least two roosts (for two common species of bat) were confirmed in the building. In addition, due to the type of bat activity recorded at this time, it was considered possible that a pre-autumn swarming / hibernation site could also be present. Appropriate mitigation has been provided in the updated bat report, and it is acknowledged that a European protected species licence will be required from Natural England to proceed lawfully (ref: Bat Emergence and Re-entrance Surveys by Arbtech, 15 October 2020). With the bat reports and mitigation measures in place, I consider the Local Planning Authority has sufficient information on bats for determination, as they will be safeguarded from harm and the conservation status of the local population will be maintained. The application can be determined accordingly. Extant permission I understand the property has extant permission - for demolition of the existing dwelling and construction of two dwellings (18/0570/FUL) - and that dismantling works have started. This explains the part retrospective nature of the latest application. The site has been registered by Natural England under the appropriate species licence to allow works to proceed and this is

confirmed in an email from Natural England dated 11 February 2021. Under the terms of the agreed licence, a bat ecologist supervised dismantling of the roof.

The correct procedure has been followed and sufficient information has been provided to ensure protected species are safeguarded from harm. Works on the extant permission can proceed in the knowledge that they are legally compliant with the Habitats and Species Regulations and will be bound by the terms of the approved licence. If the roof has been removed retrospectively for the current application (under licence from Natural England), bats should no longer be considered a constraint to the latest proposals. If partial demolition has taken place, and there is a chance the valid licence will expire prior to completion of roof demolition and the licensed bat mitigation works, a new licence may need to be applied for – however, this would be a legal matter between Natural England and the consultant ecologist, and outside the planning process’.

4.1.6 Herts and Middlesex Wildlife Trust: [Neutral Comment]

The ecological report identifies a reasonable likelihood of the presence of bats. These require further surveys to be compliant with ODPM circular 06/05. Worst case scenario mitigation measures have been put forward which are acceptable. Therefore the following condition is appropriate to secure these measures:

‘Development shall not in any circumstances commence until the local planning authority has been provided with and approved an updated bat survey based on the methodology contained in the recommendations of the approved ecological report (Cherryfield 2017). If bats or their roosts are found, a licence issued by [the relevant licensing body] pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorising the specified activity/development to go ahead must be supplied to the LPA before development can commence. Irrespective of the results of the survey, the mitigation measures detailed in the mitigation strategy must be deployed, and retained as such thereafter to secure a biodiversity net gain’

The LPA should show that it has had regard to the 3 tests of the European Protected Species Licence in reaching their decision.

Officers Note: Following these comments, an updated Bat survey was submitted, and the Herts and Middlesex Wildlife Trust provided updated comments.

4.1.7 Updated Herts and Middlesex Wildlife Trust comments: [No Objection]

‘On the basis of this extra information, the works can proceed under the low impact class licence that has been supplied, i.e. as described in the letter from Natural England. This permits the activity to proceed lawfully’.

4.1.8 Thames Water: [No Objections, subject to informatives]

Waste Comments

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

Thames Water recognises this catchment is subject to high infiltration flows during certain groundwater conditions. The developer should liaise with the LLFA to agree an appropriate sustainable surface water strategy following the sequential approach before considering connection to the public sewer network. The scale of the proposed development doesn't materially affect the sewer network and as such we have no objection, however care needs

to be taken when designing new networks to ensure they don't surcharge and cause flooding. In the longer term Thames Water, along with other partners, are working on a strategy to reduce groundwater entering the sewer network.

As required by Building regulations part H paragraph 2.36, Thames Water requests that the Applicant should incorporate within their proposal, protection to the property to prevent sewage flooding, by installing a positive pumped device (or equivalent reflecting technological advances), on the assumption that the sewerage network may surcharge to ground level during storm conditions. If as part of the basement development there is a proposal to discharge ground water to the public network, this would require a Groundwater Risk Management Permit from Thames Water. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures will be undertaken to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 02035779483 or by emailing trade.effluent@thameswater.co.uk . Application forms should be completed on line via www.thameswater.co.uk. Please refer to the Wholesale; Business customers; Groundwater discharges section.

The proposed development is located within 15 metres of our underground waste water assets and as such we would like the following informative attached to any approval granted.

"The proposed development is located within 15 metres of Thames Waters underground assets and as such, the development could cause the assets to fail if appropriate measures are not taken. Please read our guide 'working near our assets' to ensure your workings are in line with the necessary processes you need to follow if you're considering working above or near our pipes or other structures.<https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-near-or-diverting-our-pipes>. Should you require further information please contact Thames Water. Email: developer.services@thameswater.co.uk Phone: 0800 009 3921 (Monday to Friday, 8am to 5pm) Write to: Thames Water Developer Services, Clearwater Court, Vastern Road, Reading, Berkshire RG1 8DB

With regard to SURFACE WATER drainage, Thames Water would advise that if the developer follows the sequential approach to the disposal of surface water we would have no objection. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. Should you require further information please refer to our website. <https://developers.thameswater.co.uk/Developing-a-large-site/Apply-and-pay-for-services/Wastewater-services>

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

Water Comments

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

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

and may wish to discuss the implication for their development with a suitably qualified environmental consultants

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 15

4.2.2 No of responses received: 4 objections

4.2.3 Officers Note: Following the submission of amended plans, application form and amendments to the description, neighbour re-consultation letters were sent on 25.05.2021. Two objections were received following the re-consultation. Therefore the overall number of objections is 4.

4.2.4 Site Notice: Not required Press notice: Not required

4.2.5 Summary of Responses:

- Overdevelopment
- Further rooms in loft areas could be used as additional bedrooms (**Officers Note:** The scheme submitted is for two, 5 bed dwellings)
- Concerns relating to basement, i.e. will involve digging 50% of the plot
- Disruption to neighbours
- Digging of basement will lead to damage of existing trees and hedgerows, particularly near boundary with Little Orchard
- Basements will increase urban footprint and set a precedent
- No current bat survey included (**Officers Note:** Updated Bat Surveys have been provided during the course of the application)
- The existing plot is narrower than nearby dwellings and the infilling development is not in character with the spacious character of the area
- Size and design of houses are out of character as not individually designed
- Bin storage to front, further extends the footprint
- Side window of house adjacent to Little Orchard would result in overlooking into two ground floor bedroom windows, these should be obscurely glazed
- Any permission should exclude multiple occupancy and ability to convert basement into separate dwellings
- Suggested erecting flank hoarding along boundary with Little Orchard
- Application does not include a Construction Management Plan
- Request double yellow lines outside of Vivikt due to dangerous bend in the road
- The area is within the Chiltern's Conservation Area and so any works which affect the natural habitat and greenery should be very carefully considered. (**Officers Note:** The site is not located within a Conservation Area)
- Particular attention needs to be paid to the effect on the water table
- Issues relating to hedging and fencing at boundary with Regency
- Will cause traffic issues
- The large basements are not necessary
- The two houses being similar in design ruins character of area
- The building of the houses will have a significant effect on noise and dust pollution
- There will be a detrimental impact on local services
- The new plans which show the basement are in reality lower ground floor plans
- Construction will involve removal of hundreds of tonnes of soil etc, with hundreds of lorry trips
- TRDC will be legally and financially responsible to the neighbouring properties for any subsidence over the next 20 years and for replacing any damaged mature trees

5 Reason for Delay

5.1 Re-consultation due to incorrect red line which has now been amended.

6 Relevant Planning Policy, Guidance and Legislation

6.1 National Planning Policy Framework and National Planning Practice Guidance

In 2019 the new National Planning Policy Framework was published. This is read alongside the National Planning Practice Guidance (NPPG). The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another. The NPPF is clear that “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework”.

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

6.2 The Three Rivers Local Development Plan

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

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include PSP1, CP1, CP2, CP3, CP4, CP8, CP9, CP10 and CP12.

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

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

The Chorleywood Neighbourhood Development Plan is also relevant, specifically Policy 2.

6.3 Other

Affordable Housing Supplementary Planning Document (adopted June 2011).

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

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

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

7 Planning Analysis

7.1 Background

7.1.1 On 15 May 2018, planning permission via 18/0570/FUL was granted for the demolition of an existing five bedroom dwelling and construction of two, five-bedroom detached dwellings with associated works including bin stores to front. Demolition has commenced with the principle already agreed via the grant of 18/0570/FUL.

7.2 Principle of Development

7.2.1 The proposed development would result in a net gain of one dwelling 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.

7.2.2 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.

7.2.3 The application site is within Rickmansworth which is identified as the Principal Town in the Core Strategy. The Spatial Strategy of the Core Strategy advises that future development will be focused predominantly on sites within the urban area and on previously developed land. The Principal Town is targeted to supply approximately 15% of the District's housing requirements over the Plan period.

7.2.4 The proposal would predominantly be sited on the existing footprint of the original dwellinghouse and partly on garden land within a built up area. Whilst the part of the site occupied by the footprint of pre-existing building is previously developed land, the remainder of the site would not be classified as previously developed land.

7.2.5 Nevertheless, given the location of the site within the Principal Town and within a residential area, there is no objection to the principle of residential development on this site, subject to the proposals compliance with other relevant local and national planning policies.

