

PLANNING COMMITTEE – 20 APRIL 2023

PART I - DELEGATED

10. 23/0356/RSP – Retrospective: Conversion of two dwellings into one with associated internal works, erection of replacement front porch and demolition of existing garage at 162 AND 164 HIGH STREET, RICKMANSWORTH, HERTFORDSHIRE, WD3 1BA.

Parish: Batchworth Community Council

Ward: Rickmansworth Town

Expiry of Statutory Period: 05.05.2023.

Case Officer: Freya Clewley

Recommendation: That authority is delegated to the Head of Regulatory Services to Refuse Planning Permission following the expiry of the consultation period, subject to no further comments being received before the expiry of the consultation period.

Reason for consideration by the Committee: Called in to Committee by three Members of the Planning Committee to discuss the loss of a dwelling.

1 Relevant Planning and Enforcement History

- 1.1 W/235/90 – Erection of double garage
- 1.2 11/1663/FUL – Erection of a two storey and part single storey rear extension and dormer window to rear elevation of main roof.
- 1.3 20/0204/COMP – Enforcement Enquiry: Loss of residential unit, unauthorised frontage works (porch and front boundary and pillars) and damage to protected tree – Pending Consideration.
- 1.4 21/0950/RSP – Retrospective: Conversion of two dwellings into one with associated internal works, erection of replacement front porch and front boundary wall and railings – Refused 11.06.2021 for the following reason:

R1 The proposed development fails to contribute to meeting local housing demand and the objective of building of new homes in the District would be undermined if the stock of existing housing were allowed to be reduced. The development is contrary to Policies PSP1 and CP2 of the Core Strategy (adopted October 2011), Policy SA1 of the Site Allocations Local Development Document (adopted November 2014) and the National Planning Policy Framework.

Appeal allowed in respect of the front porch, front boundary wall and railings, and dismissed in respect of the conversion of the pre-existing two dwellings into one dwelling (Appeal ref: APP/P1940/W/21/3282090). Decision attached to this report as **Appendix 1**.

2 Description of Application Site

- 2.1 The application site contains one dwelling (following the unauthorised conversion of the former pair of semi-detached dwellings), located on the northern side of High Street, Rickmansworth. This part of High Street is characterised by semi-detached and terraced cottages of similar architectural styles and designs, some of which have been extended or altered. The application site is located within Rickmansworth Town Conservation Area.
- 2.2 The host building was originally a pair of semi-detached dwellings with a mixed red brick exterior and buff brick detailing, and a dark tiled pitched roof form. The neighbour to the east, number 160 High Street, is a two storey end of terrace dwelling, set in from the shared boundary with the application site. The neighbour to the west, number 166 High Street, is a two storey semi-detached dwelling, set in from the shared boundary with the application site.

- 2.3 The front door to number 164 High Street has been relocated towards the centre of the front elevation, and a pitched roof open timber porch has been constructed. The garage to the rear has been demolished.

3 Description of Proposed Development

- 3.1 Retrospective planning permission is sought for the conversion of two dwellings into one with associated internal works, erection of replacement porch and demolition of the pre-existing garage. The pre-existing pair of semi-detached dwellings comprised two, two bedroom dwellings. These dwellings have now been converted to a four bedroom dwelling.
- 3.2 The internal walls between the two properties have been removed. The converted dwelling contains a snug, study area, shower room, utility and open plan kitchen/dining/living area at ground floor level, with three bedrooms and two bathrooms at first floor level and a further bedroom, study area and bathroom at second floor level.
- 3.3 The porch has a pitched roof form with a width of 2.1m and a depth of 1.1m. The porch has a maximum height of 3.1m. One of the garages to the rear of the application site has been demolished.
- 3.4 The current application has a similar description to the previously refused application reference 21/0950/RSP. The current application seeks to make a contribution towards affordable housing provision to compensate for the loss of one dwelling. The current application also seeks retrospective planning permission for the demolition of the garage to the rear of the site.

4 Consultation

4.1 Statutory Consultation

4.1.1 Batchworth Community Council: [Objection]

Batchworth Community Council (BCC) objects to this application due to our understanding that this Retrospective Application and is by enlarge the same as the refused application 21/0950/RSP which was also upheld on appeal and the withdrawn application 22/2284/RSP.

It is BCC's opinion that the reasons for the original refusal and subsequent appeal remain the same for this new application.

BCC urge TRDC to refuse this application and implement the enforcement process.

