

## PLANNING COMMITTEE - 16 November 2023

**23/1569/FUL - Demolition of existing garages and erection of 3 storey (plus roof accommodation) block comprising eight 2 bed apartments with associated bin and bike storage, parking and landscaping works at Garages Adjacent 13 To 23, Pollards, Maple Cross, Hertfordshire**

Parish: Non-Parished

Ward: Chorleywood South and Maple Cross

Expiry of Statutory Period: 24.11.2023 (Agreed Extension)

Case Officer: Claire Westwood

**Recommendation: That planning permission be granted subject to conditions.**

Reason for consideration by the Committee: The applicant is a joint venture company with Three Rivers District Council, and the application is on Three Rivers District Council owned land.

To view all documents forming part of this application please click on the link below:

[23/1569/FUL | Demolition of existing garages and erection of 3 storey \(plus roof accommodation\) block comprising eight 2 bed apartments with associated bin and bike storage, parking and landscaping works. | Garages Adjacent 13 To 23 Pollards Maple Cross Hertfordshire \(threerivers.gov.uk\)](#)

### 1 Relevant Planning History

1.1 No relevant planning history at application site.

#### Garages rear of 22 – 32 Pollards

1.2 23/1570/FUL - Demolition of existing garages and erection of two 4 bed houses with associated bin and bike storage, parking and landscaping works. Pending consideration.

### 2 Description of Application Site

2.1 The site is located to the south eastern side of Pollards, perpendicular to two existing three-storey flatted blocks (1-11 and 13-23) and opposite a further three-storey block (10 – 32 Pollards). The immediate area is characterised by three-storey flatted blocks with gable ends and shallow sloping roofs and two storey semi-detached and terraced dwellings. There are balconies evident on some existing flatted blocks.

2.2 The site currently contains a single block of 10 flat roofed garages of brick construction sited adjacent to the rear site boundary where the garages share a wall with four storage sheds (outside of the site) which it is understood are leased to tenants of the existing adjacent flats.

2.3 There is vehicular access from Pollards with a dropped kerb across the full site frontage. There are no significant land level changes within/adjacent to the site.

### 3 Description of Proposed Development

3.1 Planning permission is sought for the demolition of existing garages and erection of 3 storey (plus roof accommodation) block comprising eight 2 bed apartments with associated bin and bike storage, parking and landscaping works.

3.2 The proposed building would be set back from the highway by 7.2 metres. It would extend for the full width of the site and would be set flush with the rear site boundary. The proposed

building would have a width of 27 metres and depth of 8.7 metres. The building would be 3 storeys with a 4th floor of accommodation provided at roof level, served by front and rear dormer windows. The building would have a ridge height of 12.6 metres and eaves height of 9 metres. To the front elevation 2 dormer windows are proposed, each would have a width of 11.7 metres, height of 2 metres and depth of 2.9 metres. A single rooflight would be sited between the front dormer windows. To the rear, a single dormer window is proposed with a width of 26 metres, height of 2 metres and maximum depth of 2.9 metres. The central section of the rear dormer would be slightly recessed, set back further from the eaves. Fenestration is proposed to all elevations, although to the rear elevation no fenestration is proposed at ground floor level where the building would adjoin the existing adjacent storage sheds. Fenestration to the upper floors to the rear would include recessed balconies to the flank and rear elevations.

3.3 In terms of materials, the Design and Access Statement describes a buff multi brick to match the neighbouring dwellings. Windows will have dark grey frames and the roof will be formed from a mix of dark zinc standing seam to the dormers and grey concrete tiles.

3.4 The flats would each provide an open plan kitchen, living and dining area; 2 bedrooms and bathroom. Each flat would also have a 7sqm balcony. The flats would be accessed via a door within the centre of the front elevation which would lead to a central communal stair core. To either side of the front entrance door a brick structure is proposed. One would provide a bike store and the other would provide refuse/recycling storage. The structures would be 4.7 metres wide, by 2.4 metres high and 1.8 metres deep. They would be of brick construction to match the material proposed for the flats, with a green roof to each. To the front of the flats 8 car parking spaces are proposed, 4 to either side of the main entrance. A narrow planted buffer would be provided between the rear of the spaces and front elevation of the flats.

3.5 The application is accompanied by:

- Application form.
- Existing and proposed plans.
- Visuals.
- Tree Constraints Plan.
- Arboricultural Impact Assessment.
- Tree Removal Plan.
- Tree Protection Plan.
- Affordable Housing Statement.
- Energy Statement.
- CIL Form.
- Transport Assessment.
- Preliminary Ecological Appraisal.
- Phase 1 Environmental Report.

3.6 Amended plans were received during the application which proposed minor adjustments to the window design to allow secure nighttime ventilation at ground floor level. As the changes did not materially change the size or siting of the openings, re-consultation was not undertaken. Additional information (Sightline Assessment) was also provided in response to the initial comments from Hertfordshire Highways who have been reconsulted.

## **4 Statutory Consultation**

### **4.1.1 Landscape Officer: [No objection]**

Recommend: Approval. The submitted plans given some indication of new landscaping to the parking area of the proposed development, additional information and details should be required by condition.

4.1.2 Hertfordshire Ecology: No response received.

4.1.3 Housing Officer: [No objection]

Policy CP4 of the Adopted Core Strategy requires 45% of new housing to be provided as Affordable Housing, unless it can be clearly demonstrated with financial evidence that this is not viable. As a guide the tenure split should be 70% social rented, 25% first homes and 5% shared ownership.

The Local Housing Market Assessment (2020) sets out the proportions that should form the basis for housing mix in development proposals submitted to Three Rivers District Council. Proposals should broadly be 40% 1-bed units, 27% 2-bed units, 31% 3-bed units and 2% 4 bed units.

However, identified need for affordable housing based on the current housing register and the family composition of customers that have been in temporary accommodation provided by the Council suggests the following preferred mix: 25% 1-bed units, 40% 2-bed units, 30% 3 bed units and 5% 4 + bed units. The main requirement is for 2 bed 4 person units, as we have a high requirement for family sized accommodation to ensure that families in temporary accommodation provided by the Council are offered a permanent and suitable property within a satisfactory time frame.

Although social rented properties should be provided in the first instance, it is encouraging to see that the affordable rent properties proposed will be capped at the local housing allowance. On the basis that the development will provide family sized, 100% affordable housing for the district that fulfils our current main requirement, I can confirm that I generally support this application.

4.1.4 Hertfordshire County Council – Highway Authority: [No objection]

4.1.4.1 Initial Response: [Objection]

#### **Recommendation**

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

The proposed parking layout at the development does not have the adequate visibility splays from each of the parking spaces. Insufficient visibility greatly impacts the safety of the highway and therefore infringes upon Policies 1 and 5 in the Hertfordshire Local Transport Plan (LTP4) and the National Planning Policy Framework (NPPF).

#### **Comments/Analysis**

##### **Description of Proposal**

Demolition of existing garages and erection of 3 storey (plus roof accommodation) block comprising eight 2 bed apartments with associated bin and bike storage, parking and landscaping works.

##### **Site and Surroundings**

Pollards is an unclassified local access route subject to a 30mph speed limit which is highway maintainable at public expense. There is a footway to either side and opposite the site but there is not one fronting the site itself and the existing area fronting the garages are not highway land. The closest bus stop to the site is approximately 270m away on Downings Wood and is a stop for the 321 Sapphire, R1, R2 and W1 buses. The nearest train station to the site is Rickmansworth, although it would not be considered to be within an accessible walking distance as it is 4.2km away. The nearest shop is the Morrisons Daily in Maple Cross which is approximately a 900m walk.

### **Highway Impact**

No visibility splays have been provided with the application, however, from drawing splays onto the proposed block plan, drawing number 050, the required visibility splay of 2.4m x 43m would be interrupted. The 2.4m x 43m visibility splays which are required for the speed and classification of the route, as outlined in Roads in Hertfordshire: Highway Design Guide 3rd Edition Section 4 – Design Standards and Advice and Manual for Streets, are as clear as can be given the geometry of Pollards, under the existing use. However, although no highway works are proposed, as shown on drawing numbers 050 and 100, the proposed cycle parking and bin store would interrupt the visibility splays for the adjacent parking spaces. Additionally, the proposed at each end of the parking spaces, which is shown in drawing number 700 but not dimensioned, would be within the visibility splays and appears to be above the height of 600mm. Visibility splays should remain clear from a height of 0.6m and 2m to ensure that children can be seen walking on the adjacent footway by vehicles egressing the site. Without these splays, the proposed parking arrangement, and therefore, the development would not be considered safe.

It is also to be noted that the proposed footway shown to be approximately 1.2m, although located within the private land of the site, should still comply with HCC standards and should measure 2m wide, or 1.5m as an absolute minimum as outlined in Roads in Hertfordshire: Highway Design Guide 3rd Edition Section 4 – Design Standards and Advice.

### **Conclusion**

HCC as the Highway Authority have reviewed the supporting documents and drawings and wishes to raise an objection to the application. This is due to highway safety concerns as the proposals are contrary to the design standards contained in Roads in Hertfordshire: Highways Design Guide and Manual for Streets.

#### 4.1.4.2 Further comments: [No objection]

### **Recommendation**

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

#### **1) Construction Management Plan / Statement**

No development shall commence until a Construction Management Plan 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;

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).

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:

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

Further information is available via the County Council website at:  
<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

AN2) Obstruction of highway: 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 County Council website at:  
<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

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

AN4) Construction Management Plan (CMP): The purpose of the CMP is to help developers minimise construction impacts and relates to all construction activity both on and off site that impacts on the wider environment. It is intended to be a live document whereby different stages will be completed and submitted for application as the development progresses. A completed and signed CMP must address the way in which any impacts associated with the proposed works, and any cumulative impacts of other nearby construction sites will be mitigated and managed. The level of detail required in a CMP will depend on the scale and nature of development.

The CMP would need to include elements of the Construction Logistics and Community Safety (CLOCS) standards as set out in our Construction Management template, a copy of which is available on the County Council's website at:  
<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx>

**Comments/Analysis**  
**Description of Proposal**

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### **Site and Surroundings**

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### **Access and Parking**

The application proposes to make use of the existing vehicular access into the site formed by a dropped kerb, no changes are proposed meaning no highway works are required. The amended site plan, drawing number 050 Rev A, moves the proposed bin and cycle stores further back into the site meaning that they are no longer located in the visibility splays for the parking area. Additionally, according to the Sightline Assessment document, the boundary walls at the site have been reduced to be less than 0.6m in height, further ensuring that the visibility splay from the parking spaces are not interrupted. A speed survey has now been provided within the Sightline Assessment which indicates that the 85th percentile speed past the site is 16mph, drastically reducing the length of the required visibility splay to 18m. These splays are shown on drawing number P2762/TN/2, and are unobstructed. The proposed, unadopted, footway fronting the site has been increased from 1.2m in width to around 1.6m in width according to drawing number 050 Rev A, this is a more suitable width, being just above the minimum width outlined within Roads in Hertfordshire. There have not been any collisions on Pollards, nor the surrounding network within the residential area, within the last 5 years.