7.3 Impact on Character and Street Scene

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

- 7.3.2 In terms of new residential development, Policy DM1 of the DMLDD advises that the Council will protect the character and residential amenity of existing areas of housing from forms of 'backland', 'infill' or other forms of new residential development which are inappropriate for the area. Development will only be supported where it can be demonstrated that the proposal will not result in:
- i. Tandem development;
 - ii. Servicing by an awkward access drive which cannot easily be used by service vehicles;
 - iii. The generation of excessive levels of traffic;
 - iv. Loss of residential amenity;
 - v. Layouts unable to maintain the particular character of the area in the vicinity of the application site in terms of plot size, plot depth, building footprint, plot frontage width, frontage building line, height, gaps between buildings and streetscape features (e.g. hedges, walls, grass verges etc.)
- 7.3.3 Policy 2 of the Chorleywood Neighbourhood Plan is also relevant to this application. Policy 2 states: 'All development should seek to make a positive contribution to the 'street scene' by way of frontage, building line, scale and design.'
- 7.3.4 The location of the proposed dwellings would not result in a tandem form of development in relation to the existing built form within the vicinity of the application site. Traffic generation, access and impact on residential amenity are discussed in the relevant analysis sections below and it is noted that the proposal would not result in tandem development.
- 7.3.5 The plot sizes of the properties along the southern side of Chorleywood Road vary in their size, measuring between 18-50 metres in width and between 40-80 metres in depth. The plot sizes of the proposed properties would measure between 14.8-16.3 metres in width and have a depth of approximately 75 metres.
- 7.3.6 Whilst it is noted that the plot widths of proposed dwellings are smaller than those neighbouring plots in close proximity, it is not considered that the lesser widths would appear so prominent so as to result in material harm to the character of the area. In addition, given that a single access from Chorleywood Road would be used to serve both plots and the retention of a front boundary wall, the proposed subdivision and resultant plot widths would not be so readily apparent. The proposed access point would be shifted eastwards to the centre of the existing plot. The positioning of the front boundary wall would also be amended and a condition would be added for further details, were permission to be granted. Given that a single access point would remain, it is not considered that this would detrimentally impact the character of the street scene. Each new dwelling would have a set of entrance gates located further back within the frontage of the site. These gates are set back at least 8 metres from the edge of the carriageway and open inwards towards the site. Whilst the principle of these gates are not unacceptable, a condition would be added to any permission requesting further details of the siting and design of front boundary wall and gates.
- 7.3.7 Many dwellings within the street scene have been extended and there are also numerous examples of subdivided plots with newly erected dwellings along Chorleywood Road. The proposed dwellings would be of two storey appearance and would be of a similar style to one another and it is not considered that they would appear out of keeping within the street scene which contains a number of larger detached dwellings of varying architectural design.
- 7.3.8 The Design Criteria at Appendix 2 of the Development Management Policies LDD states 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. It is considered that in this location a minimum of 1.5-2 metres should be maintained. The submitted site plan shows that both dwellings would be set in from their

respective outside flank boundaries by between 1.8-3.3 metres and 1.5 metres from the common boundary with each other and thus would accord with the criteria outlined at Appendix 2.

- 7.3.9 The two proposed dwellings would include crown roof forms. The Design Criteria at Appendix 2 of the Development Management Policies LDD states that crown roofs can exacerbate the depth of properties and often result in an inappropriate bulk and massing and as such they are generally discouraged and more traditional pitched roofs are generally favoured. While crown roofs are discouraged by the Design Guidelines of the Development Management Policies document, the street scene of Chorleywood does include a number of other dwellings with crown roofs, some of which are of a similar or larger scale to that proposed at the application dwelling. Therefore the proposed roof would not appear out of character and it is not considered that the roof form proposed would significantly adversely affect the character of the street scene or area so as to justify refusal of the application.
- 7.3.10 In addition, each proposed dwelling would be sited on plots that would retain a depth of approximately 95 metres and the depth of the proposed dwellings would not be disproportionate to the depth of their respective plots. The proposed dwellings would both have similar overall heights in comparison to the existing dwelling on site and both dwellings would be set back over 20 metres from the highway which would reduce the prominence of the properties within the street scene.
- 7.3.11 With regards to the dormer windows proposed within the rear roofslope of the dwellings, Appendix 2 of the Development Management Policies document (adopted July 2013) states that these should always be subordinate to the main roof; set below the existing ridge level; set in from either end of the roof and set back from the plane of the front or rear wall and the roof form should respect the character of the house if possible. The dormers within the roofslope of the dwellings would be set down from the main ridge; set in from both ends of the roof; set back from the rear wall. They would be of an appropriate size and scale and are therefore considered acceptable.
- 7.3.12 At ground level, the dwellings would be finished in red brick at ground floor level and render at first floor level. The dwellings along Chorleywood Road are not of a particular architectural design or scale and therefore the style and design of the two proposed dwellings is not considered unacceptable, however, a condition would be attached on any consent to require samples of the materials to be submitted and agreed in writing by the Local Planning Authority.
- 7.3.13 The basement within Plot 1 would be primarily located under the main footprint of the house, with the basement under Plot 2 being located beneath the house and extending into the rear garden. Within Plot 1, there would be external access to the basement via an external staircase, which would be partly enclosed by vegetation with a further internal access provided from the ground floor. Within Plot 2, given the basement would be primarily within the rear garden, the external staircase would be sited relatively centrally within the garden but an internal access from the ground floor is also proposed. There would also be a lightwell adjoining the single storey rear projection. The external staircases would go down a depth of approximately 2.9m from the garden level. Despite the large footprint of the basements, they would be relatively unseen from outside the site. Notwithstanding this, despite objections raised about the scale of the basements and their impacts on the character of the area, it is not considered that the lightwells or external stairs would urbanise the garden to such an extent as to warrant the refusal of planning permission. Additionally, the impact of these features would be softened by the planting of soft landscaping.
- 7.3.14 Compared to the previously approved scheme, the both dwellings would benefit from a porch canopy, with columns. The porch would have a depth of approximately 1.5m, an overall width of 3.3m and a flat roof with a height of approximately 3m. Given the scale of each respective porch and that the dwellings would be set a significant distance from the

highway, it is not considered that this element of the proposal would detrimentally impact the character of the streetscene.

- 7.3.15 In conclusion, it is not considered that the proposed subdivision of the site and construction of two detached dwellings with large basements would result in any significant harm to the visual amenities of the street scene or wider area and the proposed development is considered acceptable and in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013 and Policy 2 of the Chorleywood Neighbourhood Development Plan (Referendum Version, August 2020).

7.4 Housing Mix

- 7.4.1 Policy CP3 sets out that the Council will require housing proposals to take into account the range of housing needs as identified by the Strategic Housing Market Assessment (SHMA) and subsequent updates. The need set out in the Core Strategy is 30% one-bedroom units, 35% two-bedroom units, 34% three-bedroom units and 1% four bedroom and larger units. However, the most recent SHMA (South West Hertfordshire Strategic Housing Market Assessment 2016) advises that in terms of the size of accommodation need to 2036 in Three Rivers, the overall requirement is for approximately 19% 1-bedroom units, 28% 2-bedroom units, 37% 3-bedroom units and 16% 4+ bedroom units.

- 7.4.2 The proposal includes the provision of two 5 bedroom houses (net gain of one). As such the development would not strictly accord with the unit mix recommended in the SHMA. Nevertheless, owing to the limited overall scale of the development, it is not considered that the failure to fully accord with the SHMA would prejudice the overall delivery across the district.

7.5 Affordable Housing

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

- 7.5.2 As there would be a net gain of one unit, the proposed development would be liable for a commuted sum payment towards affordable housing. This site lies within the Highest Value Three Rivers market area where the figure is £1250 per square metre. The Council have calculated the average net gain in habitable floorspace to be 307.5sqm. The affordable housing payment required is, therefore, £384,375. However, as part of the application, a financial viability assessment was submitted. This document stated that the proposed scheme would generate an indicative deficit of £3,194,151 and therefore concluded that it would not be viable for the applicant to provide a contribution to affordable housing. This document was reviewed by the Council's viability consultant. The Council's viability report stated the following in its conclusion, '*The appraisal carried out which includes the benchmark land value of £1,848,000 shows a deficit of £1,560,337. It is our opinion, therefore, that the scheme is not able to support an off-site affordable housing payment. Even without an affordable housing payment the scheme is not viable*'. As such, it is not considered that the proposed development would be liable for a commuted sum payment towards affordable housing. Similarly, the scheme permitted under 18/0570/FUL was not deemed to be viable to make financial contributions towards affordable housing.

7.6 Impact on amenity of neighbours

- 7.6.1 Policy CP12 of the Core Strategy states that development should 'protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space'. Policy DM1 and Appendix 2 of the Development Management Policies document set out that development should not result in the loss of

light to the windows of neighbouring properties nor allow overlooking, and should not be excessively prominent in relation to adjacent properties.