4.1.2 National Grid: No response received.

4.1.3 Local Plans Section: [No response received, however the comments made under the previously refused application reference 21/0950/RSP are considered by Officers to remain relevant to the current scheme]

The application seeks the conversion of two market dwellings (two 2-bed dwellings) into one market dwelling (one 4-bed dwelling). Policy SA1 of the Site Allocations Local Development Document (adopted 2014) states that permission will not be granted for development resulting in a net loss of housing unless conversion to other uses is necessary. The proposal would result in the loss of a residential dwelling as no residential provision is being provided elsewhere, and therefore would not comply with Policy SA1. It should be noted that Three Rivers District Council failed the Housing Delivery Test in 2020 and at present do not have a five year housing land supply to meet its local housing need target of 630 homes per year. This demonstrates a current shortage of land to meet identified

housing needs and it is considered that the loss of existing dwellings through new development would undermine the benefits of providing new homes to meet identified housing needs.

The National Planning Policy Framework (2019) states that where there is an existing shortage of land for meeting identified housing needs, it is especially important that planning decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site (Paragraph 123). The NPPF goes on to state that local planning authorities should refuse applications which they consider fail to make efficient use of land. In the context of housing density, Policy CP3 of the Core Strategy (2011) states that the density of development will be considered on its merits taking into account the need to promote higher densities in locations that are highly accessible to public transport, services and facilities. The site is located in the Principal Town of Rickmansworth, which is one of the most sustainable settlements in the District. Taking into account the application site's highly sustainable location and the existence of two dwellings on the site, it is considered that the proposal resulting in the loss of an existing dwelling would not make an efficient use of land or optimal use of the site. Given the District's shortage of land to meet housing needs as noted above, the loss of an existing dwelling is not considered to be acceptable.

The South West Hertfordshire Local Housing Needs Assessment (LNHA) (2020) provides an up to date assessment on the housing mix in the District over the period 2020-2036. The table below shows the needs estimated in the LNHA for 1-bed – 4+-bed dwellings in market tenure.

	<u>1-bedroom</u>	<u>2-bedroom</u>	<u>3-bedroom</u>	<u>4+-bedroom</u>
<u>Market Housing</u>	5%	23%	43%	30%

Whilst it is recognised that there is a higher need for 4+-bed dwellings than 2-bed dwellings, the need for 2-bed market dwellings is not insignificant and makes up approximately a quarter of the need in the District. Furthermore, the loss of two 2-bed market dwellings would have implications for this level of need. Whilst the loss would be modest in scale, it is still considered that the retention of the dwellings is important in order to not exacerbate the current level of need for 2-bed market dwellings.

Given this and the overall high local housing need (630 dwellings per year), the proposal is not considered acceptable as it would result in the gross loss of two 2-bed dwellings and the net loss of one dwelling.

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 7

4.2.2 No of responses received: 0

4.2.3 Site Notice: Expires: 11.04.2023 Press notice: Expires: 16.04.2023

5 Reason for Delay

5.1 None.

6 Relevant Planning Policy, Guidance and Legislation

6.1 Legislation

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

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

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

The 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.

6.2 National Planning Policy Framework and National Planning Practice Guidance

In July 2021 the revised NPPF was published, to be read alongside the online National Planning Practice Guidance. The 2021 NPPF is clear that “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework”.

The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits unless there is a clear reason for refusing the development (harm to a protected area).

6.3 The Three Rivers Local Development Plan

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

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies PSP1, CP1, CP2, 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, DM3, DM6, 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.

6.4 Other

The Rickmansworth Town Conservation Area Appraisal (August 1993).

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

7 Planning Analysis

7.1 Overview

- 7.1.1 Following a complaint to the Council an enforcement investigation was opened in relation to the conversion of two residential units into one, resulting in the loss of one residential unit, unauthorised frontage works (porch, front boundary and pillars) and damage to a protected tree (ref: 20/0204/COMP). A site inspection was conducted on the 23 October 2020. During the site visit it was observed that works had been undertaken within the frontage, including the erection of a wall and brick pillars along the boundary of No. 162 and a replacement wall along the boundary of No. 164. Ground works had been carried out surrounding the protected tree located within the front boundary. A new entrance doorway and a porch had been erected within the front elevation. Internally, it was observed that works had taken place to combine Nos. 162 and 164 into one single dwellinghouse. Discussions also suggested that there may be some further works to the rear including 'stepping up' the land levels. It is noted that since the previous site visit, the garden has been finished and there are steps up from a patio area abutting the rear elevation of the dwelling, to a higher garden level comprising lawn and soft landscaping.
- 7.1.2 As a result of the investigation, planning application 21/0950/RSP was submitted to the Local Planning Authority, seeking retrospective planning permission for the works which had taken place. That planning application was refused by the LPA for the reason set out at 1.4 above. That decision was appealed, and the appeal (decision at **Appendix 1**) was allowed in respect of the front porch and boundary treatment. However, the conversion of the pair of semi-detached properties to one dwelling was dismissed. The current application has been submitted in an attempt to formalise the breach of planning control by utilising Section 73A of the Town and Country Planning Act 1990 (as amended) which enables an application to be made to the Local Planning Authority for development carried out before the date of an application. The application proposes to retain the development in situ. The main material change between the refused (and dismissed) proposal and the current application is that the current application includes the offer of an offsite affordable housing contribution to mitigate the loss of the existing dwelling.