Ultimately the LPA will have to be satisfied with the parking provision, but HCC would like to comment that there are 8 proposed parking spaces to the front of the site, the equivalent of one space per flat. 8 secure and covered cycle parking spaces have been provided in the site, and with the amended plans no longer sit within the visibility splays. Electric vehicle charging is also to be provided at the site in each space. Regarding displaced parking from the existing garages, the Transport Statement suggests that of the 20 garages to be demolished across both Pollards sites, 14 are in use. According to the TA, 14 of those garages in use, 5 live within the parking survey extent and therefore this would be the estimated maximum number of expected displaced vehicles. In the event that this number is higher, the parking stress survey mentioned within the TA, and provided within the appendix figures, indicates that much of the surrounding area has unrestricted parking with a parking stress of 62%. It is therefore likely that on street parking would be available without causing the parking stress to increase to an unacceptable level.

### **Refuse and Waste Collection**

Manual for Streets Paragraph 6.8.9 states that waste collection vehicles must be able to get within 25m of the bin storage location and residents must not carry waste further than 30m to this location. Due to the location of the proposed bin store these distances at the site are not exceeded.

### **Emergency Vehicle Access**

In accordance with Manual for Streets Paragraph 6.7, the entirety of the footprint of a dwelling must be within 45m from the edge of the highway so an emergency vehicle can gain access. This is the case at this site with all of the footprint of the flats being within this 45m.

## **Conclusion**

HCC as Highway Authority has considered the application and are satisfied that the proposal would not have an unreasonable impact on the safety and operation of the adjoining highway and therefore, has no objections on highway grounds to this application.

### **4.1.5 Crime Prevention Design Advisor: [No objection]**

Thank you for sight of planning application 23/1569/FUL, Demolition of existing garages and erection of 3 storey (plus roof accommodation) block comprising eight 2 bed apartments with associated bin and bike storage, parking, and landscaping works.

I am content that security and crime prevention have been considered for this application and it is the client's intention to build to the Secured by Design standard.

### **4.1.6 Environmental Protection: [No objection] (Comments relate to 23/1569/FUL and 23/1570/FUL)**

The block of flats we have no issues with, the 2 properties behind the flats as long as the access road and junction with pollards are kept clear from parked vehicles there shouldn't be any issues my only concerns are the number of vehicles that are in that area.

## **4.2 Public/Neighbour Consultation**

4.2.1 Number consulted: 41

4.2.2 No of responses received: 3 (2 objections, 1 comment)

4.2.3 Site Notice: Expired 20.10.2023                      Press Notice: Not required.

4.2.4 Summary of Responses:

Comment:

This development is suitable for the inclusion of integrated Swift bricks within the walls of the new building.

Objection:

Disagree with parking survey, cars are currently parked everywhere.

Insufficient parking.

Will make a congested area worse.

Dangerous for children to play.

Overlooking, will directly overlook existing flats and garden.

Too close to existing buildings.

Loss of sunlight.

Highways concerns.

How much pavement left for pedestrians?

Potential damage to existing property (storage sheds).

Impact and disturbance from building work.

## **5 Reason for Delay**

5.1 No delay.

## **6 Relevant Planning Policy, Guidance and 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).

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

In 2023 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 Policies PSP3, 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, DM8, DM9, DM10, 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.

#### 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.

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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 Principle of Development**

- 7.1.1 The NPPF (2023) advises that planning policies and decisions should promote efficient use of land, making efficient use of previously developed land.
- 7.1.2 The Spatial Vision within the Core Strategy looks forward to 2026 and beyond, and sets out the priorities for the future which include “to improve access to housing and affordable housing for communities across the whole district”. In order to implement the vision, the Core Strategy sets out a number of objectives which include (S2) “to make efficient use of previously developed land”, (S4) “to balance the community’s need for future homes...by providing sufficient land to meet a range of local housing needs...” and (S5) “To increase levels of affordable housing in the District...”.
- 7.1.3 The site is located within Maple Cross, identified as a Secondary Centre in the Core Strategy (adopted October 2011). Policy PSP3 of the Core Strategy sets out that development in Secondary Centres will a) focus future development predominantly on sites within the urban area, on previously development and b) will provide approximately 24% of the District’s housing requirements over the plan period.
- 7.1.4 Policy CP2 of the Core Strategy states that applications for windfall sites 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 target.
- 7.1.5 As noted above, the Spatial Strategy states that in Secondary Centres, new development will be directed towards previously developed land and appropriate infilling opportunities within the urban areas. Secondary Centres should between provide for approximately 24% of the District’s housing requirements. The site is situated in an urban location on previously developed land. The proposal therefore complies with Policy PSP3 of the Core Strategy (adopted October 2011), the Three Rivers Spatial Strategy and the National Planning Policy Framework’s (NPPF) core planning principle of encouraging the effective use of previously developed land. However this is subject to consideration against other material planning considerations as discussed below.
- 7.1.6 The loss of garages is considered in the parking section below.

### **7.2 Housing Mix**

- 7.2.1 Policy CP3 of the Core Strategy advises that housing proposals take into account the range of housing needs, in terms of size and type of dwellings as identified by the SHMA and subsequent updates. The Local Housing Needs Assessment (LNHA), was finalised in 2020 and is the most recent update to the SHMA. The recommended mix for market housing, affordable home ownership and social/affordable rented housing identified in the LNHA is shown below:
- 1 bedroom 5% of dwellings
  - 2 bedrooms 23% of dwellings
  - 3 bedrooms 43% of dwellings
  - 4+ bedrooms 30% of dwellings
- 7.2.2 The SHMA and the Core Strategy recognise that these proportions may need to be adjusted taking account of market information, housing needs and preferences and specific site

factors. The nature of the proposed development means that it would provide 8 x 2 bedroom dwellings. Whilst the proposal would not strictly accord with the mix prescribed by Policy CP3 of the Core Strategy, it is considered that a development of this nature, which proposes two new houses, would not prejudice the ability of the Council to deliver overall housing targets and the development is therefore considered acceptable in accordance with Policy CP3 of the Core Strategy (adopted October 2011).

### 7.3 Affordable Housing

- 7.3.1 In view of the identified pressing need for affordable housing in the District, Policy CP4 of the Core Strategy seeks provision of around 45% of all new housing as affordable housing and requires development resulting in a net gain of one or more dwellings to contribute to the provision of affordable housing. This is set out further at **Appendix A**.
- 7.3.2 Developments resulting in a net gain of between one and nine dwellings may meet the requirement to provide affordable housing through a financial contribution (Policy CP4(e)). Details of the calculation of financial contributions in lieu of on-site provision of affordable housing are set out in the Affordable Housing Supplementary Planning Document and are based on the net habitable floor area (449sqm) x £550 per sqm (Rickmansworth South and Maple Cross) which would result in a financial contribution of £246,950 plus indexation of £145,700.50 (based on the RPI as of July 2023), so a total contribution of £392,650.50 in this case.
- 7.3.3 However, in the case of this application the applicant is a Registered Housing Provider whose model is to provide 100% affordable housing on site. Whilst commuted payments are general practice on small schemes that deliver market housing, the Affordable Housing SPD does not preclude small schemes (less than 10 units) from providing affordable housing on site.
- 7.3.4 The application is accompanied by an Affordable Housing Statement which sets out the eight flats are proposed to be provided as Affordable Rented units, with the rents capped at Local Housing Allowance (LHA) rates, in lieu of Social Rents. It is proposed that the rent be capped at LHA rates in perpetuity to ensure that the development remains affordable.
- 7.3.5 Where affordable housing is to be provided on site, Policy CP4 requires 70% Social Rent and 30% Shared Ownership. It is however acknowledged that Policy CP4 is now out of date with regard to tenure, but if read together with the First Homes Ministerial Statement (24 May 2021) and subsequent PPG, a policy compliant scheme should secure 45% affordable housing with a 70%/25%/5% split between Social Rent, First Homes and Shared Ownership respectively.
- 7.3.6 The application is for 8 dwellings, so 45% of this would be 3.6, rounded to 4 dwellings. As only 4 affordable dwellings would be required it would be difficult to apply a 70/25/5 split, however, it is acknowledged that the highest percentage requirement is for Social Rent.
- 7.3.7 As noted above the application proposes 100% of the houses delivered to be Affordable Housing, delivered as Affordable Rent. The applicant's affordable housing statement explains that there are no first homes or shared ownership homes due in part to the funding mechanisms being used to deliver this housing. Funding has been received via the Local Authority Housing Fund are critical to make the development viable. These require homes to be provided for Ukrainian and Afghanistan families who have arrived in the UK under various resettlement and relocation schemes.
- 7.3.8 When compared to Social Rent it is recognised that the proposed Affordable Rental tenure means the rental values are increased from approximately 50% of the market rent up to 80% of the market rent. However, it is proposed that the Affordable Rent be capped at LHA rates which means that it would be affordable for households on no, or low, earned incomes if they are eligible for LHA. As a working example provided by the applicant, assuming that

a typical 2 bedroom flat for rent in Maple Cross is £1,400 per month (£323/week), at 80% the rent would be £1,120 per month (£258/week). However, with the rents capped at LHA (which would remain in perpetuity), the rent would be £1,000 per month (£230.14/week). This means that the average home would cost £120 less per month compared to 80% Affordable Rent, and representing 71% of the Market Rent. This rent includes all service charges that would normally be applied separately through a Social Rent.

7.3.9 In summary, the proposal would exceed the 45% affordable housing policy requirement, providing 100% of the proposed dwellings as affordable housing. The scheme proposes to deliver the affordable housing as Affordable Rented units on site. Whilst the proposed rental product is not specified within Policy CP4, it is a recognised affordable rental product and would be capped at LHA rates. The provision of 100% affordable housing weighs in favour of the scheme. Similarly, the provision of affordable housing on site rather than a commuted payment (£246,950 plus indexation which may be subject to viability) would respond more quickly and directly to the identified pressing need for affordable housing in the District and weighs in favour of the development. It is also noted that the Housing Development Officer is generally supportive of the proposal to provide 100% Affordable Rent capped at LHA. Therefore, the proposed delivery of a 100% affordable housing scheme, with all units delivered on site as affordable rent, is considered to be acceptable.