- 7.6.2 Appendix 2 of the Development Management Policies document also advises that windows of habitable rooms at first floor level should not generally be located in flank elevations and that flank windows of other rooms should be non-opening below 1.7m and obscure glazed. Development should not incorporate balconies or first floor conservatories which overlook neighbouring properties to any degree.
- 7.6.3 The Design Criteria at Appendix 2 of the Development Management also state that two storey development should not intrude into a 45 degree splay line drawn across the rear garden from a point on the joint boundary, level with the rear wall of the adjacent property. This principle is dependent on spacing and relative positions of the dwellings and consideration will also be given to the juxtaposition of properties, land levels and the position of windows and extensions on neighbouring properties.
- 7.6.4 The submitted site plan E101 REV A indicates the layout of the proposed dwellings in relation to properties Raydons and Little Orchard and shows that neither of the proposed dwellings would intrude a 45 degree splay line drawn from a point on the respective boundaries with either neighbour. In addition, given the layout and spacing between the proposed dwellings both adjacent neighbours it is not considered that any significant loss of light would occur to the glazing located within the principal elevations of Raydons or Little Orchard. The two new dwellings would introduce additional built form closer to the shared boundary with both adjacent neighbours, although the proposed dwellings would not be of a greater height than the existing dwelling on site (according to the submitted streetscene). The main two storey part of both proposed dwellings would be set in from the shared boundaries by a minimum of 1.8m and the highest part of each of the proposed dwellings would be hipped away from the boundaries and the eaves height of the dwellings at 5.7 metres is not considered to be excessively high. As such, it is not considered that the proposed dwellings would become overbearing forms of development to either adjacent neighbouring property. Although the ground floor rear projection of Plot 2 would extend significantly deeper than the rear building line of Little Orchard, given its single storey nature and significant separation distances, it is not considered that this element of the extension would be overbearing or cause a loss of light.
- 7.6.5 With regards to glazing the Design Criteria at Appendix 2 states that windows of habitable rooms at first floor level should not generally be located in flank elevations. Flank windows of other rooms should be non-opening, below 1.7 metres (from internal floor level) and obscure glazed. Ground floor windows should be located away from flank boundaries. Where windows to ground floor habitable rooms have to be incorporated, the boundary must be satisfactorily screened by a fence, wall or evergreen hedge.
- 7.6.6 Glazing is proposed at ground and first floor levels within the flank elevations of both new dwellings. The submitted plans state that a 2 metre high hit and miss fence is proposed along the common boundary between both new dwellings. This is considered to provide sufficient screening at ground floor level to prevent overlooking towards either dwelling. Glazing is also proposed within the outside flanks of both proposed dwellings which would face towards Raydons and Little Orchard which would serve a combination of habitable and non-habitable rooms. There are both timber fencing and hedging located along the common boundaries with these neighbouring sites, however, it is not clear whether these are to be retained. As such a condition would be attached to any consent requiring further details to be submitted. In addition a condition would be attached to any consent requiring that all first floor flank glazing is obscure glazed and non-opening below 1.7 metres above internal floor level to accord with Appendix 2 of the Development Management Policies LDD and prevent any adverse overlooking towards neighbouring amenity of Raydons and Little Orchard or each proposed dwelling.

- 7.6.7 Each proposed dwelling would contain flank rooflights. The Design Criteria at Appendix 2 states that high level windows (such as rooflights) with a cill height of 1.7 metres or more may be acceptable where a secondary light source is necessary. As such, a condition would be attached to any consent requiring these rooflights to be obscured and non-opening below 1.7 metres to prevent any overlooking.
- 7.6.8 Whilst there would be an increased amount of glazing within the rear elevation of the proposed dwellings including the dormer windows, they would be primarily facing onto the rear amenity spaces of the two new dwellings and whilst there are residential properties located to the rear of the application site there would be a distance of approximately 45 metres between the rear elevations of the proposed dwellings and the rear boundary of their respective plots and not result in any significant overlooking towards the residential properties to the rear.
- 7.6.9 The glazing proposed in the front elevations of the dwellings would look onto their individual site frontage and the dwellings would be set back over 20 metres from the highway which would then separate the application site from neighbouring properties on the opposite side of Chorleywood Road and as such no unacceptable overlooking to these neighbours would occur.
- 7.6.10 Apart from the proposed lightwells and external stairwells, the basement would not be readily visible. Given the separation distances from neighbours and the nature and limited scale of the lightwells and stairwells, it is not considered that this element of the proposal would negatively impact the residential amenity of any neighbouring dwelling. Whilst objections have been received in terms of possible disruption during excavation and the construction of the basements, such concerns can be mitigated via the inclusion of a Construction Management Plan which has been included to the recommendation.
- 7.6.11 In summary, subject to conditions, it is not considered that the proposed dwellings would result in a significant adverse impact on neighbouring amenity so as to justify refusal of the application and the development would be acceptable in this regard accordance with Policy CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies LDD.

7.7 Quality of accommodation for future occupants

- 7.7.1 Policy CP12 of the Core Strategy states that development should take into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space.
- 7.7.2 Given that the proposed development seeks to construct two detached dwellings so that they have uniform front and rear building lines, it is not considered that the proposed development would result in any significant detrimental impact to the residential amenities of future occupiers of the proposed new dwellings in terms of loss of light or through appearing overbearing.
- 7.7.3 Appendix 2 of the Development Management Policies LDD (adopted July 2013) indicates the minimum amenity space standards and requires 147sq. metres for a five bedroom dwelling. The proposed dwellings would have private amenity areas well in excess of the indicative level, and would be considered acceptable for future occupiers of either dwelling.

7.8 Wildlife and Biodiversity

- 7.8.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive.

- 7.8.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of applications in accordance with Policy CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the DMLDD. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications that may be affected prior to determination of a planning application.
- 7.8.3 The application has been submitted with a Biodiversity Checklist, Bat Surveys and Herts Ecology and Herts and Middlesex Wildlife Trust have been consulted as part of the application. In their original comments, Herts and Middlesex Wildlife Trust stated that 'Development shall not in any circumstances commence until the local planning authority has been provided with and approved an updated bat survey based on the methodology contained in the recommendations of the approved ecological report (Cherryfield 2017)'. However, demolition works had commenced in relation to planning permission 18/0570/FUL. During the course of the application, an updated Bat Survey (Cherryfield 2020) was submitted as well as comments from Natural England. In their comments, Natural England stated the following '*based on the information you have provided, Natural England is satisfied that the works fall within the remit of WML CL21 and that the three tests have been met. Please accept this email as confirmation that the site is now registered and you can commence works on site as described in your site registration form and in accordance with class licence WML-CL21*'. Following this, Herts and Middlesex Wildlife Trust later amended their comments, to raise no objections and agree that work could commence. The updated Bat Survey (Cherryfield 2020) included mitigation strategies including the addition of bat boxes. The bat boxes have been installed in accordance with the 2020 Bat Survey, with evidence provided by the applicant in the form of photos. Herts Ecology also provided comments, stating that '*with the bat reports and mitigation measures in place, I consider the Local Planning Authority has sufficient information on bats for determination*', With regards to the extant permission, the Ecology Officer stated '*the correct procedure has been followed and sufficient information has been provided to ensure protected species are safeguarded from harm. Works on the extant permission can proceed in the knowledge that they are legally compliant with the Habitats and Species Regulations and will be bound by the terms of the approved licence*'. A condition would be added to ensure that the mitigation strategies set out in the Cherryfield 2020 bat survey are adhered to.

7.9 Trees and Landscaping

- 7.9.1 Policy DM6 of the Development Management Policies LDD sets out that development proposals should seek to retain trees and other landscape and nature conservation features, and that proposals should demonstrate that trees will be safeguarded and managed during and after development in accordance with the relevant British Standards.
- 7.9.2 The application site is not located within a Conservation Area and no trees on or adjacent to the site are protected by a Tree Preservation Order. Although objection comments were received in relation to the development detrimentally impacting trees and hedgerows, the site does not contain any protected trees. No trees of public amenity value would be harmed or removed by virtue of the proposal and the development is considered acceptable in this regard.
- 7.9.3 As part of the application, a landscape plan was submitted (E107). Although some trees would be removed as part of the application, the significant majority of existing vegetation would be retained. The trees to be removed are not protected. Furthermore, vegetation would be planted to replace those lost as a result of the development. The additional vegetation would be located predominantly within Plot 2, to the rear of the plot, although a 'Raywood' tree is proposed to the north west of Plot 2. Planting in the form of 'Malus Evereste' is proposed within the section of landscaping which separates the two front drives. Furthermore, Cherry Laurel would be planted along the flank boundaries of both plots, although further information in relation to heights have not been provided. As such, as previously stated, a condition would be added to request further details of boundary treatments. In addition, details relating to tree protection have been provided as part of the

submitted Landscape Plan. A condition would be added to ensure the implementation of the proposed soft landscaping and tree protection measures as demonstrated in the submitted Landscape Plan (E107).

7.10 Highways, Access and Parking

7.10.1 The existing access serving the application site would be blocked up. A new central access would be provided and used to serve both dwellings and each new dwelling would have a set of entrance gates located further back within the frontage of the site. These gates are set back at least 8 metres from the edge of the carriageway and open inwards towards the site. The Highways Officer was consulted on the application and considered the layout of the parking areas and the proposed location of the gates to be acceptable. A condition would be added to any permission requesting additional information relating to the proposed gates. The Highways Officer suggested a number conditions relating to surface water drainage, visibility splays and construction management plan in addition to some further advisory notes.