7.2 Principle of Development

- 7.2.1 The Core Strategy (adopted 2011) sets out a Spatial Vision which state that, looking forward to 2026 and beyond, the District will remain a prosperous, safe and healthy place where people want and are able to live and work. The priorities for the future are, amongst other things, to improve access to housing and affordable housing for communities across the whole District. In order to implement and deliver the Local Development Framework's Vision, Strategic Objectives have been identified which include; to balance the community's need for future homes and jobs by providing sufficient land to meet a range of local housing needs.
- 7.2.2 Policy PSP1 of the Core Strategy states that development in the Principle Town (Rickmansworth) will provide approximately 15% of the District's housing requirements over the Plan period. The proposal has resulted in the loss of a dwelling and subsequently would have a detrimental effect on the District's ability to meet this requirement and sustaining housing provision in the District.
- 7.2.3 Policy CP2 (Housing Supply) of the Core Strategy states that providing sufficient housing to meet the needs of local communities in a sustainable way is one of the key challenges facing Three Rivers. It further states that, amongst other things, development in the District needs to; provide an adequate and continuous supply of housing; provide a range of types and sizes of homes to meet needs at an appropriate density; and address local affordability issues.

- 7.2.4 Policy SA1 (Housing Site Allocations) of the Site Allocations LDD (adopted 2014) states that, in view of the need for new housing in Three Rivers, the benefits of building new homes in Three Rivers would be undermined if the stock of existing housing were to reduce. Therefore, the Council’s starting point is to protect existing housing in the District. Policy SA1 states that permission will not be granted for development resulting in the net loss of housing unless conversion to other uses is necessary to provide a small-scale facility and provided the surrounding residential area is not significantly adversely affected.
- 7.2.5 The objective of national government is to ‘significantly boost the supply of homes’ as stated in paragraph 60 of the National Planning Policy Framework. Sustainable development in itself is also underpinned by a social objective to ensure that a sufficient number of homes can be provided in the future as stated in paragraphs 7 and 8. Whilst the Framework does not make provisions for the loss of individual residential dwellings, it is considered that the Council’s Development Plan has statutory status as the starting point for decision-making as stated in paragraph 12.
- 7.2.6 The LPA cannot currently demonstrate a 5 year housing land supply, and therefore paragraph 11 of the NPPF (2021) is engaged. Paragraph 11 and footnote 7 clarifies that in the context of decision-making “the policies which are most important for determining the application are out-of-date when the LPA cannot demonstrate a five year supply of deliverable housing sites”. The most important policies for determining a housing application are considered to be Policy CP2 (Housing Supply) and Policy CP3 (Housing Mix and Density). Paragraph 11 continues, “Plans are decisions should apply a presumption in favour of sustainable development....where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: a) the application of policies in this Framework protect area of assets of particular importance provides a clear reason for refusing the development proposed; or b) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”.
- 7.2.7 The South West Hertfordshire Local Housing Needs Assessment (LNHA) (2020) provides an up-to-date assessment on the housing mix in the District over the period 2020-2036. The table below shows the needs estimated in the LNHA for 1-bed to 4+bed dwellings in market tenure.

	1-bedroom	2-bedroom	3-bedroom	4+-bedroom
Market Housing	5%	23%	43%	30%

- 7.2.8 Whilst it is recognised that there is a higher need for 4+ bed dwellings than 2-bed dwellings, the need for 2-bed market dwellings is not insignificant and makes up approximately a quarter of the need in the District. Furthermore, the loss of two 2-bed market dwellings would have implications for the level of need. Whilst the loss would be modest in scale, it is still considered that the retention of the dwellings is important in order to not exacerbate the current level of need for 2-bed market dwellings.
- 7.2.9 In dismissing the recent appeal at the application site, the Inspector commented that; *‘I have outlined the policy and supporting text to SALDD Policy SA1 and to my mind there can be no doubt that it seeks to guard against the loss of a house, not a use, and the proposal would lead to a net loss of one house, a point that is accepted by the appellant in his Housing Statement and Planning, Heritage, Design and Access Statement. Accordingly, I conclude that the proposed development would fail to accord with the development plan in respect of the protection afforded to existing housing. Hence, it would conflict with the aims regarding the delivery of housing expressed in SALDD Policy SA1 and CS Policies PSP1 and CP2’.*
- 7.2.10 Paragraph 2.13 of the applicant’s Planning and Heritage Statement, prepared by Bell Cornwell dated November 2022 states; *‘Whilst the application proposal has not resulted in*

the net gain of one or more dwellings, it has resulted in the loss of an existing residential unit, and indeed, this is the reason for the original planning application being refused and subsequent appeal dismissal. To offset against this loss, the application includes the offer of an offsite affordable housing contribution to the loss of the existing dwelling, thereby resulting in a materially different proposal than that previously seen. As a result, the proposal will result in a net loss of zero housing provision’.