#### 7.4 Character & Appearance

7.4.1 Policy CP3 of the Core Strategy (adopted October 2011) stipulates that the Council will promote high quality residential development that respects the character of the District and caters for a range of housing needs. In addition, Policy CP12 states that development should:

*'...have regard to the local context and conserve or enhance the character, amenities and quality of an area and should make efficient use of land whilst respecting the distinctiveness of the surrounding area.'*

7.4.2 The National Planning Policy Framework (NPPF) encourages the effective use of land. At the heart of the NPPF is a presumption in favour of sustainable development which seeks positive improvements in the quality of the built environment but at the same time balancing social and environmental concerns.

7.4.3 In terms of new residential development, Policy DM1 of the Development Management Policies LDD (adopted July 2013) advises that the Council will protect the character and residential amenity of existing areas of housing from forms of new residential development which are inappropriate for the area. Policy DM1 states that 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.)

7.4.4 Points ii, iii and iv are referred to in the relevant sections below.

7.4.5 Firstly, no objection is raised on character grounds to the demolition of the existing flat roofed garages that occupy the site.

7.4.6 The proposed block would front the street and would not represent tandem development.

- 7.4.7 The existing character of this part of the street is three-storey flatted blocks with gable ends, shallow sloping roofs and some balconies evident. In terms of layout, the proposed building would have a footprint which would be comparable with that of existing development in the area. The proposed building would front the street in a similar way to the four existing flatted blocks within this central area that front Pollards and Bradbery, set back a similar distance from the highway. It is considered that the proposed layout would reflect existing development and would not result in harm to the character of the area.
- 7.4.8 The development would however appear as four-storeys due to the design and extent of accommodation to be provided at roof level. It would have a ridge height of 12.6 metres and eaves height of 9 metres. It is acknowledged that this would introduce a building of greater mass and bulk than existing, the neighbouring three-storey buildings have ridges of approximately 10 metres height. It is also noted that the building's prominence may be increased due to its forward siting relative to its two immediate neighbours. However, whilst it would be visible, it would be set back from the road to the frontage and to the flanks, and given the variation in building heights in the area and spacing it is not considered that it would appear excessively prominent within the street scene.
- 7.4.9 The building would include gables to the flanks which would be reflective of the design of the existing flats. The proposed roof level accommodation would be served by dormer windows, these are not an existing feature within the area. Guidance within Appendix 2 requires that dormer windows are subordinate, set down from the ridge, back from the rear wall and in from the flanks. Two dormer windows are proposed to front elevation. These would be wide, however, they would be set in from both flanks, set down a good distance from the ridge, set back from the rear wall and with space between them. The rear dormer is a single feature, it would occupy a significant proportion of the roof width but like those to the front, it would be set down considerably, set in from each flank and set back from the rear wall. The central section has also been stepped to break up the linear form. It is considered that the dormers would be subordinate within the host roof. Existing flatted blocks in the area include a mix of recessed and projecting balconies. The proposed development includes balconies which would not therefore be out of character, however, they would be recessed thereby not increasing the external mass of the building.
- 7.4.10 Additionally, in terms of materials the Design and Access Statement refers to the use of a buff coloured brick which is reflective of existing materials within the area. Windows are proposed to be dark grey frames, with the roof formed of dark zinc standing seam to the dormers and grey concrete roof tiles. The indicated materials are considered acceptable, however, details/samples would be required by condition of any grant of consent.
- 7.4.11 The proposed flats would have hardstanding to the front to provide parking. There is limited opportunity for soft landscaping, however, a buffer is proposed between the parking area and building which is welcomed. Additionally green roofs are proposed to the two ancillary structures (cycle and refuse stores). Full details of the cycle and refuse stores have been provided with the application and therefore further details are not required by condition.
- 7.4.12 In summary, the proposed development would make efficient use of previously developed land. The proposed building is considered to be of an appropriate form, scale and siting and subject to conditions (eg. materials) would not appear excessively prominent or result in demonstrable harm to the character or appearance of the area. The development would therefore accord with Policies CP1, CP3 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

## 7.5 Impact on Neighbouring Amenity

- 7.5.1 The Design Criteria as set out in Appendix 2 of the Development Management Policies LDD (adopted July 2013) state that new development should take into consideration impacts on neighbouring properties and visual impacts generally. Oversized, unattractive and poorly

sited development can result in loss of light and outlook for neighbours and detract from the character and appearance of the area.

- 7.5.2 With regards to privacy, Appendix 2 states to prevent overlooking, distances between buildings should be sufficient so as to prevent overlooking, particularly from upper floors. As an indicative figure, 28m should be achieved between the faces of single or two storey buildings backing onto each other or in other circumstances where privacy needs to be achieved. Mitigating circumstances such as careful layout and orientation, screening and window positions may allow a reduction of distances between elevations.
- 7.5.3 Flats 1 – 11 are located to the south-east of the application site, orientated at 90 degrees to the application site and proposed building. As the proposed building would be set forward of this neighbour and given the spacing that would be retained (5.6 metres between the two closest corners) it is not considered that there would be harm by virtue of overshadowing or loss of light to these neighbouring flats. There are no flank openings in this adjacent block facing the application site. There are windows and balconies to the rear of Flats 1 – 11 and it is acknowledged that the outlook from these would change, however, there is no right to a view in planning terms and the proposed building would be sited at an oblique angle to the existing openings with their direct outlook remaining over the amenity space serving the existing blocks. Windows are proposed to the rear of the proposed building and there would therefore be opportunity for views towards the existing flats (1 – 11), however, as noted above the relationship would mean views would be at an oblique angle with no back to back or direct facing relationship and as such it is not considered that the development would result in demonstrable harm through overlooking of Flats 1 – 11.
- 7.5.4 Flats 13 – 23 are located to the south-west of the site. They face the same direction as the proposed flats and the front elevation of the existing flats would be roughly level with the rear elevation of the proposed building with 3 metre spacing between. Given the relative siting it is not considered that there would be harm by virtue of overshadowing or loss of light to these neighbouring flats. It is also noted that the existing flats (13 – 23) are favourably sited to the south-west. There are no flank windows within the adjacent block that would be overlooked by the proposed development. The proposed building would include flank openings which would face towards the area to the front of the adjacent building. It is not considered that the flank openings would facilitate overlooking of habitable rooms. The rear openings proposed would not facilitate overlooking of Flats 13 – 23 given the set back nature of this adjacent building.
- 7.5.5 Flats 14 – 24 are located to the south of the site with a distance of approximately 25 metres between the rear of this building and the application site. The rear elevation of the proposed building would face the rear of this existing building, however, the buildings are staggered such that it is not a direct back to back relationship for the full width of either building. The spacing would be less than the 28 metre guidance figure referenced in Appendix 2, it is also acknowledged that this refers to 2-storey development. However, it is an indicative figure and regard also has to be had to the site circumstances. The site is within an urban area with a degree of existing overlooking between existing flatted blocks and it is not considered that the proposed development would result in overlooking of Flats 14 – 24 that would result in such demonstrable harm justifying refusal of planning permission.
- 7.5.6 To the rear no ground floor openings are proposed but windows and balconies are proposed over all upper levels. These would face an existing communal amenity space used by neighbouring existing flats. Whilst there would be overlooking of this area, given the existing flats all overlook this area it is not private and it is not considered that the proposal would result in demonstrable harm through overlooking. The existing storage sheds that adjoin the site boundary provide separation such that it is not considered that the proposed building would be overly dominant to those using the communal amenity space. The relationship between the proposed building and amenity space would be comparable to the relationship between this space and the existing flats.

- 7.5.7 Windows and balconies to the front would be separated from properties opposite by the highway and the front to front relationship, intervening road and separation is such that it is not considered that unacceptable overlooking would be facilitated.
- 7.5.8 The rear elevation would adjoin the existing storage sheds but would not affect the use of these buildings which are outside of the application site. Concerns regarding impact of construction on these buildings is noted, however, the grant of planning permission does not convey consent required by other legislation such as building regulations.
- 7.5.9 In summary, whilst it is acknowledged that there would be a change in outlook, it is considered that the development would not facilitate overlooking of neighbouring properties to the detriment of their residential amenities, or result in demonstrable harm through overshadowing or loss of light, and the proposal would be acceptable in this regard 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).

## 7.6 Quality of Accommodation for Future Occupiers

- 7.6.1 Whilst TRDC does not have its own internal spaces standards, the Design and Access Statement confirms that the proposed flats have been designed to meet national space standards, ensuring a good quality of accommodation for future occupiers.
- 7.6.2 The development is designed so that each dwelling would benefit from a private balcony of 7sqm. Amenity space standards are set out in Appendix 2 of the Three Rivers Local Plan (adopted July 2013) and specify a requirement for 31sqm for 2 bedroom flats. This would result in a total requirement for 248sqm to serve the proposed development. As noted above each flat would benefit from 7sqm amenity space in the form of private balconies. No communal amenity space is provided. The development would therefore result in a shortfall of 24sqm per flat (184sqm in total).
- 7.6.3 The site is located within close proximity to publicly accessible open space including Beechen Wood (5 minutes), Beechen Wood Play Area (4 minutes), Hornhill Road Play Area (10 minutes) and Denham Way Play Area (16 minutes).
- 7.6.4 The shortfall in amenity space is acknowledged, however, the provision of balconies to each unit would ensure that each flat had a private and easily accessible outdoor area. As noted above there are also publicly accessible facilities within short walking distance. It is not considered that the shortfall in amenity space would result in such demonstrable harm to the amenity of future occupiers to justify refusal of planning permission.
- 7.6.5 In terms of privacy, as set out above, the site is within an urban area with a degree of existing overlooking between existing flatted blocks. However, it is considered that the siting of the proposed building and spacing around it is such that future occupiers would be afforded a good degree of privacy.

## 7.7 Safety & Security

- 7.7.1 Policy CP1 of the Core Strategy (adopted October 2011) advises that all development in Three Rivers will contribute to the sustainability of the District. This means taking into account the need to, for example, promote buildings and public spaces that reduce opportunities for crime and anti-social behaviour. Policy CP12 also requires that development proposals design out opportunities for crime and anti-social behaviour through the incorporation of appropriate measures to minimise the risk of crime and create safe and attractive places.
- 7.7.2 The Crime Prevention Design Advisor has confirmed that the development complies with Gold Secured by Design requirements.