7.10.2 As part of their comments, the Highway Officer requested the following condition '*prior to the first use of the development hereby permitted arrangement shall be made for surface water to be intercepted and disposed of separately so that it does not discharge onto the highway carriageway*'. The applicant submitted plan number E108 (Surface Water Disposal Plan), detailing arrangements for surface water run-off. A similar plan was submitted as part of 21/0344/DIS pursuant to Condition 6 of planning permission 18/0570/FUL, which was discharged. It is considered that the submitted plan No.E108 satisfies the Highway Officers request for additional details relating to surface run off. A condition would be added to ensure that the submitted details are implemented.

7.10.3 Policy CP10 of the Core Strategy also states that development should make adequate provision for all users including car and vehicle parking and Policy DM13 and Appendix 5 of the Development Management Policies LDD sets out parking standards. These standards identify that a five bedroom dwelling should accommodate three parking spaces within the curtilage.

7.10.4 Both Plots would benefit from a large driveway, which would provide additional parking provision for at least three cars. As such it is considered that sufficient off-street parking would be provided within both Plots in accordance with the Parking Standards and is considered acceptable

7.11 Sustainability

7.11.1 Paragraph 93 of the NPPF states that "Planning plays a key role in helping to shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure".

7.11.2 Policy CP1 of the Core Strategy requires the submission of an Energy and Sustainability Statement demonstrating the extent to which sustainability principles have been incorporated into the location, design, construction and future use of proposals and the expected carbon emissions.

7.11.3 Policy DM4 of the DMLDD requires applicants to demonstrate that development will produce 5% less carbon dioxide emissions than Building Regulations Part L (2013) requirements having regard to feasibility and viability. This may be achieved through a combination of energy efficiency measures, incorporation of on-site low carbon and renewable technologies, connection to a local, decentralised, renewable or low carbon energy supply. The policy states that from 2016, applicants will be required to demonstrate that new residential development will be zero carbon. However, the Government has announced that it is not pursuing zero carbon and the standard remains that development

should produce 5% less carbon dioxide emissions than Building Regulations Part L (2013) requirements having regard to feasibility and viability.

7.11.4 The application is supported by an Energy & Sustainability Statement dated October 2017 which states that to meet the requirements of Policy DM4 and achieve an 8% saving in CO2 measures over 2013 Building Regulations Part L. The proposed development would include Photovoltaics however no further details have been provided. As such a condition will be attached to any consent requiring further details of the energy saving measures to ensure that the development complies with Policy DM4 of the Development Management Policies LDD.

7.12 Drainage

7.12.1 The application site is not located within a Flood Zone and as such there is very low risk of flooding. Whilst it is recognised that large basements are proposed, given the location of the application site, there is no requirement to consult the Environment Agency or the Lead Local Flood Authority.

7.12.2 Thames Water were consulted and have raised no objections to the development. However, Thames water did state '*Thames Water recognises this catchment is subject to high infiltration flows during certain groundwater conditions*', as such relevant informatives have been added to remind the applicant of Thames Water's comments. Whilst objection comments relating to flooding are noted, ultimately, the matters raised by Thames Water and by neighbours will be addressed by Building Control and other legislation.

7.13 Refuse and Recycling

7.13.1 Core Strategy Policy CP1 states that development should provide opportunities for recycling wherever possible. Policy DM10 of the Development Management Policies document sets out that adequate provision for the storage and recycling of waste should be incorporated into proposals and that new development will only be supported where the siting or design of waste/recycling areas would not result in any adverse impact to residential or workplace amenities, where waste/recycling areas can be easily accessed (and moved) by occupiers and waste operatives and where there would be no obstruction to pedestrian, cyclist or driver sight lines.

7.13.2 An individual area for the storage of refuse and recycling facilities to the front of both dwellings is indicated on submitted plan E103 (Proposed Ground Floor Plan) and CWV/PL/500 (Proposed Bin Storage), which would make adequate provision in accordance with Policy DM10 of the Development Management Policies document.

7.14 CIL

7.14.1 Core Strategy Policy CP8 requires development to make adequate contribution to infrastructure and services. The Three Rivers Community Infrastructure Levy (CIL) came into force on 1 April 2015. The levy applies to new dwellings and development comprising 100sq. metres or more of floorspace (net gain), including residential extensions, although exemptions/relief can be sought for self-build developments and affordable housing. The Charging Schedule sets out that the application site is within 'Area A' within which the charge per sq. metre of residential development is £180.

8 Recommendation

8.1 That PART RETROSPECTIVE PLANNING PERMISISON BE GRANTED and has effect from the date on which the development is carried out and is subject to the following conditions:

C1 Those parts of the development hereby permitted that have not yet been carried out 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: E100, E101 REV A, E102, E103, E104, E105, E106, E107, E108, E110, E111, E113, E114, C06B, CWV/EX/100, CWV/EX/201, CWV/EX/203, CWV/EX/204, CWV/EX/400, CWV/PL/500.

Reason: For the avoidance of doubt and in the proper interests of planning and in the interests of the visual amenities of the locality and the residential amenity of neighbouring occupiers, in accordance with Policies CP1, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011), Policies DM1, DM6, DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013) and Policy 2 of the Chorleywood Neighbourhood Development Plan (Referendum Version, August 2020).

- C3 Before any building operations above ground level are commenced, samples and details of the proposed external materials shall be submitted to and approved in writing by the Local Planning Authority and no external materials shall be used other than those approved.

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

- C4 No above ground works shall commence until a Construction management Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:

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

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

Reason: To minimise danger, obstruction and inconvenience to users of the highway in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011).

- C5 Prior to the first occupation of the development hereby approved, bat boxes and bat access tiles shall be installed onto or into the approved building and wider application site in accordance with section 4.2 of the submitted Emergence and Re-entrance Survey prepared by Cherryfield Ecology (dated 15/10/2020). These maintenance free roosts shall be installed at least 3m off of the ground and facing in a southerly direction. Bat boxes shall be maintained on site as detailed within the survey dated 15/10/2020, during the entirety of the works.

Reason: To maintain wildlife habitat and to meet the requirements of Policies CP1, CP9 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

- C6 The hard and soft landscaping scheme, including tree protection measures, shall be carried out in accordance with the details provided within plan number E107 (Landscape Plan).

All soft landscaping works required by the approved scheme shall be carried out before the end of the first planting and seeding season following first occupation of any part of the buildings or completion of the development, whichever is sooner.

If any existing tree shown to be retained, or the proposed soft landscaping, are removed, die, become severely damaged or diseased within five years of the completion of development they shall be replaced with trees or shrubs of appropriate size and species in the next planting season (ie November to March inclusive).

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

- C7 Prior to the first occupation of the development hereby permitted, the new vehicular access shall be provided and thereafter retained at the position shown on the approved plan drawing number E101 to a maximum width of 5.4 metres (4 dropped kerbs and 2 risers) in accordance with HCC Dropped Kerbs: Terms and Conditions.

Reason: To minimise danger, obstruction and inconvenience to users of the highway in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013)

- C8 Prior to the first occupation of the development hereby permitted, the details provided within plan number E108 (Surface Water Disposal Plan), in relation to the provisions for surface water to be intercepted and disposed of separately so that it does not discharge onto the highway carriageway, shall be fully implemented and maintained thereafter.

Reason: To minimise danger, obstruction and inconvenience to users of the highway in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013)

- C9 Prior to the first occupation of the development hereby permitted, a visibility splay measuring 2.4 x 43 metres shall be provided to each side of the access where it meets the highway and such splays shall thereafter be maintained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway

Reason: To minimise danger, obstruction and inconvenience to users of the highway in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

- C10 Prior to the first occupation of the development hereby permitted, vehicular and pedestrian (and cyclist) access to and egress from the adjoining highway shall be limited to the access shown on drawing number E101 REV A only. Any other access or egresses shall be permanently closed, and the footway / highway verge shall be reinstated in accordance with a detailed scheme to be agreed with the Local Planning Authority, concurrently with the bringing into use of the new access.

Reason: To minimise danger, obstruction and inconvenience to users of the highway in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

- C11 Prior to the first occupation of the development hereby permitted any access gate(s), bollard, chain or other means of obstruction shall be hung to open inwards, set back, and thereafter retained a minimum distance of 6 (may be reduced to 5.5) metres from the edge of the highway.

Reason: To minimise danger, obstruction and inconvenience to users of the highway in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

- C12 Prior to the first occupation of the development hereby permitted, 0.65 metre x 0.65 metre pedestrian visibility splays shall be provided and permanently maintained each side of the access. They shall be measured from the point where the edges of the access way cross the highway boundary, 0.65 metres into the site and 0.65 metres along the highway boundary therefore forming a triangular visibility splay. Within which, there shall be no obstruction to visibility between 0.6 metres and 2.0metres above the carriageway

Reason: To minimise danger, obstruction and inconvenience to users of the highway in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

- C13 Prior to the first occupation of the development hereby permitted, plans and details of the energy saving measures shall be submitted to and approved in writing by the Local Planning Authority. The approved details and energy saving measures detailed within the submitted Energy Statement shall be implemented prior to occupation of the development and permanently maintained thereafter.