7.2.11 Policy CP4 (Affordable Housing) of the Core Strategy outlines ‘All new development resulting in the **net gain of one or more dwellings** will be expected to contribute to the provision of affordable housing’ (my emphasis). As such, it is not considered that Policy CP4 is applicable to the development as the development would result in a net loss of a dwelling on site and would not result in any net gain. Whilst it is noted that the applicant has offered to make a financial contribution towards offsite affordable housing to compensate the loss of one of the dwellings on site, Policy CP4 does not include provisions to be used as a compensation measure and the Affordable Housing SPD outlines the Commuted Sum Payment Formula and refers to the proposed market housing, with no provisions outlined for the net loss or compensation measures. As such, the LPA are of the view that Policy CP4 of the Core Strategy is not relevant for the reasons outlined above. Notwithstanding this, in the event that Policy CP4 was relevant in this case, the LPA would attach significant weight to the loss of a dwelling and as such, it is not considered that a financial contribution would offset this loss.

7.2.12 The exact amount offered by the applicant for the financial contribution has not been specified, and it remains unclear as to how the applicant intends to calculate the contribution owed.

7.2.13 It is considered that the conversion of two residential dwellings into one fails to contribute to meeting local housing demand and that there are no mitigating circumstances or justification to overcome the in-principle objection previously raised by the Council’s Local Plans Section, raised by the LPA in its previous decision or raised by the Appeal Inspector in the subsequent appeal. It is considered that the policy objectives set out by national government and the adopted policies of the District, in relation to building new homes, would be undermined by the development should the existing housing stock be diminished. In dismissing the appeal (APP/P1940/W/21/3282090) for the previously refused application reference 21/0950/RSP, the Inspector commented;

‘I have considered the Council’s argument that giving weight to the compliance of existing homes with the Building Regulations would set a precedent for similar developments in the District. Whilst each application and appeal must be treated on its individual merits, I am mindful that approval of this proposal could be used in support of other schemes within houses of similar typology or design. This is not therefore a generalised fear of precedent, but a realistic and specific concern due to the likelihood that a significant number of houses with older staircases could be affected. Allowing this appeal would make it more difficult to resist further planning applications for similar developments, the cumulative effect of which would exacerbate the harm that would be caused by the loss of homes in a District with an acute housing supply and delivery deficit.’

7.2.14 In summary, it is not considered that the current application, and in particular the offer of an offsite affordable housing contribution, has overcome the previous reason for refusal (application reference 21/0950/RSP) or the subsequent dismissed appeal. It is therefore considered that the proposed development fails to accord with the policies, core principles and overriding objectives of the National Planning Policy Framework (2021), Policies PSP1 and CP2 of the Three Rivers Core Strategy and the Three Rivers Site Allocations LDD.

7.3 Impact on Character of Host Dwelling, Street Scene and Conservation Area

7.3.1 Policy CP1 of the Core Strategy seeks to promote buildings of a high enduring design quality that respect local distinctiveness and Policy CP12 of the Core Strategy states that

development should 'have regard to the local context and conserve or enhance the character, amenities and quality of an area'. Policy DM1 and Appendix 2 of the Development Management Policies document set out that extensions should not have a significant impact on the visual amenities of an area. Extensions should not be excessively prominent and should respect the existing character of the dwelling, particularly with regard to the roof form, positioning and style of windows, doors and materials.

7.3.2 As the site is located within the Rickmansworth Town Conservation Area, Policy DM3 of the Development Management Policies LDD (adopted July 2013) is also applicable. Policy DM3 sets out that within Conservation Areas, development will only be permitted if the proposal is of a scale and design that preserves or enhances the character and appearance of the area.

7.3.3 The LPA raised no objections with regards to the impact of the development on the character and appearance of the streetscene and Conservation Area under the previously refused application reference 21/0950/RSP, and the Inspector raised no objections in this regard when dismissing the subsequent appeal, allowing the appeal with regards to the front porch. The demolition of the garage to the rear of the site has not resulted in any harm to the character or appearance of the Conservation Area. The current application does not include any additional alterations to the external appearance of the host dwelling when compared to the previously refused application.