## 7.8 Trees & Landscape

7.8.1 In ensuring that all development contributes to the sustainability of the District, Policy CP12 of the Core Strategy (adopted October 2011) advises that development proposals should:

“i) Ensure that development is adequately landscaped and is designed to retain, enhance or improve important existing natural features; landscaping should reflect the surrounding landscape of the area and where appropriate integrate with adjoining networks of green open spaces”.

7.8.2 Policy DM6 (Biodiversity, Trees, Woodlands, Watercourses and Landscaping) of the Development Management Policies LDD (adopted July 2013) advises that development proposals for new development should be submitted with landscaping proposals which seek to retain trees and other landscape and nature conservation features.

7.8.3 The application is accompanied by an Arboricultural Impact Assessment (AIA) which has been reviewed by the Landscape Officer. The AIA notes that there are no on site trees and no off-site trees within the vicinity that would be affected by the proposed development. The Landscape Officer therefore raises no objections and no conditions regarding tree protection are required.

7.8.4 The Landscape Officer notes that some limited soft landscaping is indicated on the proposed block plan. It is considered appropriate to require further details by condition to ensure that the landscaping proposed is acceptable and enhances the development. Subject to condition, the development is considered to accord with Policy DM6 of the Development Management Policies LDD (adopted July 2013).

## 7.9 Highways & Access

7.9.1 Policy CP1 of the Core Strategy (adopted October 2011) advises that in ensuring all development contributes to the sustainability of the District, it is necessary to take into account the need to reduce the need to travel by locating development in accessible locations and promoting a range of sustainable transport modes.

7.9.2 Policy CP10 (Transport and Travel) of the Core Strategy (adopted October 2011) advises that all development should be designed and located to minimise the impacts of travel by motor vehicle on the District. Development will need to demonstrate that:

*i) It provides a safe and adequate means of access*

*j) It is appropriate in scale to the existing infrastructure...*

*k) It is integrated with the wider network of transport routes...*

*l) It makes adequate provision for all users...*

*m) It includes where appropriate, provision for public transport either within the scheme or through contributions*

*n) The impact of the proposal on transport has been fully assessed...*

*o) The proposal is accompanied by a draft Green Travel Plan*

7.9.3 The application is accompanied by a Transport Assessment.

7.9.4 HCC as Highways Authority (HCCHA) raised an initial objection, however, following the receipt of amended/additional information HCCHA have confirmed that they raise no objection subject to a number of informatives. HCCHA also request that a Construction Management Plan (CMP) be secured via condition.

7.9.5 HCCHA noted that Pollards is an unclassified local access route subject to a 30mph speed limit which is highway maintainable at public expense. There is a footway to either side and opposite the site but there is not one fronting the site itself and the existing area fronting the garages is not highway land. The closest bus stop to the site is approximately 270m away

on Downings Wood and is a stop for the 321 Sapphire, R1, R2 and W1 buses. The nearest train station to the site is Rickmansworth, although it would not be considered to be within an accessible walking distance as it is 4.2km away. The nearest shop is the Morrisons Daily in Maple Cross which is approximately a 900m walk. Given the location within an existing residential area, the site does provide options for a number of active travel methods. Having regard to the above HCCHA comment that they are satisfied that the site is in a suitably sustainable location for the size of development, which is in line with the principles set out in HCC's Local Transport Plan 4 (LTP4).

- 7.9.6 The application proposes to make use of the existing vehicular access into the site formed by a dropped kerb, no changes are proposed meaning no highway works are required. The amended site plan, drawing number 050 Rev A, moves the proposed bin and cycle stores further back into the site meaning that they are no longer located in the visibility splays for the parking area. Additionally, according to the Sightline Assessment document, the boundary walls at the site have been reduced to be less than 0.6m in height, further ensuring that the visibility splay from the parking spaces are not interrupted. HCCHA also note that a speed survey has now been provided within the Sightline Assessment which indicates that the 85th percentile speed past the site is 16mph, drastically reducing the length of the required visibility splay to 18m. These splays are shown on drawing number P2762/TN/2, and are unobstructed. The proposed, unadopted, footway fronting the site has been increased from 1.2m in width to around 1.6m in width which HCCA consider a more suitable width, being above the minimum width outlined within Roads in Hertfordshire. HCCHA also note that there have not been any collisions on Pollards, nor the surrounding network within the residential area, within the last 5 years.
- 7.9.7 In relation to refuse collection, HCCHA refer to Manual for Streets Paragraph 6.8.9 which states that waste collection vehicles must be able to get within 25 metres of the bin storage location and residents must not have to carry waste for more than 30 metres to this location. HCCHA note that these distances would not be exceeded and raise no objection in this regard.
- 7.9.8 In relation to emergency vehicle access, HCCHA note that in accordance with Manual for Streets Paragraph 6.7, the entirety of the footprint of a dwelling must be within 45 metres from the edge of the highway so an emergency vehicle can gain access. HCCHA note that this is the case at this site with all of the footprint of the flats being within this 45m.
- 7.9.9 In summary, HCCHA has considered the application and are satisfied that the proposal would not have an unreasonable impact on the safety and operation of the adjoining highway and therefore, raise no objections on highway grounds. The application is considered to accord with Policies CP1 and CP10 of the Core Strategy (adopted October 2011) in this regard.

## 7.10 Parking

### Loss of Existing Garages

- 7.10.1 The application site is currently occupied by 10 garages which are proposed to be demolished to facilitate the proposed development. The garages are not proposed to be replaced, with the 8 parking spaces proposed as part of the application intended to serve the proposed dwellings (parking for the proposed dwellings is discussed below).
- 7.10.2 The application is accompanied by a Transport Assessment (TA) which has considered the implications of the loss of the existing garages in terms of the potential displacement of parking. The TA includes a parking survey. Regarding displaced parking from the existing garages, the TA suggests that of the 20 garages to be demolished across both Pollards sites, 14 are in use. According to the TA, of the 14 garages in use, 5 are used by people who live within the area of the parking survey and therefore this would be the estimated maximum number of expected displaced vehicles. In the event that this number is higher,



the parking stress survey mentioned within the TA, and provided within the appendix figures, indicates that much of the surrounding area has unrestricted parking with a parking stress of 62%. HCCHA therefore consider it likely that on street parking would be available without causing the parking stress to increase to an unacceptable level.

- 7.10.3 It is noted that application 23/1570/FUL for 2 x 4 bedroom dwellings following demolition of 10 garages to the rear of 22 – 32 Pollards is pending consideration. The applications are separate applications and must be considered individually on their own merits. However, it is relevant to note that the TA submitted (as referenced above) was undertaken as a joint TA in relation to both sites and therefore considers the cumulative impact of the loss of both sets of garages (20 in total). As noted above, the TA identified sufficient capacity of unallocated on-street spaces to accommodate any displaced parking.

#### Proposed Development

- 7.10.4 Three Rivers District Council are the Parking Authority, and Policy DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013) set out the car parking requirements for the District. The proposed development of 8 x 2 bedroom flats would result in a requirement for 16 spaces of which 8 should be assigned. The proposal includes 8 car parking spaces so provides the requisite number of allocated spaces, however, there would be an overall shortfall of 8 spaces. As noted above, the submitted TA demonstrates availability of unallocated on-street spaces which it is considered would accommodate any vehicles displaced from the existing garages. The availability of on-street parking is also considered sufficient to overcome the shortfall in parking on site. It is assumed that the 8 spaces would be allocated as 1 space per flat and a Parking Management Plan is suggested via condition to ensure details of allocation/management are provided.
- 7.10.5 The submitted Transport Assessment sets out that an Electric Vehicle Charging Point (EVCP) will be provided for each dwelling. Whilst there is no current policy requirement, the provision of EVCP is supported by both TRDC and HCCHA. As the EVCP is not detailed on the submitted plans, it is considered appropriate to require further details via condition.
- 7.10.6 A secure cycle store is proposed to the front of the building. This would provide cycle parking for each flat which would exceed the Policy requirement for 1 space per 2 units.

#### Parking Conclusion

- 7.10.7 In summary, the proposed development would provide 8 parking spaces to serve the proposed development, thereby providing the required number of allocated spaces. It is considered that there is sufficient capacity of unallocated parking spaces within the vicinity of the existing garages to accommodate any vehicles displaced as a result of the loss of the 10 garages in addition to the shortfall in parking (8 spaces) to serve the proposed development. Cycle parking for the proposed development would exceed standards and details of EVCP would be secured via condition. Subject to conditions the proposed level of parking is considered acceptable and would not result in demonstrable harm and the development is therefore considered acceptable in this regard 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).

#### 7.11 Sustainability

- 7.11.1 Policy DM4 of the Development Management Policies LDD sets out that development must produce at least 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.

7.11.2 An Energy Statement has been submitted with the application which demonstrates that the proposal would far exceed the current policy, achieving a 66% reduction in carbon emissions against the Building Regulations Part L (2021). A condition on any grant of consent would require compliance with the approved Energy Statement.

## 7.12 Wildlife & Biodiversity

7.12.1 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.

7.12.2 Policy CP1 of the Core Strategy (adopted October 2011) advises that; “all development in Three Rivers will contribute to the sustainability of the District. This means taking into account the need to” (amongst other things) (f) “protect and enhance our natural, built and historic environment from inappropriate development and improve the diversity of wildlife and habitats”.

7.12.3 Policy CP9 of the Core Strategy (adopted October 2011) advises that; “The Council will seek a net gain in the quality and quantity of Green Infrastructure, through the protection and enhancement of assets and provision of new green spaces”.

7.12.4 Policy DM6 of the Development Management Policies LDD advises that development should result in no net loss of biodiversity value across the District as a whole.

7.12.5 The PEA notes that habitats on site are considered to be of mostly negligible ecological value with the presence of protected species therefore negligible to low potential. No further surveys are considered necessary, however, mitigation and precautionary measures are suggested, including careful consideration of lighting. The PEA makes other recommendations in relation to construction, including that any trenches or holes are covered or mammal ladders provided, and in relation to the completed development eg. provision of bird boxes. Compliance with the PEA would be a condition on any grant of consent.

7.12.6 Subject to compliance with the PEA, the development is considered acceptable in accordance with Policy DM6 of the Development Management Policies LDD (adopted July 2013).

## 7.13 Refuse & Recycling

7.13.1 Policy DM10 (Waste Management) of the Development Management Policies LDD (adopted July 2013) advises that the Council will ensure that there is adequate provision for the storage and recycling of waste and that these facilities are fully integrated into design proposals. New developments will only be supported where:

- i) The siting or design of waste/recycling areas would not result in any adverse impact to residential or work place amenity
- ii) Waste/recycling areas can be easily accessed (and moved) by occupiers and by local authority/private waste providers
- iii) There would be no obstruction of pedestrian, cyclists or driver site lines

7.13.2 The submitted layout plan indicates that an area for refuse and recycling storage would be provided to the front of the building which would provide sufficient storage for the required number of bins and would be easily accessible for collection from Pollards.