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 ensure that the development makes as full a contribution to sustainable development as possible.

- C14 Prior to the first occupation of the development hereby permitted, plans indicating the positions, design, materials, height and type of boundary treatment to be erected shall submitted to and approved in writing by the Local Planning Authority. The agreed boundary treatment shall be erected prior to the first occupation of the development and carried out in accordance with the approved details.

Reason: To ensure that appropriate boundary treatments are proposed to safeguard the visual amenities of neighbouring properties and the character of the locality in accordance with Policies CP1, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1 and DM2 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C15 Before the first occupation of the development hereby permitted, the window(s) located at first floor level within the flank elevations; shall be fitted with purpose made obscured glazing and shall be top level opening only at 1.7m above the floor level of the room in which the window is installed. The window(s) shall be permanently retained in that condition thereafter.

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

- C16 Before the first occupation of the development hereby permitted, details of the siting and design of front boundary wall and gates shall be submitted to and approved in writing by the Local Planning Authority. The agreed details shall be erected prior to the first occupation of the development and carried out in accordance with the approved details.

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

- C17 The flank rooflights hereby permitted serving roof accommodation shall be positioned at a minimum internal cill height of 1.7m above the internal floor level prior to occupation of the permitted dwellings.

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

- C18 The basements hereby permitted shall not be occupied or used at any time other than incidental to the enjoyment of, and ancillary to, the residential dwellings located on the site and it shall not be used as an independent dwelling at any time.

Reason: The creation and use of a separate and independent unit(s) or commercial premises would not comply with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

8.1 **Informatives:**

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

All relevant planning conditions must be discharged prior to the commencement of work. Requests to discharge conditions must be made by formal application. Fees are £116 per request (or £34 where the related permission is for extending or altering a dwellinghouse or other development in the curtilage of a dwellinghouse). Please note that requests made without the appropriate fee will be returned unanswered.

There may be a requirement for the approved development to comply with the Building Regulations. Please contact Hertfordshire Building Control (HBC) on 0208 207 7456 or at buildingcontrol@hertfordshirebc.co.uk who will be happy to advise you on building control matters and will protect your interests throughout your build project by leading the compliance process. Further information is available at www.hertfordshirebc.co.uk.

Community Infrastructure Levy (CIL) - Your development may be liable for CIL payments and you are advised to contact the CIL Officer for clarification with regard to this. It is a requirement under Regulation 67 of The Community Infrastructure Levy Regulations 2010 (As Amended) that a Commencement Notice (Form 6) is submitted to Three Rivers District Council as the Collecting Authority no later than the day before the day on which the chargeable development is to be commenced. DO NOT start your development until the Council has acknowledged receipt of the Commencement Notice. Failure to do so will mean you will lose the right to payment by instalments (where applicable), lose any exemptions already granted, and a surcharge will be imposed.

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

Where possible, energy saving and water harvesting measures should be incorporated. Any external changes to the building which may be subsequently required should be discussed with the Council's Development Management Section prior to the commencement of work.

- 12 The applicant is reminded that the Control of Pollution Act 1974 allows local authorities to restrict construction activity (where work is audible at the site boundary). In Three Rivers such work audible at the site boundary, including deliveries to the site and running of equipment such as generators, should be restricted to 0800 to 1800 Monday to Friday, 0900 to 1300 on Saturdays and not at all on Sundays and Bank Holidays.
- 13 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The applicant and/or their agent and the Local Planning Authority engaged in pre-application discussions which result in a form of development that maintains/improves the economic, social and environmental conditions of the District.
- 14 Bats are protected under domestic and European legislation where, in summary, it is an offence to deliberately capture, injure or kill a bat, intentionally or recklessly disturb a bat in a roost or deliberately disturb a bat in a way that would impair its ability to survive, breed or rear young, hibernate or migrate, or significantly affect its local distribution or abundance; damage or destroy a bat roost; possess or advertise/sell/exchange a bat; and intentionally or recklessly obstruct access to a bat roost.
- If bats are found all works must stop immediately and advice sought as to how to proceed from either of the following organisations:
The UK Bat Helpline: 0845 1300 228
Natural England: 0300 060 3900
Herts & Middlesex Bat Group: www.hmbg.org.uk
or an appropriately qualified and experienced ecologist.
(As an alternative to proceeding with caution, the applicant may wish to commission an ecological consultant before works start to determine whether or not bats are present).
- 15 Construction standards for 278 works within the highway: The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> or by telephoning 0300 1234047.
- 16 Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.
- 17 Obstruction of public highway land: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development

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

- 18 Road Deposits: It is an offence under section 148 of the Highways Act 1980 to deposit mud or other debris on the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pave> ments.aspx or by telephoning 0300 1234047.
- 19 As required by Building regulations part H paragraph 2.36, Thames Water requests that the Applicant should incorporate within their proposal, protection to the property to prevent sewage flooding, by installing a positive pumped device (or equivalent reflecting technological advances), on the assumption that the sewerage network may surcharge to ground level during storm conditions. If as part of the basement development there is a proposal to discharge ground water to the public network, this would require a Groundwater Risk Management Permit from Thames Water. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures will be undertaken to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 02035779483 or by emailing trade.effluent@thameswater.co.uk . Application forms should be completed on line via www.thameswater.co.uk. Please refer to the Wholesale; Business customers; Groundwater discharges section.
- 110 The proposed development is located within 15 metres of Thames Waters underground assets and as such, the development could cause the assets to fail if appropriate measures are not taken. Please read our guide 'working near our assets' to ensure your workings are in line with the necessary processes you need to follow if you're considering working above or near our pipes or other structures. <https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-near-or-diverting-our-pipes>. Should you require further information please contact Thames Water. Email: developer.services@thameswater.co.uk Phone: 0800 009 3921 (Monday to Friday, 8am to 5pm) Write to: Thames Water Developer Services, Clearwater Court, Vastern Road, Reading, Berkshire RG1 8DB
- 111 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 consultants

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

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

Background

- 1.1 In November 2014, the Minister of State for Housing and Planning issued a Written Ministerial Statement (WMS) setting out changes to national planning policy. The WMS stated that financial contributions towards affordable housing should no longer be sought on sites of 10 units or less and which have a maximum combined gross floor area of 1,000sqm. National Planning Practice Guidance (NPPG) was amended to reflect this. However on 31st July 2015 the High Court held (*West Berkshire Council v SSCLG [2015]*) that the policy expressed through the WMS was unlawful and the NPPG was changed to reflect this. On 11th May 2016 the Court of Appeal reversed the High Court decision. The NPPG was subsequently amended to reflect the WMS on 19th May 2016.
- 1.2 In light of the above developments, between November 2014 and August 2015 and May 2016 and 1st September 2017 the Council gave greater weight to the WMS policy and associated NPPG guidance in it than to adopted Policy CP4 of its Core Strategy in respect of development proposals for 10 dwellings or less and which had a maximum combined gross floor area of 1000 sq metres. However, having undertaken an analysis of up to date evidence of housing needs (**The Needs Analysis**), officers advised in 2017 that when considering the weight to be given to the WMS in the context of breaches of the adopted development plan policy, the local evidence of housing need contained in the Needs Analysis should generally be given greater weight. On 1st September 2017 the Council resolved to have regard to the Needs Analysis as a consideration of significant weight when considering the relationship between Policy CP4 and the WMS for the purposes of Section 70(2) Town and Country Planning Act 1990 and Section 38(6) Planning and Compulsory Purchase Act 2004 in respect of development proposals of 10 dwellings or less.
- 1.3 On 24th July 2018 a new version of the National Planning Policy Framework¹ (the Framework) was published with immediate effect for development management purposes. Paragraph 63 of the Framework advises that *“Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer).”* Annex 2 of the NPPF defines *“major development”* as *“for housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more.”*
- 1.4 The Council's current affordable housing policy is set out in Policy CP4 of the Core Strategy (adopted in October 2011) and establishes that :
 - a) “...All new development resulting in a net gain of one or more dwellings will be expected to contribute to the provision of affordable housing.”
 - e) “In most cases require affordable housing provision to be made on site, but in relation to small sites delivering between one and nine dwellings, consider the use of commuted payments towards provision off site. Such payments will be broadly equivalent in value to on-site provision but may vary depending on site circumstances and viability.”
- 1.5 The supporting text to Policy CP4 summarises the justification for it:

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

- Average house prices in Three Rivers are some of the highest in the country outside of London. As a result, many local people have difficulty accessing housing on the open market.
- A Housing Needs Study estimated that 429 affordable dwellings would be needed each year to satisfy need. Such provision would exceed the total number of all housing types provided in the District in any year.
- The 2010 Strategic Market Housing Assessment (SMHA) found that the requirement for affordable housing in and around the Three Rivers area remains exceptionally high.
- In order to completely satisfy affordable housing requirements, **all** future housing in the district to 2021 would need to be affordable.