7.3.4 As such, it is not considered that the proposed porch has resulted in demonstrable harm to the character and appearance of the Rickmansworth Town Conservation Area. Therefore, the proposal accords with Policies CP1 and CP12 of the Core Strategy, Policies DM1, DM3 and Appendix 2 of the Development Management Policies LDD and the Rickmansworth Town Conservation Area Appraisal (August 1993).

7.4 Impact on Amenity of Neighbours

7.4.1 Policy CP12 of the Core Strategy states that development should 'protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space'. Policy DM1 and Appendix 2 of the Development Management Policies document set out that development should not result in loss of light to the windows of neighbouring properties nor allow overlooking and should not be excessively prominent in relation to adjacent properties.

7.4.2 It is not considered that the conversion of the two pre-existing dwellings into one, nor the external alterations, have resulted in any harm to neighbouring residential amenity in terms of loss of light and privacy.

7.5 Parking Provision and Access

7.5.1 Policy CP10 of the Core Strategy (adopted October 2011) requires development to make adequate provision for all users, including car parking. Appendix 5 of the Development Management Policies document sets out parking standards for developments within the District.

7.5.2 The development has altered the required onsite parking provision. Previously, the two, two bedroom dwellings required 2 spaces (1 assigned), per dwelling, and there was an onsite shortfall of 1 space, although all assigned spaces were provided. The existing dwelling contains four bedrooms. Appendix 5 of the Development Management Policies document outlines that a four or more bedroom dwelling should provide 3 parking spaces. There is on site parking to the rear of the application site which provides parking for three vehicles. As such, the proposal is considered to be acceptable in this regard. Notwithstanding this, although the current proposal is compliant in terms of parking provision, this is not considered to be a benefit that outweighs the harm identified by virtue of the loss of a residential dwelling within a sustainable, town centre location.

7.6 Amenity Space Provision

- 7.6.1 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. Specific standards for amenity space are set out in Appendix 2 of the Development Management Policies LDD suggest indicative levels of amenity/garden space provision.
- 7.6.2 The site is served by a garden which has also been combined from two separate gardens, to one larger garden. The host dwelling contains 4 bedrooms, and as such, Appendix 2 outlines that 105sqm of amenity space should be retained. Over 77sqm of amenity space has been retained to the rear, and as such, there is an onsite shortfall of 28sqm of amenity space. Whilst this shortfall is noted, it is acknowledged that the application site is located within a Town Centre location, within short walking distance (0.2 miles) to Rickmansworth Aquadrome. As such, it is not considered that the shortfall in amenity space provision is unacceptable in this regard.

7.7 Wildlife and Biodiversity

- 7.7.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive.
- 7.7.2 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. A Biodiversity Checklist has been submitted and indicates that no protected species have been affected by the development.

7.8 Trees and Landscaping

- 7.8.1 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.
- 7.8.2 The Town and Country Planning Act 1990 is very clear that if any person in contravention of a tree preservation order (which all trees within a Conservation Area are protected) causes or permits the carrying out of any activities that wilfully damages tops or lops a tree in such a manner as to likely to destroy it, this would be an offence.
- 7.8.3 During the course of the enforcement investigation, it became evident that the roots of the Eucalyptus tree to the application site frontage became exposed and damaged, with extensive amounts of soil mounds and rubble surrounding the tree during construction works. The Landscape Officer previously confirmed as part of these investigations that the actions on site will inevitably lead to the demise of the tree. Owing to the location of the application site within Rickmansworth Town Conservation Area, all trees are protected. Owing to the irreversible damage to the tree that has occurred, suitable replacement planting of a Eucalyptus tree of similar girth would be secured by condition. The requirement to obtain a replacement tree if an alternative decision is reached if this decision was appealed would not prevent the Landscape department from continuing its investigation in respect of any damage that has been caused.

7.9 Planning Balance

7.9.1 The LPA cannot currently demonstrate a 5 year housing land supply, and therefore paragraph 11 of the NPPF is engaged. Paragraph 11 and footnote 7 clarifies that in the context of decision-taking "the policies which are most important for determining the application are out-of-date when the LPA cannot demonstrate a five year supply of deliverable housing sites". However, this application relates to the loss of a dwelling, which further diminishes the housing supply in the District.

7.9.2 In determining the appeal (APP/P1940/W/21/3282090) relating to the previously refused application reference 21/0950/RSP, the Inspector commented;

'Given the Council's performance in the delivery of new housing and supply of housing land, the legitimate aim of SALDD Policy SA1 to maintain the use of properties as separate dwellings retains its importance. Moreover, the proposed conversion would have material consequences through the net loss of a house in a District with acute housing shortages, the removal of smaller, more affordable, houses from the market and increase in the demand for homes. This would place even greater pressure on the Council to be able to meet the aims of the Framework to boost the supply of housing in its District.