7.13.3 Environmental Protection have raised no objection to the details provided, the roadside collection would reflect the existing collection arrangements of neighbouring flatted blocks. HCC as Highway Authority also consider the arrangements to be acceptable.

## 7.14 Conclusion

- 7.14.1 The LPA cannot currently demonstrate a 5 year housing land supply, and therefore paragraph 11 footnote 7 of the NPPF (2023) is required to be considered. Paragraph 11 and footnote 7 clarifies that in the context of decision-taking that if the policies which are most important for determining the application are out-of-date (which includes where the LPA cannot demonstrate a five year supply of deliverable housing sites) then planning permission should be granted unless 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.
- 7.14.2 The proposal would result in an uplift of 8 dwellings. The additional dwellings would therefore add to the district's housing stock and thus would weigh in favour of the development. The units would be provided as Affordable Rented units, with rates capped at LHA to ensure that they remain affordable in perpetuity. The development would make a positive contribution in meeting the pressing need for affordable housing in the district which would also weigh in favour of the development. The development would be on previously developed land and would not result in demonstrable harm to the character or appearance of the area or residential amenity of neighbouring occupiers. The proposed dwellings would exceed national space standards with private balconies provided. There would be a shortfall in amenity space, however, this is not considered to result in demonstrable harm justifying refusal of planning permission. No objections are raised on highways safety grounds. There is capacity within the vicinity of the site to accommodate any displacement following the loss of the existing garages and the level of parking to serve the proposed dwellings is considered acceptable subject to conditions. The development would far exceed the requirements of Policy DM1 in relation to carbon emissions.
- 7.14.3 It is considered that the development complies with paragraph 11 of the NPPF. However, for the reasons previously outlined within the sections above the development is considered to be acceptable in its own right and therefore the application of Paragraph 11 is not relied upon to justify its acceptability.

## 8 **Recommendation**

- 8.1 That PLANNING PERMISSION BE GRANTED, subject to the following conditions:

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

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

C2 PLANS: The development hereby permitted shall be carried out in accordance with the following approved plans: 001, 010, 020, 030, 101 (1<sup>st</sup> and 2<sup>nd</sup> Floor), 101 (3<sup>rd</sup> Floor and Roof), 300, 050 A, 100 A, 200 A, 400 A.

Reason: For the avoidance of doubt in the proper interest of planning and to meet the requirements of Policies PSP3, CP1, CP2, CP3, CP4, CP8, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM4, DM6, DM8, DM9, DM10, DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013).

C3 AFFORDABLE HOUSING: No development shall take place until a scheme for the provision of eight flats to be constructed on the site pursuant to the planning permission as Affordable Housing has been submitted to and approved in writing by the Local Planning Authority. The Affordable Housing shall be provided in accordance with the approved scheme. The scheme shall include:

- i. the eight x two-bed flats which shall be constructed on the site and provided as Affordable Rented Dwellings.
- ii. the arrangements for the transfer of the Affordable Housing to an Affordable Housing Provider or the arrangements for the management of the Affordable Housing if those dwellings are not to be transferred to a Affordable Housing Provider;
- iii. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the Affordable Housing; and
- iv. the occupancy criteria to be used for determining the identity of occupiers of the Affordable Housing and the means by which such occupancy criteria shall be enforced.
- v. the timing of the completion of a Nominations Agreement to be entered into formalising the details to be agreed in respect of paragraphs (iv) and (v) above (in any event that Nominations Agreement to be completed prior to first Occupation of the Affordable Housing)
- vi. the arrangements for the use of any Net Proceeds following the sale of an interest in any of the Affordable Housing (in accordance where applicable with Homes England guidance)

The Affordable Housing shall be provided in accordance with the approved scheme. The dwellings constructed shall not be used for any other purpose than as Affordable Housing in accordance with that approved scheme, subject to:

- (A) any rights to acquire pursuant to the Housing Act 1996 or any equivalent statutory provision for the time being in force;
- (B) any right to buy pursuant to the Housing Act 1985 or any equivalent statutory provision for the time being in force;
- (C) the restriction upon the use and disposal of the Affordable Housing shall cease to apply to the whole or any part of an Affordable Dwelling (hereafter referred to as the 'Affected Affordable Dwelling') where that whole or part is transferred or leased, pursuant to an event of default by any mortgagee or chargee of the Affordable Housing Provider or the successors in title to such mortgagee or chargee, or by any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925 (hereafter referred to as the "Chargee"), PROVIDED THAT:
  - (i) the Chargee has first given the Council and the Affordable Housing Provider (as appropriate) 4 (four) months prior notice in writing (the "Chargee's Notice") of its intention to exercise any power of sale or lease in respect of any Affected Affordable Dwelling; and
  - (ii) the Chargee has first given the Council or the Affordable Housing Provider the opportunity to complete a transfer of the Affected Affordable Dwelling in order to ensure that it continues to be used for the purposes of Affordable Housing. The Chargee's Notice shall not be a valid Chargee's Notice unless it is accompanied by a conveyancer's certificate signed and dated by the conveyancer and confirming that, at the date of the notice, the Chargee giving the notice is entitled to execute a transfer of the freehold of the Affected Affordable Dwelling and all land required to gain access to the Affected Affordable Dwelling from the public highway; and
  - (iii) the price for the purchase of the Affected Affordable Dwelling by the Council or the Affordable Housing Provider demanded by the Chargee shall not be permitted to exceed the market value of the Affected Affordable Dwelling at the date of the transfer on the valuation assumption that it is to be retained in perpetuity as Affordable Housing.
  - (iv) If the Council or the Affordable Housing Provider is unable to secure the transfer of the Affected Affordable Dwelling under the terms and in the circumstances described above within the said period of 4 (four) months in accordance with sub-paragraph (i) above then the Chargee shall be entitled to dispose of the Affected Affordable Dwelling on the open market not subject to the condition above that it shall not be used for any other purpose than as Affordable Housing.

Reason: This is a pre commencement condition to meet local housing need within the Three Rivers district and to comply with Policies CP1, CP2, CP3 and CP4 of the Core Strategy (adopted October 2011) and the Affordable Housing SPD (approved July 2011).

C4 CONSTRUCTION MANAGEMENT PLAN: No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:

- 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;

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

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

C5 LANDSCAPING: No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of hard and soft landscaping, including details of the proposed green roofs. The scheme shall include details of size, species, planting heights, densities and positions of any proposed soft landscaping, and a specification of all hard landscaping including locations, materials and method of drainage.

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

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: This condition is required to ensure the completed scheme has a satisfactory visual impact on the character and appearance of the area. It is required to be a pre commencement condition to enable the LPA to assess in full the trees to be removed and the replacement landscaping requirement before any works take place, and to ensure trees to be retained are protected before any works commence in the interests of the visual amenity of the area in accordance with Policies CP1 and CP12 of the

Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

- C6 MATERIALS: Before any building operations above ground level hereby permitted are commenced, samples and details of the proposed external materials shall be submitted to and approved in writing by the Local Planning Authority and no external materials shall be used other than those approved.

Reason: To prevent the building 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).

- C7 PARKING MANGEMENT PLAN: A parking management plan, including details of the allocation of vehicle parking spaces and cycle storage spaces within the development and long term management responsibilities and maintenance schedules for all communal parking areas, shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development hereby permitted. The parking management plan shall be carried out in accordance with the approved details following occupation of the units and maintained thereafter.

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

- C8 ELECTRIC VEHICLE CHARGING POINTS (EVCPs): Prior to the first use of the development hereby permitted, the details and design of EVCPs shall be submitted to and approved in writing by the Local Planning Authority. All EVCPs shall be installed in accordance with the approved details prior to occupation of the units and permanently maintained and retained.

Reason: To ensure construction of a satisfactory development and to promote sustainable development in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011).

- C9 LIGHTING: No external lighting shall be installed on the site or affixed to any buildings on the site unless the Local Planning Authority has first approved in writing details of the position, height, design and intensity. The lighting shall be installed in accordance with the approved details before the use commences.

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

- C10 ENERGY STATEMENT: The development shall not be occupied until the energy saving and renewable energy measures detailed within the Energy Statement submitted as part of the application are incorporated into the approved development.

Reason: To ensure that the development meets the requirements of Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM4 and Appendix 2 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.

C11 BICYCLE STORAGE: No dwelling shall be occupied until its secure cycle storage as shown on plans 50 A and 400 A has been provided. The storage shall be permanently retained thereafter.

Reason: In order to ensure bicycle parking facilities are provided and to encourage use of sustainable modes of travel in accordance with Policies CP1, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

C12 REFUSE STORAGE: The development shall not be occupied until the approved refuse scheme as shown on plans 50 A and 400 A has been provided and these facilities should be retained permanently thereafter.

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

C13 ECOLOGY RECOMMENDATIONS: The development shall be carried out in accordance with the recommendations set out within the Preliminary Ecological Appraisal prepared by Syntegra Consulting June 2023 (ref. 23-10798).

Reason: In the interests of biodiversity 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).

## 8.2 **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 01438 879990 or at [buildingcontrol@hertfordshirebc.co.uk](mailto:buildingcontrol@hertfordshirebc.co.uk) who will be happy to advise you on building control matters and will protect your interests throughout your build project by leading the compliance process. Further information is available at [www.hertfordshirebc.co.uk](http://www.hertfordshirebc.co.uk).

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

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

{\b (a)} Making a Non-Material Amendment

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

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

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

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

- 12 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.
- 13 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.
- 14 The applicant is hereby advised to remove all site notices on or near the site that were displayed pursuant to the application.
- 15 Swifts are one of four red-listed species of conservation concern. The applicant is encouraged to consider the integration of a swift brick(s) within the development. More information can be found on the RSPB website and via [www.swiftmapper.org.uk](http://www.swiftmapper.org.uk)



16 Affordable Housing – Definitions:

The following terms (and those related to them) referred to at Condition C3 shall be defined as set out below:

Affordable Housing means Affordable Rented Dwellings meeting Scheme Design and Quality Standards at costs below those associated with open market housing and which is available to, affordable by and occupied only by those in Housing Need.

Affordable Rented Dwellings means a dwelling provided through an Affordable Housing Provider let to households who are in Housing Need subject to rent controls that require a rent that does not exceed the South West Herts Local Housing Allowance (including any Reasonable Service Charge).

Affordable Housing Provider means a registered provider registered with the Homes England (HE) or other body registered with the HE under the relevant Housing Act or other body approved by the HE to receive social housing Grant such Affordable Housing Provider in any event to be approved by the Council.