1.6 This policy remains the legal starting point for the consideration of planning applications under Section 38(6) PCPA 2004, which requires that the Council determines applications in accordance with the adopted development plan unless material considerations indicate otherwise. Revised NPPF 63 is a material consideration. The weight to be given to it is a matter for the decision maker when determining each planning application. This note explains the advice from the Head of Planning Policy & Projects and Head of Regulatory Services on the weight that they recommend should be given to NPPF 63 for these purposes in light of the Needs Analysis.

1.7 Since the adoption of its Core Strategy in 2011, Three Rivers has received small site affordable housing contributions amounting to over **£2.1 million**. Utilising those monies, development is currently underway which will deliver 21 units of affordable housing, with the remaining monies utilised as a contribution towards the delivery of a further 17 affordable dwellings. It is clear that Three Rivers' policy has already delivered a significant contribution towards the delivery of much needed affordable housing in the district.

1.8 In addition to the £2.1 million already received, small scale (1-9 unit) schemes have secured to date a further **£2.5million to £3.8million²** of affordable housing contributions in respect of unimplemented but current planning permissions. All of those schemes were agreed to be viable with those sums secured. The Council has several large scale future residential developments planned which will aim to deliver substantial quantities of further affordable housing in the District in the medium term future, utilising those additional affordable housing contributions as and when they are received.

1.9 Policy CP4 makes it clear that a requirement for a scheme to contribute towards the provision of affordable housing is subject to viability considerations and is therefore consistent with paragraph 122 of the Framework. The application of CP4, which includes this in built viability allowance, cannot properly be said to be a barrier to delivery. Indeed between 1 October 2011 and 31 March 2020 226 planning permissions were granted for minor residential developments which contribute a net dwelling gain. Of those only 21 have been permitted to lapse which is only 9% of all such schemes.

² The sums payable secured by Sec 106 will be subject to indexation, in most cases from June 2011 which will not be calculable until the date of payment. The quoted upper limit includes a policy compliant contribution of £1,341,250.00 which relates to a minor development PP subject to a late stage viability review mechanism. The AHC, whilst capped at this figure, will only be known once viability is re-run at occupation when actual build costs and realised sales values are understood. The contribution paid could therefore be substantially less than the policy compliant sum referred to above, hence the range specified.

- 1.10 Current evidence of housing need in the District is noted below at 2.4 to 2.11. It confirms that the needs underlying the adopted development plan policy remain pressing.

Importance of Small Sites to Three Rivers

- 1.11 It is important to acknowledge the percentage of residential development schemes which tend to come forward in the District which propose the delivery of less than 10 dwellings: from 1 April 2017 to 31 March 2020, 177 planning applications for residential development involving a net gain of dwellings were determined³ by the Council. Of these, 158 applications (89%) were for schemes which proposed a net gain of 1-9 units. Having a large number of small sites is an inevitable consequence of the District being contained within the Metropolitan Green Belt. The contribution to both market housing supply and affordable housing supply are therefore both material to overall identified needs and adopted development plan objectives. This is dealt with in more detail below.
- 1.12 If the weight to be given to the Framework is greater than the adopted development plan, this large proportion of Three Rivers' expected new housing delivery will contribute nothing towards affordable housing. This would compromise Three Rivers' ability to deliver its objectively assessed need for affordable housing.

2 Development Plan Policies and the WMS

- 2.1 The content of the Framework is a material consideration in any planning decision, and one which the decision making authority must weigh against the development plan as the starting point under section 38(6) of the 2004 Planning and Compulsory Purchase Act. The correct approach is to:

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

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

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

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

³ Includes refused and approved applications. Excludes prior approval developments.

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

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

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

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

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

General House Price Affordability in Three Rivers

2.5 Due to the District’s close proximity to London, Three Rivers has traditionally been situated within a high house price area. According to data published by the Office of National Statistics (ONS) in the third quarter of 2016⁴, the lowest quartile house price in Three Rivers in 2016, representing the cheapest properties in the District was £325,000.00, making it the **seventh** most expensive local authority area in England and Wales (excluding London), out of a total of three hundred and six local authority areas (see table 1 below).

Number	Local Authority Name	Lowest Quartile House Prices (2016)
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⁴ ONS (2020) *Dataset: House price to residence-based earnings ratio Table 6a*
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

1	Elmbridge	£375,000.00
2	South Bucks	£370,000.00
3	St Albans	£355,000.00
4	Windsor and Maidenhead	£345,000.00
5	Chiltern	£335,000.00
6	Herstmere	£330,000.00
7	Three Rivers	£325,000.00

Table 1.

Since the publication of the above ONS data in 2016, the general house price affordability position has grown worse. According to data published by the Office of National Statistics (ONS), the lowest quartile house price in Three Rivers in September 2019 was £347,000⁵. The lowest quartile house price of £347,000 continues to place Three Rivers as the **seventh** most expensive local authority area in England and Wales (excluding London), out of a total of three hundred and six local authority areas (see table 2 below). Whilst Three Rivers' position as the seventh most expensive local authority area remains consistent, the lowest quartile house price has risen by £22,000 from 2016 to 2019.

Number	Local Authority Name	Lowest Quartile House Prices (2019)
1	South Bucks	£410,000
2	Elmbridge	£400,500
3	St Albans	£385,000
4	Chiltern	£370,000
5	Epsom and Ewell	£357,000
6	Windsor and Maidenhead	£355,667
7	Three Rivers	£347,000

Table 2.

Lowest quartile earnings in Three Rivers in 2016 were £24,518.00 and £24,811.00 in 2019, 13.3 times worsening to 14 below the lowest quartile house prices (ratio of lower quartile house prices to lower quartile gross annual, residence based earnings⁶). In a mortgage market where lenders are traditionally willing to lend 3.5 times a person's income, clearly a lending requirement at 14 times such an income means that most first time buyers are simply unable to purchase a dwelling in the District. Such a lending ratio would have required a first time buyer in 2019 to have a deposit of £260,161.00, or (without such a deposit) to earn £99,143.00 per annum to get onto the lowest/cheapest rung of the property ladder. An additional Stamp Duty payment would also have been due (subject to COVID related temporary relaxation).

When one considers the median affordability ratio⁷ for Three Rivers compared to the rest of England and Wales, the position is even more serious: in 2016, the median quartile income to median quartile house price affordability ratio was 13.77, the fifth worst affordability ratio in England and Wales (excluding London), as set out in table 3 below, again when compared against three hundred and six local authorities.

⁵ Office for National Statistics (2020) *Dataset: House price to residence-based earnings ratio Table 6a* <https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

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

⁷ Affordability ratio statistics are revised annually by the ONS to reflect revisions to the house price statistics and earnings data.

Number	Local Authority Name	Median quartile house price affordability ratio ⁸ (2016)
1	South Bucks	14.49
2	Hertsmere	14.23
3	Mole Valley	14.18
4	Elmbridge / Chiltern	13.87
5	Three Rivers	13.77

Table 3.

The median quartile house price affordability ratio has worsened since 2016. In 2019, Three Rivers had the third worst affordability ratio in England and Wales (excluding London), with its median quartile house affordability ratio measured at 14.53⁸, as set out in table 4 below. In 2017 and 2018, the median quartile house affordability ratios were 14.31 and 13.75 respectively. Whilst the ratio slightly improved from 2016 to 2018 with a decrease to 13.75, the 14.53 ratio measured in 2019 demonstrates a worsening position over the longer term 2016-2019 period.

Number	Local Authority Name	Median quartile house price affordability ratio ¹ (2019)
1	Isles of Scilly	17.71
2	Mole Valley	14.87
3	Three Rivers	14.53

Table 4.

Looking at the ratio of lower quartile house prices to lower quartile to gross annual, residence based earnings, in 2016 the ratio was 13.26. By September 2019 that had risen to 13.99, showing a worsening ratio over the period from 2016 to 2019.

It is clear from the above that the affordability of housing in Three Rivers is getting worse with time.

Affordable Housing Requirements in Three Rivers

- 2.6 The South West Hertfordshire Strategic Housing Market Assessment January 2016 (SHMA) found that at that time there were approximately 658 households within Three Rivers that were situated in unsuitable housing. Unsuitability is based on the number of households shown to be overcrowded in the 2011 Census (updated to a 2013 base for the purposes of the SHMA). 59.4% of these households were unable to afford market housing, which meant the revised gross need was reduced to 391 households.⁹
- 2.7 The SHMA also looked into newly-arising (projected future) need within the District, which was accepted as arising from newly forming households and existing households falling into this need. In South West Herts, the SHMA estimated a need totalling 2,760 new households per annum from 2013-2036. 15% of this need falls within Three Rivers, which equates to an estimated level of affordable housing need in the District from newly forming households of 419 per annum.

⁸ Office for National Statistics (2020) *Dataset: House price to residence-based earnings ratio Table 5c*
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

⁹ Table 33: Estimated Current Need, South West Hertfordshire Housing Market Assessment (January 2016).

2.8 With these figures in mind, the SHMA calculated the net affordable housing need within the five local authority areas of the South West Herts area as being 54,997 units over the 23 year period from 2013 to 2036. This is 2,391 units per annum.¹⁰ The net need within Three Rivers was calculated as being 357 units per annum or 8,211 units over the same 23 year period. The SMHA identified the district's OAN for the next plan period as being 514 dwellings a year; thus affordable housing need equates to 69% of total housing need.