Accordingly, I afford considerable weight to the conflict of the proposal with SALDD Policy SA1 and CS Policies PSP1 and CP2, which also seek to deliver new housing.

The appellant has also referred to CS Policy CP3, for the mix and density of housing. While it too is out of date, it is worded to enable it to refer to the most recent update of the South West Hertfordshire Strategy Housing Market Assessment. This therefore reflects the requirements for housing in the District and there is no evidence before me to dispute it. Furthermore, the most recent Local Housing Needs Assessment (2020) indicates that there is a need for 2, 3 and 4+ bedroom houses, but the greatest need lies in 3-bedroom properties and the proposal would reduce the availability of such properties, and provide one 4-bedroom house. There also appears to be no requirement for housing needs and land availability assessments to determine whether existing housing stock is fit for purpose, safe or accessible, when deriving housing need.

The other consideration which I have outlined above, are primarily benefits of the appeal scheme, and taken together these amount to benefits of no greater than limited weight. In terms of harm, the proposed development would not comply with development plan policy in respect of the loss of existing housing stock within the District and I have afforded considerable weight to the conflict of this harm with the development plan.'

7.9.3 Whilst the LPA acknowledge the benefits of the scheme suggested by the applicant, including improved internal accessibility and compliance with Building Regulations, in addition to the suggested contribution towards affordable housing which could have wider public benefits, the LPA afford very limited weight to these benefits. The benefits outlined would therefore not outweigh the identified harm of the loss of a dwelling. The proposed development is therefore contrary to Policies PSP1 and CP2 of the Core Strategy (adopted October 2011), Policy SA1 of the Site Allocations Local Development Document (adopted November 2014) and the NPPF (2021).

Recommendation

8.1 That authority is delegated to the Head of Regulatory Services to REFUSE Planning Permission for the following reason following the expiry of the consultation period, subject to no further material comments being received:

R1 The development results in the loss of a family dwelling in a town centre location within a District which does not have the homes required to meet the needs of its residents over the plan period. Whilst material considerations have been put forward these do not outweigh the significant harm from the loss of the dwelling and the proposal is therefore contrary to Policies PSP1 and CP2 of the Core Strategy

(adopted October 2011), Policy SA1 of the Site Allocations Local Development Document (adopted November 2014) and the National Planning Policy Framework (2021).

8.2 Informatives:

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

Appendix 1 – Appeal Decision relating to refused application 21/0950/RSP



Appeal Decision

Site visit made on 10 August 2022

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th August 2022

Appeal Ref: APP/P1940/W/21/3282090

162 and 164 High Street, Rickmansworth WD3 1BA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr A Harris against the decision of Three Rivers District Council.
 - The application Ref 21/0950/RSP, dated 11 April 2021, was refused by notice dated 11 June 2021.
 - The development proposed is conversion of two dwellings into one with associated internal works, erection of replacement front porch and front boundary wall and railings.
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Decision

1. The appeal is dismissed insofar as it related to conversion of two dwellings into one with associated internal works. The appeal is allowed insofar as it related to erection of replacement front porch and front boundary wall and railings and planning permission is granted for erection of replacement front porch and front boundary wall and railings at 162 and 164 High Street, Rickmansworth WD3 1BA in accordance with the terms of the application, Ref 21/0950/RSP, dated 11 April 2021.

Procedural Matters

2. The application drawings show roller shutters doors with wooden cladding surrounding. These are not included in the description of development found on the Application Form or Decision Notice and are not referred to by the main parties in their evidence. I have therefore limited my assessment of the external works to those referred to in the banner heading.
3. The National Planning Policy Framework was revised on 20 July 2021 (the Framework) and the main parties have referred to its revised content, which I have had regard to in my decision.

Main Issues

4. The main issues are:
 - whether the proposed development would accord with the development plan in respect of the protection afforded to existing housing; and
 - benefits of the proposed development.

Reasons

Development Plan Policies

5. Policy SA1 of the Local Plan Site Allocations Local Development Document (adopted November 2014) (SALDD) states 'permission will not be granted for

development resulting in a net loss of housing unless conversion to other uses is necessary to provide a small-scale facility and provided the surrounding residential area is not significantly adversely affected'. Paragraph 4.6 of the supporting text to that policy clarifies that 'in view of the need for new housing in Three Rivers, the benefits of building new homes in Three Rivers would be undermined if the stock of existing housing were to reduce. Therefore, the Council's starting point is to protect existing housing in the District'.