Choice Based Lettings Scheme means the system which is used by TRDC which enables properties to be let to applicants.

Housing Allocations Policy is the Council's policy which determines the Council's priorities and procedures when allocating accommodation in accordance with the requirements of Section 167 of the Housing Act 1996.

Dwelling means a residential unit comprised in the development.

Homes England (HE) means the agency of that name established by the Government (pursuant to the Housing and Regeneration Act 2008) which exercises the function of the former Housing Corporation in relation to financial assistance for new affordable homes (or any successor body).

Housing Need means persons who are assessed by the Council as being unable to resolve their housing needs in the private sector market because of the relationship between housing costs and incomes in accordance with the Choice Based Lettings Scheme.

Net Proceeds means any receipts or consideration received by a Affordable Housing Provider from the sale of an interest in any of the Affordable Housing following its initial occupation after deduction of the Affordable Housing Provider's reasonable evidenced costs of acquisition, construction and sale of the relevant affordable dwelling and the deduction of any Grant repayable.

Nominations Agreement means a contract to be entered into between the Council and the owner of the Affordable Housing whereby the Council shall have 100% nomination rights in respect of the Affordable Housing on first Occupation and 75% thereafter on re-lets to enable the Council to nominate occupiers.

Open Market Value means the value confirmed by a certificate (from a professionally qualified valuer and produced in accordance, where applicable, with the Homes and Communities Agency Capital Funding Guide or successor requirements) that the relevant interest in the dwelling would fetch if sold on the open market by a willing vendor to a willing purchaser

Provided means practically completed, ready for first occupation, fully serviced and subject to a contract with an Affordable Housing Provider for the acquisition of the freehold or no less than a 125 year leasehold interest.

Reasonable Service Charge means a sum that covers the contribution requested from time to time for those services and facilities which are of a nature and to a standard reasonably required in connection with and which directly benefit the relevant Affordable Housing, such sum to be set at a fair and reasonable proportion of the costs relating to the services provided.

Scheme Design and Quality Standards means standards in relation to the internal environment sustainability and external environment of Affordable Housing as set out in the Housing Corporation's document entitled 'Design & Quality Standards 2007' or such other replacement design standards as may be issued from time to time.

- 17 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 County Council website at:  
<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 Obstruction of highway: 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 County Council website at:  
<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

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

- 110 Construction Management Plan (CMP): The purpose of the CMP is to help developers minimise construction impacts and relates to all construction activity both on and off site that impacts on the wider environment. It is intended to be a live document whereby different stages will be completed and submitted for application as the development progresses. A completed and signed CMP must address the way in which any impacts associated with the proposed works, and any cumulative impacts of other nearby construction sites will be mitigated and managed. The level of detail required in a CMP will depend on the scale and nature of development.

The CMP would need to include elements of the Construction Logistics and Community Safety (CLOCS) standards as set out in our Construction Management template, a copy of which is available on the County Council's website at:

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx>

## APPENDIX A

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

#### **Background**

- 1.1 In November 2014, the Minister of State for Housing and Planning issued a Written Ministerial Statement (WMS) setting out changes to national planning policy. The WMS stated that financial contributions towards affordable housing should no longer be sought on sites of 10 units or less and which have a maximum combined gross floor area of 1,000sqm. National Planning Practice Guidance (NPPG) was amended to reflect this. However on 31<sup>st</sup> July 2015 the High Court held (*West Berkshire Council v SSCLG* [2015]) that the policy expressed through the WMS was unlawful and the NPPG was changed to reflect this. On 11<sup>th</sup> May 2016 the Court of Appeal reversed the High Court decision. The NPPG was subsequently amended to reflect the WMS on 19<sup>th</sup> May 2016.
- 1.2 In light of the above developments, between November 2014 and August 2015 and May 2016 and 1<sup>st</sup> September 2017 the Council gave greater weight to the WMS policy and associated NPPG guidance in it than to adopted Policy CP4 of its Core Strategy in respect of development proposals for 10 dwellings or less and which had a maximum combined gross floor area of 1000 sq metres. However, having undertaken an analysis of up to date evidence of housing needs (**The Needs Analysis**), officers advised in 2017 that when considering the weight to be given to the WMS in the context of breaches of the adopted development plan policy, the local evidence of housing need contained in the Needs Analysis should generally be given greater weight. On 1<sup>st</sup> September 2017 the Council resolved to have regard to the Needs Analysis as a consideration of significant weight when considering the relationship between Policy CP4 and the WMS for the purposes of Section 70(2) Town and Country Planning Act 1990 and Section 38(6) Planning and Compulsory Purchase Act 2004 in respect of development proposals of 10 dwellings or less.
- 1.3 On 24<sup>th</sup> July 2018 a new version of the National Planning Policy Framework<sup>1</sup> (the Framework) was published with immediate effect for development management purposes. Paragraph 64 of the Framework advises that *“Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer).”* Annex 2 of the NPPF defines *“major development”* as *“for housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more.”*
- 1.4 The Council's current affordable housing policy is set out in Policy CP4 of the Core Strategy (adopted in October 2011) and establishes that :
  - a) “...All new development resulting in a net gain of one or more dwellings will be expected to contribute to the provision of affordable housing.”
  - e) “In most cases require affordable housing provision to be made on site, but in relation to small sites delivering between one and nine dwellings, consider the use of commuted payments towards provision off site. Such payments will be broadly equivalent in value to on-site provision but may vary depending on site circumstances and viability.”

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<sup>1</sup> The National Planning Policy Framework was updated in February 2019 and July 2021 and retains the policies as stated in Paragraph 1.3 of this document.

- 1.5 The supporting text to Policy CP4 summarises the justification for it:
- Average house prices in Three Rivers are some of the highest in the country outside of London. As a result, many local people have difficulty accessing housing on the open market.
  - A Housing Needs Study estimated that 429 affordable dwellings would be needed each year to satisfy need. Such provision would exceed the total number of all housing types provided in the District in any year.
  - The 2010 Strategic Market Housing Assessment (SMHA) found that the requirement for affordable housing in and around the Three Rivers area remains exceptionally high.
  - In order to completely satisfy affordable housing requirements, **all** future housing in the district to 2021 would need to be affordable.
- 1.6 This policy remains the legal starting point for the consideration of planning applications under Section 38(6) PCPA 2004, which requires that the Council determines applications in accordance with the adopted development plan unless material considerations indicate otherwise. Revised NPPF 64 is a material consideration. The weight to be given to it is a matter for the decision maker when determining each planning application. This note explains the advice from the Head of Planning Policy & Conservation and Head of Regulatory Services on the weight that they recommend should be given to NPPF 64 for these purposes in light of the Needs Analysis.
- 1.7 Since the adoption of its Core Strategy in 2011 and as of 31 December 2022, Three Rivers has received small site affordable housing contributions amounting to over **£2.9 million**. Utilising those monies has funded the delivery of 55 units of additional affordable housing to date. 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 £2.9 million already received, small scale (1-9 unit) schemes have secured to date a further **£760,000.00 to £2million<sup>2</sup>** of affordable housing contributions in respect of unimplemented but current planning permissions. All of those schemes were agreed to be viable with those sums secured. The Council 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 124 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 2022, 255 planning permissions were granted for minor residential developments which contribute a net dwelling gain. Of those only 18 have been permitted to lapse which is only 7.1% of all such schemes<sup>3</sup>.

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<sup>2</sup> The sums payable secured by Sec 106 will be subject to indexation, in most cases from June 2011 which will not be calculable until the date of payment. The quoted upper limit includes 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. Data is as of February 2023

<sup>3</sup> The Needs Analyses (December 2019 and December 2020) referred to a lapse rate of 9% for minor developments; manual analysis has since demonstrated that a number of sites included in the 9% lapse figure

- 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 2022, 254 planning applications for residential development involving a net gain of dwellings were determined<sup>4</sup> by the Council. Of these, 227 applications (89%) were for schemes which proposed a net gain of 1-9 units. Having a large number of small sites is an inevitable consequence of the District being contained within the Metropolitan Green Belt. The contribution to both market housing supply and affordable housing supply are therefore both material to the overall identified needs and adopted development plan objectives. This is dealt with in more detail below.
- 1.12 If the weight to be given to the Framework is greater than the adopted development plan, this large proportion of Three Rivers' expected new housing delivery will contribute nothing towards affordable housing. This would compromise Three Rivers' ability to deliver its objectively assessed need for affordable housing.

## **2 Development Plan Policies and the WMS**

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

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

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

***"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"***

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have been subject to subsequent planning applications which were granted approval. Such sites have therefore still come forward for development despite earlier permissions lapsing. The lapse percentage in this Needs Analysis (January 2023) has therefore been revised to exclude application sites which are subject to later approvals which are either outstanding, under construction or complete.

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

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

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

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

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

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

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

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

2.5 Due to the District’s close proximity to London, Three Rivers has traditionally been situated within a high house price area. According to data published by the Office of National Statistics (ONS) in the third quarter of 2016<sup>5</sup>, the lowest quartile house price in Three Rivers in 2016,

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<sup>5</sup> ONS (2022) *Dataset: House price to residence-based earnings ratio Table 6a*  
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

representing the cheapest properties in the District was £325,000.00, making it the **fifth**<sup>6</sup> most expensive local authority area in England and Wales (excluding London), out of a total of three hundred and three local authority areas (see table 1 below).

| Number   | Local Authority Name   | Lowest Quartile House Prices (2016) |
|----------|------------------------|-------------------------------------|
| 1        | Elmbridge              | £375,000.00                         |
| 2        | St Albans              | £355,000.00                         |
| 3        | Windsor and Maidenhead | £340,000.00                         |
| 4        | Hertsmere              | £330,000.00                         |
| <b>5</b> | <b>Three Rivers</b>    | <b>£325,000.00</b>                  |

**Table 1.**

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 2021 was £385,000<sup>7</sup>. The lowest quartile house price of £385,000 places Three Rivers as the **seventh** most expensive local authority area in England and Wales (excluding London), out of a total of three hundred and three local authority areas (see table 2 below). Although Three Rivers' position has improved slightly, the lowest quartile house price has risen by £60,000 from 2016 to 2021, demonstrating an ongoing worsening affordability position.

| Number   | Local Authority Name   | Lowest Quartile house Prices (2021) |
|----------|------------------------|-------------------------------------|
| 1        | Elmbridge              | £445,000                            |
| 2        | St Albans              | £425,000                            |
| 3        | Hertsmere              | £411,175                            |
| 4        | Windsor and Maidenhead | £402,750                            |
| 5        | Mole Valley            | £400,000                            |
| 6        | Epsom and Ewell        | £391,000                            |
| <b>7</b> | <b>Three Rivers</b>    | <b>£385,000</b>                     |

**Table 2.**

Lowest quartile earnings in Three Rivers in 2016 were £24,518.00 and £27,003.00 in 2021<sup>8</sup>, 13.3 times worsening to 14.3 below the lowest quartile house prices (ratio of lower quartile house prices to lower quartile gross annual, residence based earnings<sup>9</sup>). In a mortgage market where lenders are traditionally willing to lend 4 times a person's income, clearly a lending requirement at over 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 2021 to have a deposit of £276,988.00, or (without such a deposit) to earn £108,012.00 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).