Affordable Housing Provision in Three Rivers

2.9 Core Strategy CP4 requires around 45% of all new housing in the District to be affordable. As stated previously, prior to the WMS, all new developments that had a net gain of one or more dwellings would, subject to viability, be expected to contribute towards this.

2.10 Since the start of the plan period from 1 April 2001 to 31st March 2020 (the latest date where the most recent completion figures are available), 4,689 gross dwellings were completed. From this, 1,037 were secured as affordable housing, a total of 22.1%. This percentage is significantly below the Core Strategy target of 45% which means there was a shortfall of 1,073 or 23% in order to fulfil the 45% affordable housing requirement up to 31 March 2020. This shortfall only exacerbates the already pressing need for small sites to contribute towards the provision of affordable housing.

2.11 In the latest monitoring period of 2019/20 (financial year), 17 sites¹¹ delivered a net gain of one or more dwellings and would therefore be required to contribute to affordable housing under Policy CP4 (either through an on-site or off-site contribution). These were made up of five major developments (29%) and 12 minor developments (71%). Only five schemes contributed to affordable housing provision:

- Four out of the 17 provided viability justification, in line with CP4 policy, for the absence of affordable housing provision.
- Eight of the applications were determined during the 2014/15 and 2016/17 periods noted at 1.2 above (when the Council was dealing with applications on the basis that the WMS should be given overriding effect regardless of the viability position on specific schemes). Affordable housing provision was forgone on them on this basis, which is now reflected in the low affordable provision as they are built out.
- Of the five sites which contributed to affordable housing delivery in 2019/20 four were major developments and one was a minor development (17/2628/FUL – Thrive Homes (Registered Provider) scheme). This reflects the pattern of on-site delivery from large schemes, with commuted sums from minor developments (see para. 2.12).

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

2.12 In 2017/2018 (financial year), there were 67 planning applications determined¹² for net gain residential schemes, of which 57 were small site schemes (85%). In 2018/19 (financial year), there were 50 planning applications determined for net gain residential schemes, of which 46

¹⁰ Table 38: South West Hertfordshire Housing Market Assessment (January 2016). Net need = Current Need + Need from Newly-Forming Households + Existing Households falling into Need – Supply of Affordable Housing.

¹¹ Sites with completions in 2019/20

¹² Includes refused and approved applications. Excludes prior approval developments.

were small site schemes (92%). In 2019/20 (financial year), there were 60 planning applications for net gain residential schemes determined, of which 55 were small sites schemes (92%). It is therefore clear that a high proportion of small site schemes have been proposed in the District, equating to 89% of applications over the past three years.

- 2.13 In terms of numbers of completed dwellings proposed by those small site schemes, between 2011-2020 (financial years) some 341 net dwellings were completed which equates to 38 net dwellings per annum and to 20.8% over the 2011-2020 period. 20.8% is a significant proportion of the overall supply. Whilst such numbers are significant, it is acknowledged that major developments, whilst far less frequent, provided significantly greater quantities of housing. However CP4(e) does not generally require small site schemes to provide on-site affordable housing (small-scale piecemeal development is unattractive to RP's). Instead commuted sums in lieu of on-site provision are required and thus it is the sums of money secured and the contribution those make towards the provision of additional much needed affordable housing in the District which the policy should be tested against. This has been acknowledged by Planning Inspectors on appeal, as referred to at paragraph 2.21 below: APP/P1940/W/19/3230999, 27 Gable Close, Abbots Langley: *"It also identifies the importance of small sites in providing affordable housing with contributions from small sites amounting to over £2.1 million since 2011 being spent towards the delivery of 38 affordable dwellings."*

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

- 2.14 As set out at paragraphs 1.7 and 1.8 above, the commuted payments (£2.1 million) to be spent on the provision of affordable housing which have been collected by the Council to date have made a direct contribution towards the identified affordable housing shortfall in the district: providing some 21 units with some of the monies being utilised to assist in the delivery of a further 17 units (38 in total). Furthermore, as set out at paragraph 1.8 above, small scale (1-9 unit) schemes have (as at December 2019) secured a further **£2.5million - £3.8million** (see footnote 2) in respect of unimplemented but current planning permissions. The Council has several large scale future residential developments planned which will aim to deliver substantial quantities of further affordable housing in the District in the medium term future, utilising those additional affordable housing contributions as and when they are received. It is clear therefore that CP4(e) has made and will continue to make a significant contribution towards the provision of much needed affordable housing in the District in the future.

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

- 2.15 As set out at paragraph 1.9 above, Policy CP4 makes it clear that a requirement for a scheme to contribute towards the provision of affordable housing is subject to viability considerations and is therefore consistent with paragraph 122 of the Framework. The application of CP4, which includes this in built viability allowance, cannot properly be said to be a barrier to delivery. The Council accepts that if, properly tested, viability cannot be established on current day costs and values then a scheme should not currently be required to provide or contribute to affordable housing delivery. Between 1 October 2011 and 31 March 2020 there were 226 planning permissions granted for minor (net gain) residential developments in the District. Of those only 21 have lapsed (9%). This demonstrates that the application of CP4 has not acted as a brake on small scale residential developments.

Relevant Appeal Decisions

- 2.16 There have been a number of appeal decisions since the WMS was upheld by the High Court in May 2016. As an example, the Planning Inspectorate has dismissed appeals that were submitted against the decisions made by Elmbridge Borough Council (appeal no: 3146699), Reading Borough Council (appeal ref: 315661), South Cambridgeshire District Council (appeal ref: 3142834) and Islington Borough Council (3154751, 3164313, 3174582, 3177927 and 3182729). These were for small scale housing schemes where those Councils had attached greater weight to their affordable housing policy than to the WMS as a consequence of local evidence of substantial affordable housing need. Copies of these three appeals are attached to Appendix 1. The Council considers these appeal decisions to be of continuing relevance post the new Framework.
- 2.17 The Inspectors appointed to determine these appeals stated that the WMS needed to be addressed alongside existing Local Plan policy. Within each case, the Inspectors found that there was substantial evidence of a pressing need for affordable housing within these three local authority areas. On this basis, it was considered that local policy had significant weight and there was strong evidence to suggest that these issues would outweigh the WMS within these three cases.
- 2.18 In March 2017 the Planning Inspectorate issued a response to a letter from Richmond and Wandsworth Councils regarding the perceived inconsistency of approach by the inspectorate in relation to a further five appeal decisions made in 2016, regarding the weight that was made to the WMS. A copy of this letter is attached to Appendix 2.
- 2.19 Out of these five decisions, the Planning Inspectorate considered that three appeal decisions were reasonable, and fairly reflected the Court of Appeal's decision that although great weight should be attached to the WMS as a material circumstance; planning applications must be decided in accordance with the development plan, unless material considerations indicate otherwise.
- 2.20 However, the Planning Inspectorate considered that the decision taken on the two remaining appeals which stated that lesser weight was afforded to local policies because they were now, in part, inconsistent with national policy, was not appropriate. The seventh paragraph in the response from the Inspectorate, summarised the approach that the Inspectorate acknowledges should be taken:
- “...an Inspector to start with the development plan and any evidence presented by the LPA supporting the need for an affordable housing contribution, establish whether the proposal is in conflict with those policies if no contribution is provided for, and, if there is conflict, only then go on to address the weight to be attached to the WMS as a national policy that post-dates the development plan policies.”¹³*
- 2.21 It is clear therefore that the Planning Inspectorate considered that although the WMS (and now the Framework) was a material consideration, this should be balanced against the policies within a plan along with any further evidence that supports a Local Planning Authority's application of the policy.
- 2.22 The Council's stance has been tested on appeal on numerous occasions and the Planning Inspectorate have repeatedly concluded (16 decisions as at the date of this document) that

¹³ Paragraph 7, Planning Inspectorate Letter, March 2017.

whilst the NPPF carries considerable weight, it does not outweigh CP4 of the Councils development plan given the acute and substantial need for affordable housing in the District and the important contribution small sites make towards addressing this shortfall. Below are extracts from a few of those decisions:

- **APP/P1940/W/19/3222318, Eastbury Corner, 13 Eastbury Avenue, Northwood, Decision date: 21st June 2019:**
“The Council has however provided robust evidence to demonstrate high affordable housing need locally and that affordability in the District continues to deteriorate. Indeed, needs analysis carried out by the Council highlights the importance of small sites in addressing shortfall and the lack of affordability that exists in the District. I apply substantial weight to this local evidence due to its recentness and the clear conclusions that can be drawn from it. Policy CP4 makes it clear that site circumstances and financial viability will be taken into account when seeking affordable housing provision.”
- **APP/P1940/W/19/3221363, The Swallows, Shirley Road, Abbots Langley Decision date: 27th June 2019:**
“The Council has however provided robust evidence to demonstrate high affordable housing need locally and that affordability in the District continues to deteriorate. Indeed, needs analysis carried out by the Council highlights the importance of small sites in addressing shortfall and the lack of affordability that exists in the District. I apply substantial weight to this local evidence due to its recentness and the clear conclusions that can be drawn from it.”
- **APP/P1940/W/19/3225445, 6 Berkely Close, Abbots Langley Decision date 5th August 2019:**
“The Council has provided robust evidence of high affordable housing need in the District, and in line with the findings of other appeal decisions cited by the Council, I attribute substantial weight to that need as a consequence and consider that a contribution towards the provision of affordable housing is necessary.”
- **APP/P1940/W/19/3230999, 27 Gable Close, Abbots Langley Decision Date: 1st November 2019:**
*“The Council has provided detailed evidence of acute affordable housing need locally: a Needs Analysis was undertaken in May 2016 after the publication of the Written Ministerial Statement which introduced the affordable housing thresholds now included in the Framework. Based on the Needs Analysis, the Council’s evidence highlights the issue of general house price affordability in the District, plus an exceptionally high need for affordable housing exacerbated by a significant shortfall in supply. It also identifies the importance of small sites in providing affordable housing with contributions from small sites amounting to over £2.1 million since 2011 being spent towards the delivery of 38 affordable dwellings.
A further Needs Analysis following publication of the revised Framework in July 2018 demonstrated that housing stress had increased since 2016. The Council has therefore revisited its position following the update to national policy. There is no evidence before me that affordable housing contributions are acting as a brake on development. Rather, the evidence is that contributions from small sites collected since the policy was adopted in 2011 are delivering affordable housing on the ground. Due to its recentness and the clear conclusions that can be drawn from it, I give this local evidence substantial weight. It underpins the approach in Policy CP4 as an exception to national policy.”*
- **APP/P1940/W/19/3230911, 67 & 69 St Georges Drive, Carpenders Park, Decision date 22nd October 2019:**
“The Council has undertaken several needs analyses, the latest being July 2018, to demonstrate the acute shortage of affordable housing in the District, especially in light of high house prices and that much of the District is also constrained by the Metropolitan Green Belt. It further highlights the importance small sites make to the

contribution to the overall provision of affordable housing. Up until the end of March 2017 there has only been 22.6% of affordable housing provision which falls short of the policy requirement of 45%. The shortfall demonstrates that the provision of affordable housing is still very much needed, such that Policy CP4 should continue to apply to small sites, despite the Framework and the WMS. In light of the Council's body of evidence that demonstrates the particular housing circumstances and needs of the District, I attach substantial weight to this local evidence and consider that the national policy position does not outweigh the development plan and Policy CP4 in this instance."

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

Decision date 11th October 2019:

"The Council states that its Strategic Housing Market Assessment (2010) has demonstrated that there is a significant affordable housing need locally due to very high house prices and rents and a constricted supply of suitable housing sites. Further, the South West Hertfordshire Strategic Housing Market Assessment (2016) estimated a net affordable housing need of 14,191 in the District between 2013-36 and there is also a worsening situation with regards to affordability. Based on the Council's evidence the District is the 7th most expensive local authority area in England and Wales in 2016 and demonstrates that its application of Policy CP4 has delivered a significant contribution of over £2.1 million towards the delivery of affordable housing without disrupting the supply of small residential sites. Decisions should be made in accordance with the development plan unless material considerations indicate otherwise. The robust evidence referred to in footnote 1 and the clear need to deliver affordable housing in the District underpins the Council's approach in Policy CP4 as an exception to national policy and therefore in this case, the Framework's threshold would not outweigh the conflict with the development plan. I therefore attach considerable weight to Policy CP4. I am also referred to a number of recent appeal decisions in the District which support this approach and are therefore relevant to the scheme before me and as such carry considerable weight."

- **APP/P1940/W/18/3213370: No.9 Lapwing Way, Abbots Langley.**

Decision Date 22nd May 2019:

"In considering whether provision should be made for affordable housing, there are two matters that need to be addressed. Firstly, whether in principle the provisions of Policy CP4 are outweighed by more recent Government policy. Secondly, if not, whether for reasons of financial viability a contribution is not required... There is no evidence before me that the application of Policy CP4 has put a brake on small windfall sites coming forward. Indeed, such sites have contributed over £2m to the affordable housing pot since 2011... Decisions should be made in accordance with the development plan unless material considerations indicate otherwise. There are very important factors in support of the continued application of Policy CP4. These factors are not unique to Three Rivers. Government policy does not suggest that areas where affordability is a particular issue should be treated differently. Nonetheless, although a weighty matter, the national policy threshold is not a material consideration which outweighs the conflict with the development plan in this case. In making this policy judgment I have given considerable but not full weight to Policy CP4. I have also had regard to the other appeal decisions in the south-east referred to by the Council where Inspectors considered development plan policies seeking affordable housing against national policy. My approach is consistent with these decisions."

- **APP/P1940/W/19/3219890: 4 Scots Hill, Croxley Green**

Decision Date 5th May 2019:

Whilst the appeal was allowed the Inspector considered that when "having regard to TRDCS Policy CP4 and the Council's Affordable Housing Supplementary Planning Document 2011, I consider that a contribution towards the provision of affordable housing is necessary. A draft unilateral undertaking was submitted at appeal stage and was agreed by the Council."

- **APP/1940/W/19/3229274: 101 Durrants Drive, Croxley Green**
Decision Date 16th August 2019:
“Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise... Therefore, I find that the proposal would fail to make appropriate provision for affordable housing and as such, would be contrary to policy CP4 of the CS which seeks to secure such provision, which although does not attract full weight, in light of the evidence provided, attracts significant weight sufficient to outweigh paragraph 63 of the Framework.”
- **APP/P1940/W/19/3238285: Bell Public House, 117 Primrose Hill, Kings Langley**
Decision Date 9th March 2020
“Even taking the appellants figures that 22.8% of affordable units have arisen from non major sites, I consider this to be an important and meaningful contribution...even taking the appellant’s figures my conclusion remains unaltered.”
- **APP/P1940/W/19/3229189: Glenwood, Harthall Lane, Kings Langley**
Decision Date 7th May 2020
“The Council’s evidence sets out the acute need for affordable housing in the area and the importance of small sites in contributing to the provision of such housing. They also highlighted a large number of recent appeal decisions for small residential schemes where it has been considered that the exceptional local need should outweigh government policy, as set out in the Framework... Despite the appellant’s evidence, which included reference to a Local Plan Consultation Document (October 2018) and an analysis undertaken by them based on the Council’s Housing Land Supply Update (December 2018), it was clear to me, in the light of all the evidence before me, that a pressing need for affordable housing in the area remains. It was also clear that small sites play a key role in ensuring this provision. As such, in this case, I am satisfied that although considerable weight should be given to the Framework, it does not outweigh the development plan policy.”
- **APP/P1940/W/20/3249107: 2 Church Cottages, Old Uxbridge Road, West Hyde**
Decision Date: 21st October 2020
“The Framework at paragraph 63 sets out that the provision of affordable housing should not be sought for residential developments that are not major developments other than in designated rural areas where policies may set out a lower threshold of 5 units or fewer. That said, there is clear evidence to suggest that there is an acute need for affordable housing in the Three Rivers District and there have been several appeal decisions which supported this view... I agree that there are special circumstances which justify the provision of affordable housing below the Framework’s suggested threshold... As a result, the proposal would be contrary to Policy CP4 of the CS which amongst other matters seeks to increase the provision of affordable homes including by means of a commuted sum payment for sites of between one and nine dwellings... I have also had regard to the obvious benefits in relation to the provision of a much-needed new dwelling. However, the benefits of this are outweighed by the lack of provision for affordable housing”

Conclusion

- 2.23 Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Having regard to the Framework as a material consideration of significant weight, officers' view is that the local evidence of affordable housing need continues to deserve significant weight in deciding whether, for the purposes of Section 38(6), the revised Framework policies weigh sufficiently against the Core Strategy Policy CP4. Having undertaken this assessment in 2017 and further reviewed it post the new NPPF in 2018, in December 2019 and 2020 with regard to more up to date evidence, where available, officers are of the view that the Framework does not outweigh the weight to be

attached to the local evidence of affordable housing need. That evidence shows that the need for affordable housing in Three Rivers is great and the contribution that small sites have made has been significant. Furthermore comparisons between 2016 and 2019 ONS data shows that the affordability of housing in Three Rivers is deteriorating year on year and the need for affordable housing is growing. As such proposals for the residential development of sites of 10 dwellings or less (not “major development”) will currently be expected to contribute towards the provision of affordable housing in accordance with Policy CP4 as a condition of grant. The Council will keep this evidence under review.

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

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

Sources Used:

1. Core Strategy (October 2011)
<http://www.threerivers.gov.uk/eqcl-page/core-strategy>
2. Annual Monitoring Report 2019/2020 (December 2020)
<http://www.threerivers.gov.uk/eqcl-page/annual-monitoring-report>
3. Affordable Housing Supplementary Planning Document (June 2011)
<http://www.threerivers.gov.uk/eqcl-page/supplementary-planning-documents>
4. South West Hertfordshire Strategic Housing Market Assessment (January 2016)
<http://www.threerivers.gov.uk/eqcl-page/shma-and-economic-study-for-future-review-of-local-plan>
5. Office of National Statistics Housing Data 2002-19
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

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