6. Policies PSP1 and CP2 of the Local Development Framework Core Strategy (Adopted 17 October 2011) (CS) are also directed to the delivery of housing in the District. In particular, the former suggests development in Rickmansworth will amount to around fifteen percent of the District housing requirement. These policies therefore pull in the same direction as Policy SA1 and the objectives of the Framework to boost the supply of housing.

Protection of Existing Housing

7. The appeal concerns a pair of semi-detached dwellings that have undergone conversion to one dwelling. The site is situated within a residential part of High Street and the Rickmansworth Town Conservation Area (CA) and there are a mix of semi-detached, terraced, and detached houses nearby.
8. The application drawings and other evidence before me suggest that, prior to the conversion being undertaken, each property contained three rooms capable of forming bedrooms, including the rooms in attic spaces, whilst the resultant dwelling would be of four bedrooms.
9. I have outlined the policy and supporting text to SALDD Policy SA1 and to my mind there can be no doubt that it seeks to guard against the loss of a house, not a use, and the proposal would lead to a net loss of one house, a point that is accepted by the appellant in his *Housing Statement* and *Planning, Heritage, Design and Access Statement*.
10. Accordingly, I conclude that the proposed development would fail to accord with the development plan in respect of the protection afforded to existing housing. Hence, it would conflict with the aims regarding the delivery of housing expressed in SALDD Policy SA1 and CS Policies PSP1 and CP2.

Benefits of the Proposed Development

Accessibility of Homes and Compliance with the Building Regulations

11. I note that the Council accepts that there would have been limitations to the original staircases in the houses, which includes their gradient and available head height. Moreover, although access within older properties can often be fraught with such challenges, Part K of the Building Regulations only applies to building work to be undertaken to re-site or construct new staircases. As such, the appellant would not have been required to alter the design of the existing staircases as a matter of course. Nevertheless, he has demonstrated that altering the existing stairs would not have been possible in the same format within the confines of the dwellings, without losing existing accommodation.
12. I have also been referred to the National Model Design Code (Part 2 Guidance Notes) (June 2021) with regard to the accessibility of buildings. I note the reference to accessibility in the document, but its introduction sets out that it is possible content for a design code, modelled on the design characteristics set

out in the National Design Guide. It is therefore not directly relevant to the appeal proposal. Nonetheless, the Planning Practice Guidance refers to providing new homes that are accessible and adaptable to meet the needs of occupiers without future alteration.

13. The proposal would enable improved circulation within the property for all occupants. However, there is no substantive evidence before me to demonstrate that No 162 was not habitable before it was purchased by the appellant, that the residential use of either No 162 or 164 would have been likely to cease without the proposal, and that the existence of two smaller dwellings with different internal arrangements would have adversely affected the social cohesion of the Rickmansworth.
14. In addition, I have considered the Council's argument that giving weight to the compliance of existing homes with the Building Regulations would set a precedent for similar developments in the District. Whilst each application and appeal must be treated on its individual merits, I am mindful that approval of this proposal could be used in support of other schemes within houses of similar typology or design. This is not therefore a generalised fear of precedent, but a realistic and specific concern due to the likelihood that a significant number of houses with older staircases could be affected. Allowing this appeal would make it more difficult to resist further planning applications for similar developments, the cumulative effect of which would exacerbate the harm that would be caused by the loss of homes in a District with an acute housing supply and delivery deficit.
15. With cognisance of the above, I afford very limited weight to the arguments advanced regarding accessibility and compliance with the Building Regulations.

Availability of Housing and Space Standards for Occupiers

16. I appreciate that the appellant has had difficulty finding a 4-bedroom property to meet the needs of his family that is close to Rickmansworth Town Centre, but there is no substantive evidence before me to suggest that 4-bedroom properties were not available or the reasons they were discounted in favour of the site. Similarly, although local services and facilities, including transport connections, are highly accessible from the appeal site, the proposal would reduce the number of houses situated in such a location. There can also be no doubt that there would be significant differences between the existing and proposed accommodation, particularly compliance with the Nationally Described Space Standards and Council's amenity space standards, but these do not appear to be relevant to existing accommodation.
17. The provision of a dwelling with a higher standard of accommodation, in an accessible location would amount to social and environmental benefits but, for the above reasons, this would be of very limited weight. Although existing accommodation did not appear to meet the needs of the appellant, there is also no substantive evidence before me to demonstrate that Nos 162 and 164 would have been incapable of being occupied as dwellings in the future.
18. I acknowledge that the appellants Housing Statement provides evidence of properties remaining empty for some time in the district, but it does not set out why this is of significance and there is no analysis of the number of bedrooms. I have therefore only afforded this limited weight in my consideration of the

appeal. I also acknowledge that the appellant has provided other properties in Watford, but this is not within the District.