<sup>6</sup> Note that prior to the formation of the Buckinghamshire Council (now a unitary authority), Three Rivers was the seventh most expensive local authority area as two local authorities in Buckinghamshire ranked higher in lower quartile house price than Three Rivers in 2016 (South Bucks - £370,000.00; Chiltern - £335,000.00).

<sup>7</sup> Office for National Statistics (2022) *Dataset: House price to residence-based earnings ratio Table 6a* <https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

<sup>8</sup> Office for National Statistics (2022) *Dataset: House price to residence-based earnings ratio Table 6b* <https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

<sup>9</sup> Office for National Statistics (2022) *Dataset: House price to residence-based earnings ratio Table 6c* <https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>



When one considers the median affordability ratio<sup>10</sup> 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<sup>11</sup> was 13.77, the fourth<sup>12</sup> worst affordability ratio in England and Wales (excluding London), as set out in table 3 below, again when compared against three hundred and three local authorities.

| Number   | Local Authority Name | Median quartile house price affordability ratio <sup>8</sup> (2016) |
|----------|----------------------|---|
| 1        | Hertsmere            | 14.23   |
| 2        | Mole Valley          | 14.18   |
| 3        | Elmbridge            | 13.86   |
| <b>4</b> | <b>Three Rivers</b>  | <b>13.77</b>  |

**Table 3.**

Over the period 2016 to 2021, the median quartile house affordability ratio in Three Rivers has worsened with a rise from 13.77 in 2016 to 14.25 in 2021 (see table 4 below). Whilst Three Rivers now maintains the fifth worst affordability ratio in England and Wales (excluding London), the median affordability ratio has worsened (by 0.48), demonstrating a lack of improvement in Three Rivers' affordability position nationally.

| Number   | Local Authority Name | Median quartile house price affordability ratio (2021) |
|----------|----------------------|--|
| 1        | Hertsmere            | 14.88  |
| 2        | Epsom and Ewell      | 14.82  |
| 3        | Elmbridge            | 14.78  |
| 4        | Mole Valley          | 14.69  |
| <b>5</b> | <b>Three Rivers</b>  | <b>14.25</b>   |

**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 2021 that had risen to 14.26, showing a worsening ratio over the period from 2016 to 2021<sup>13</sup>.

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 Local Housing Needs Assessment (LNHA) (August 2020) is the most recent update to the South West Hertfordshire Strategic Housing Market Assessment January 2016 (SHMA)

<sup>10</sup> Affordability ratio statistics are revised annually by the ONS to reflect revisions to the house price statistics and earnings data.

<sup>11</sup> Office for National Statistics (2022) Dataset: House price to residence-based earnings ratio Table 5c <https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

<sup>12</sup> Note that prior to the formation of the Buckinghamshire Council (now a unitary authority), Three Rivers had the fifth worst affordability ratio most expensive local authority area as a local authority in Buckinghamshire ranked higher in median affordability ratio than Three Rivers in 2016 (Chiltern – 14.49).

<sup>13</sup> Office for National Statistics (2022) Dataset: House price to residence-based earnings ratio Table 6c <https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

and estimates the need for affordable housing over the 2020-2036 period. The LNHA splits its analysis between affordable housing to rent and affordable housing to buy.

#### *Affordable Housing Need - To Rent*

- 2.7 The South-West Hertfordshire Local Housing Needs Assessment (LHNA) (August 2020) found that at that time there were approximately 1,276 households within Three Rivers that were situated in unsuitable housing. Unsuitability is based on the numbers of homeless households and in temporary accommodation, households in overcrowded housing, concealed households and existing affordable housing tenants in need. 57% of these households are estimated to be unable to afford market housing without subsidy, which means the revised gross need is reduced to 727 households<sup>14</sup>.
- 2.8 In addition to needs arising from those in unsuitable housing, the LNHA also analyses affordable need to rent arising from newly-forming households within the District. The LNHA estimates 800 new households forming per annum in Three Rivers over the period 2020 to 2036. 45% of these newly-forming households are estimated to be unable to afford market housing (to rent) resulting in 360 new households with a need for affordable housing to rent each year over the period 2020 to 2036<sup>15</sup>.
- 2.9 The LNHA also considers newly arising need for affordable rent from existing households (i.e. households residing in market accommodation now requiring affordable housing). The LNHA estimates an additional 77 existing households falling into need for affordable rent per year over the period 2020 to 2036<sup>16</sup>.
- 2.10 Taking into account the figures of need noted above and the supply of affordable housing to rent through re-lets, the LNHA calculates the annual affordable housing need to rent over the period 2020 to 2036 as 350 in Three Rivers<sup>17</sup>. This need involves households who cannot afford anything in the market without subsidy and is equivalent to 55% of the District's total local housing need requirement calculated by the standard methodology. This indicates the substantial scale of need for this type of affordable housing.

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

- 2.11 In addition, the LNHA estimates a need of 162 units for affordable home ownership per annum<sup>18</sup> over the period 2020 to 2036, although this is a need which is formed by households identified as being able to afford to rent privately without subsidy.

#### *Total Affordable Housing Need*

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<sup>14</sup> Table 33: Estimated Current Rented Affordable Housing Need, South West Hertfordshire Local Housing Needs Assessment (August 2020)

<sup>15</sup> Table 34: Estimated Level of Rented Affordable Housing Need from Newly Forming Households (per annum 2020-2036), South West Hertfordshire Local Housing Needs Assessment (August 2020)

<sup>16</sup> Table 35: Estimated level of Housing Need from Existing Households (per annum 2020-2036), South West Hertfordshire Local Housing Needs Assessment (August 2020)

<sup>17</sup> Table 37: Estimated Annual Level of Affordable/Social Rented Housing Need (2020-2036), South West Hertfordshire Local Housing Needs Assessment (August 2020)

<sup>18</sup> Table 42: Estimated Annual Need for Affordable Home Ownership (2020-2036), South West Hertfordshire Local Housing Needs Assessment (August 2020)

2.12 Combining the need for affordable housing to rent and affordable housing to buy results in the calculation of 512 affordable units per year, equating to approximately 80% of Three Rivers' total local housing need requirement (as calculated by the standard method).

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

2.13 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.

2.14 Since the start of the plan period from 1 April 2001 to 31st March 2022 (the latest date where the most recent completion figures are available), 5,168 gross dwellings were completed. From this, 1,162 were secured as affordable housing, a total of 22.5%. This percentage is significantly below the Core Strategy target of 45% which means there was a shortfall of a further 1,162 or 22.5% affordable dwellings in order to fulfil the 45% affordable housing requirement up to 31 March 2022. This shortfall only exacerbates the already pressing need for small sites to contribute towards the provision of affordable housing.

2.15 In the latest monitoring period of 2021/22 (financial year), 22 sites<sup>19</sup> delivered a net gain of one or more dwellings and would therefore be required to contribute to affordable housing under Policy CP4 (either through an on-site or off-site contribution). These were made up of three major developments (14%) and 19 minor developments (86%). 10 of the 22 schemes contributed to affordable housing provision whilst 12 of the 22 schemes did not contribute:

- Four out of the 22 sites provided viability justification, in line with CP4 policy, for the absence of affordable housing provision. One of the 22 sites was found to have suitable viability justification by the Planning Inspector at an Appeal.
- One of the 22 sites was found to not have appropriately secured affordable housing contributions in breach of CS policy CP4. However there was no agreement between the parties in respect of the viable quantum of affordable housing and the Inspector nevertheless granted planning permission. This is the only appeal decision out of the 32 that have been determined since September 2017 where the Council's position on the relative weight to be afforded Policy CP4(e) was not fully upheld.
- One of the applications completed during the monitoring period 2021/22 which did not contribute towards affordable housing had contributed towards on-site provision during the previous monitoring period 2020/21.
- Five 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 10 schemes which did contribute, five made contributions via commuted sums towards off-site provision; all five schemes were minor developments, demonstrating the important role of small sites in collecting financial payments to be spent on affordable housing provision. Of the remaining five schemes which contributed via on-site provision in 2021/22, two were major developments and three were minor developments.

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<sup>19</sup> Sites with completions in the monitoring year 2021/22

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

2.16 In 2017/2018 (financial year), there were 67 planning applications determined<sup>20</sup> 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 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%). In 2020/21 (financial year), there were 38 planning applications for net gain residential schemes determined, of which 33 were small site schemes (87%). In 2021/22 (financial year), there were 39 planning applications for net gain residential schemes determined, of which 36 were small site 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 four financial years.

2.17 In terms of numbers of completed dwellings proposed by those small site schemes, between 2011-2022 (financial years) some 429 net dwellings were completed which equates to 39 net dwellings per annum and to 22.8% over the 2011-2022 period. 22.8% 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**

2.18 As set out at paragraphs 1.7 and 1.8 above, the commuted payments (£2.9 million) 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 55 units of affordable housing. Furthermore, as set out at paragraph 1.8 above, small scale (1-9 unit) schemes have (as at February 2023) secured a further **£760,000.00 - £2million** (see footnote 2) in respect of unimplemented but current planning permissions. The Council continues to work with Registered Providers to deliver further affordable housing in the District in the medium term future, utilising those additional affordable housing contributions as and when they are received. 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**

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<sup>20</sup> Includes refused and approved applications. Excludes prior approval developments.

2.19 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 124 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 2022 there were 255 planning permissions granted for minor (net gain) residential developments in the District. Of those only 18 have lapsed (7.1%)<sup>21</sup>. This demonstrates that the application of CP4 has not acted as a brake on small scale residential developments.

### **Relevant Appeal Decisions**

- 2.20 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.
- 2.21 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.
- 2.22 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.
- 2.23 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.
- 2.24 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:

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<sup>21</sup> See footnote 3.

*“...an Inspector to start with the development plan and any evidence presented by the LPA supporting the need for an affordable housing contribution, establish whether the proposal is in conflict with those policies if no contribution is provided for, and, if there is conflict, only then go on to address the weight to be attached to the WMS as a national policy that post-dates the development plan policies.”<sup>22</sup>*

2.25 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.

2.26 The Council’s stance has been tested on appeal on numerous occasions (32 decisions as at the date of this document) and the Planning Inspectorate have repeatedly concluded that whilst the NPPF carries considerable weight, it does not outweigh CP4 of the Councils development plan given the acute and substantial need for affordable housing in the District and the important contribution small sites make towards addressing this shortfall. Below are extracts from a few of those decisions:

- **APP/P1940/W/19/3222318, Eastbury Corner, 13 Eastbury Avenue, Northwood, Decision date: 21<sup>st</sup> 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: 27<sup>th</sup> 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 5<sup>th</sup> 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: 1<sup>st</sup> 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.*

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<sup>22</sup> Paragraph 7, Planning Inspectorate Letter, March 2017.

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

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

- **APP/P1940/W/19/3230458, 19 Lynwood Heights, Rickmansworth, Decision date 11<sup>th</sup> October 2019:**

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

- **APP/P1940/W/18/3213370: No.9 Lapwing Way, Abbots Langley. Decision Date 22<sup>nd</sup> May 2019:**

*“In considering whether provision should be made for affordable housing, there are two matters that need to be addressed. Firstly, whether in principle the provisions of Policy CP4 are outweighed by more recent Government policy. Secondly, if not, whether for reasons of financial viability a contribution is not required... There is no evidence before me that the application of Policy CP4 has put a brake on small windfall sites coming forward. Indeed, such sites have contributed over £2m to the affordable housing pot since 2011... Decisions should be made in accordance with the development plan unless material considerations indicate otherwise. There are very important factors in support of the continued application of Policy CP4. These factors are not unique to Three Rivers. Government policy does not suggest that*

areas where affordability is a particular issue should be treated differently. Nonetheless, although a weighty matter, the national policy threshold is not a material consideration which outweighs the conflict with the development plan in this case. In making this policy judgment I have given considerable but not full weight to Policy CP4. I have also had regard to the other appeal decisions in the south-east referred to by the Council where Inspectors considered development plan policies seeking affordable housing against national policy. My approach is consistent with these decisions.”

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

**Decision Date 5<sup>th</sup> 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 16<sup>th</sup> 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/19/3229038: 124 Greenfield Avenue**

**Decision Date 10<sup>th</sup> December 2019**

“Furthermore, windfall sites make up the majority of the proposals in a District which is constrained by the Green Belt and so delivery of affordable housing from these sites is crucial. The submitted evidence supports the proportion of housing proposals which have been on small sites in the last few years. There is no evidence before me that seeking affordable housing on small sites has precluded small windfall sites coming forward – indeed such sites have contributed a significant amount to the affordable housing pot since 2011... Overall, there is substantial evidence of considerable affordable housing need in the District and it has been demonstrated that small sites make an important contribution to affordable housing delivery in the Borough. I attach very significant weight to this consideration. Whilst the Framework is a material consideration of very considerable weight, based on the local circumstances of this case, in this instance the Framework does not outweigh the relevant development plan policy.”

- **APP/P1940/W/19/3238285: Bell Public House, 117 Primrose Hill, Kings Langley**

**Decision Date 9<sup>th</sup> March 2020**

“Even taking the appellants figures that 22.8% of affordable units have arisen from non major sites, I consider this to be an important and meaningful contribution...even taking the appellant’s figures my conclusion remains unaltered.”

- **APP/P1940/W/19/3229189: Glenwood, Harthall Lane, Kings Langley**

**Decision Date 7<sup>th</sup> May 2020**

“The Council’s evidence sets out the acute need for affordable housing in the area and the importance of small sites in contributing to the provision of such housing. They also highlighted a large number of recent appeal decisions for small residential schemes where it has been considered that the exceptional local need should outweigh government policy, as set out in the Framework... Despite the appellant’s evidence, which included reference to a Local Plan Consultation Document (October 2018) and an analysis undertaken by them based on the Council’s Housing Land Supply Update (December 2018), it was clear to me, in the light of all the evidence before me, that a pressing need for affordable housing in the area remains. It was also clear that small sites play a key role in ensuring this provision. As such, in this



case, I am satisfied that although considerable weight should be given to the Framework, it does not outweigh the development plan policy.”

- **APP/P1940/W/20/3249107: 2 Church Cottages, Old Uxbridge Road, West Hyde**  
**Decision Date: 21<sup>st</sup> October 2020**

*“The Framework at paragraph 63 sets out that the provision of affordable housing should not be sought for residential developments that are not major developments other than in designated rural areas where policies may set out a lower threshold of 5 units or fewer. That said, there is clear evidence to suggest that there is an acute need for affordable housing in the Three Rivers District and there have been several appeal decisions which supported this view... I agree that there are special circumstances which justify the provision of affordable housing below the Framework’s suggested threshold... As a result, the proposal would be contrary to Policy CP4 of the CS which amongst other matters seeks to increase the provision of affordable homes including by means of a commuted sum payment for sites of between one and nine dwellings... I have also had regard to the obvious benefits in relation to the provision of a much-needed new dwelling. However, the benefits of this are outweighed by the lack of provision for affordable housing”*

- **APP/P1940/W/20/3259397 24 Wyatts Road**  
**Decision Date 8<sup>th</sup> February 2021**

*“...I consider that the specific circumstances within this district together with the updated evidence to support Policy CP4 are sufficient, in this case, to outweigh the guidance of the Framework.”*

- **APP/P1940/W/20/3260602: 8-10 Clarendon Crescent, Croyley Green**  
**Decision Date 18<sup>th</sup> February 2021**

*“The Council’s case is that Policy CP4 should continue to apply to all housing developments, notwithstanding its lack of consistency with the more recent Framework. In justifying this position, it has provided robust evidence of a high affordable housing need in the district as well as an independent viability assessment in relation to this appeal. Furthermore, a number of similar appeal decisions, cited by the Council, show that Inspectors have considered development plan policies with lower affordable housing thresholds to outweigh national policy given the local evidence of substantial affordable housing need. Whilst the Framework is a material consideration of very considerable weight, based on the local circumstances of this case, in this instance it does not outweigh the relevant development plan policy. In making this judgement, I have given considerable but not full weight to Policy CP4.”*

- **APP/P1940/W/20/3244533 2 Canterbury Way**  
**Decision Date 4<sup>th</sup> March 2021**

*“Over the plan period there have been times when the Council have applied Policy CP4 of the CS and times when they have not. I accept that this may have implications for the delivery of non-major sites, perhaps encouraging whether or not developers will bring forward proposals. However, it cannot be the only factor which influences whether or not such sites are brought forward. Furthermore, there is no substantive evidence to suggest that if Policy CP4 of the CS was not applied it would significantly increase the supply of housing in the district. Moreover, Policy CP4 of the CS was subject to an assessment of viability alongside all other requirements through the Local Plan process... Overall, on the basis of the evidence before me I am not convinced that the Council’s application of Policy CP4 of the CS is directly discouraging developers from bringing forward small sites due to the need to provide or contribute towards affordable housing or demonstrate that it viably cannot... housing affordability in the district is acute such that, based on the specific circumstances of this case and the evidence presented, I find on balance the proposal should make appropriate provision for affordable housing.”*

- **APP/P1940/W/20/3260554: Land adjacent to 2 Coles Farm**  
**Decision Date 15<sup>th</sup> June 2021**

*“The appellant’s comments regarding the importance of small sites is noted as is the Council’s lack of a five-year housing land supply. Despite this, the proposal is required*

*to secure a contribution towards the provision of affordable housing, however, at the point of determination no executable undertaking is before me... The proposal would be contrary to CS Policy CP4 and the Affordable Housing Supplementary Planning Document 2011 which require all new development resulting in a net gain of one or more dwellings to contribute to the provision of affordable housing."*

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

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

- **APP/P1940/W/21/3277747: 3 Grove Cottages, Pimlico Decision Date: 16<sup>th</sup> March 2022**

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

- **APP/P1940/W/21/328373448: Altham Gardens, South Oxhey Decision Date: 29<sup>th</sup> April 2022**

*"The latest statistics indicate that the Council has a shortage in its supply of housing land. Although the statistics do not specify affordable housing, the SPD indicates that there is a requirement for affordable housing in and around the Three Rivers Area and given the scale of the shortfall, it is reasonable to assume that it includes affordable housing. Given the policy requirement and the identified shortage of housing generally I am satisfied that the need for the contribution sought by the Council arises from the development and satisfies the three tests in Regulation 122(2) of the CIL Regulations 2010."*

- **APP/P1940/W/22/3291286: 27 Gable Close, Abbots Langley Decision Date: 30<sup>th</sup> August 2022**

*"I am mindful that the Framework suggests that the provision of affordable housing should not be sought for residential developments that are not major developments other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). However, the Council has provided clear and compelling evidence to demonstrate an acute need for affordable housing in the District, including reference to numerous other appeal decisions which have supported the Council's case. There is no substantive evidence before me which would lead me to a different*

*conclusion, including with regard to the primacy of the development plan. There would therefore be an expectation that the appeal scheme would contribute financially towards the provision of affordable housing.”*

- **APP/P1940/W/21/3284630: The Puffing Field, Windmill Hill**

**Decision Date: 23<sup>rd</sup> September 2022**

*“The Council’s evidence sets out a robust case for an acute need for affordable housing in the area and the importance of small sites in contributing to the provision of such housing. On the evidence before me, I have no substantive reason to disagree with this position.”*

- **APP/P1940/W/22/3291193: Rear of The Woodyard, Sarratt**

**Decision Date: 27<sup>th</sup> October 2022**

*“The Council’s evidence sets out a robust case for an acute need for affordable housing in the area and the importance of small sites in contributing to the provision of such housing. The requirement for and the amount of the affordable housing contribution are detailed in the Council’s submissions.”*

## **Conclusion**

- 2.27 Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Having regard to the Framework as a material consideration of significant weight, officers' view is that the local evidence of affordable housing need continues to deserve significant weight in deciding whether, for the purposes of Section 38(6), the revised Framework policies weigh sufficiently against the Core Strategy Policy CP4. Having undertaken this assessment in 2017 and further reviewed it post the new NPPF in 2018, in December 2019, December 2020, February 2022 and February 2023 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 2021 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 2020/2021 (December 2021)  
<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 Local Housing Needs Assessment (August 2020)  
<https://www.threerivers.gov.uk/eqcl-page/new-local-plan-evidence-base>
5. Office of National Statistics Housing Data 2002-21  
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

**March 2023**