19. The appeal site could technically qualify as a windfall site, that is to say it is not specifically identified in the development plan. However, the supporting text to CS Policy CS2 is clear that windfall sites contribute to housing supply. As the proposal would reduce existing housing stock, it would not contribute to housing supply and would not equate to an efficient use of land as expected by the CS and Framework.

Conservation Area

20. The appeal site is situated within a busy part of the CA and prominent within its surroundings. I have therefore had regard to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), which requires that special attention be given to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
21. The door and window to the front of No 164 have been handed so that it lies beneath the window at first floor and the window is positioned where the door stood. As the door to No 162 was situated to its side, this aspect of the proposal does not unbalance the façade of the building or the contribution it makes to the character and appearance of the CA.
22. There is great variety to the design and appearance of enclosures to the street and the porches and other structures outside the front doors of properties in High Street. In light of this, the pitched roof and open form of the proposed timber porch, including its supporting posts, and the wall and railings to the frontage of the site would not harm the appearance of the property or the contribution it makes to the character and appearance of the CA.
23. These aspects of the proposal would therefore preserve the character and appearance of the CA and, thereby, its significance. Hence, they would accord with the design and heritage aims of SALDD Appendix 2 and Policies DM1 and DM3; and CS Policies CP1 and CP12. I note that the Council did not raise concerns in respect of these matters either.
24. I also accept that the development has been constructed to a high standard internally in accordance with development plan policies and the Framework.

Planning Balance

25. It is clearly evident by the Council's performance in the Housing Delivery Test (HDT) and its 2-year supply of housing land that it does not have the homes required to meet the needs of its residents. The current development plan policies most important for determining the appeal are therefore out-of-date. These are SALDD Policy SA1 and CS Policies PSP1, CP2 and CP3 for housing. In such circumstances, paragraph 11(d)(ii) of the Framework would apply, which requires that permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
26. Given the Council's performance in the delivery of new housing and supply of housing land, the legitimate aim of SALDD Policy SA1 to maintain the use of properties as separate dwellings retains its importance. Moreover, the proposed conversion would have material consequences through the net loss of a house

in a District with acute housing shortages, the removal of smaller, more affordable, houses from the market and increase in the demand for homes. This would place even greater pressure on the Council to be able to meet the aims of the Framework to boost the supply of housing in its District.

27. Accordingly, I afford considerable weight to the conflict of the proposal with SALDD Policy SA1 and CS Policies PSP1 and CP2, which also seek to deliver new housing.
28. The appellant has also referred to CS Policy CP3, for the mix and density of housing. While it too is out of date, it is worded to enable it to refer to the most recent update of the South West Hertfordshire Strategic Housing Market Assessment¹. This therefore reflects the requirements for housing in the District and there is no evidence before me to dispute it. Furthermore, the most recent Local Housing Needs Assessment (2020) indicates that there is a need for 2, 3 and 4+ bedroom houses, but the greatest need lies in 3-bedroom properties and the proposal would reduce the availability of such properties, and provide one 4-bedroom house. There also appears to be no requirement for housing needs and land availability assessments to determine whether existing housing stock is fit for purpose, safe or accessible, when deriving housing need.
29. The other considerations which I have outlined above, are primarily benefits of the appeal scheme, and taken together these amount to benefits of no greater than limited weight. In terms of harm, the proposed development would not comply with development plan policy in respect of the loss of existing housing stock within the District and I have afforded considerable weight to the conflict of this harm with the development plan.
30. The proposal would not result in harm to the CA and only the door to No 164 was sited to the front, so it may not necessarily be evident that only one dwelling would remain, particularly as the original door to the side serving No 162 would be retained. This would not mitigate the loss of a dwelling. However, the parts of the development comprising the front porch and boundary wall and railings are both physically and functionally severable from the remainder of the proposal. A split decision would therefore be a logical outcome, particularly as access from the front of the site would be retained to the side door of the building which previously formed the entrance to No 162.
31. The adverse impacts of granting permission identified in respect of the net loss of housing would significantly and demonstrably outweigh the stated benefits, when assessed against the policies in the Framework taken as a whole. This does not indicate that the aspect of the proposal concerning the conversion of two dwellings into one should be determined other than in accordance with the development plan.

Conditions

32. The replacement front porch and front boundary wall and railings have already been constructed so it is not necessary for any conditions to be imposed.

Conclusion

33. For the reasons given, I conclude that the appeal should be allowed in so far as it related to erection of replacement front porch and front boundary wall and

¹ January 2016.

railings and dismissed in so far as it related to the conversion of two dwellings into one. Moreover, the latter would be contrary to the development plan and there are no other considerations which outweigh this finding, including the Framework.

Paul Thompson

INSPECTOR