

PLANNING COMMITTEE - 16 November 2023

23/1619/FUL - Demolition of existing garages and construction of two storey block comprising of 6no. 2 bed 4 person flats with associated bin and bike storage, access, parking and landscaping works at GARAGES BETWEEN 83 AND 89 THE QUEENS DRIVE

Parish: Chorleywood Parish Council

Ward: Penn and Mill End

Expiry of Statutory Period: 20 November 2023

Case Officer: Adam Ralton

Recommendation: That Planning Permission be Granted.

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:

<https://www3.threerivers.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=S1J0W9QFH5P00>

1 Relevant Planning History

- 1.1 18/0322/FUL: Demolition of existing garages and construction of three linked two storey buildings consisting of a total of 6 flats for temporary accommodation with associated car parking and landscaping. Approved July 2018. Planning permission was not implemented and has expired.

2 Description of Application Site

- 2.1 The application site is located to the north western side of The Queens Drive, south west of its junction with Quickwood Close. The site contains five linked single storey flat roofed garage blocks, containing a total of 22 garages. They are arranged broadly in a U-shape, facing The Queens Drive, with a large concrete forecourt area and access drive. The closest parts of the garages to The Queens Drive are set approximately 20 metres back from the road.
- 2.2 The application site is located on the outside of a bend in The Queens Drive. The site is bound by The Queens Drive to the south-east, No. 83 The Queens Drive to the south, No. 89 The Queens Drive to the north east, and a narrow band of woodland forming part of Pheasants Wood to the west and north with the M25 immediately beyond this woodland. The land to the rear, including Pheasant's Wood, is within the Green Belt. The woodland is identified in the Local Plan as Open Space and a Local Wildlife Site.
- 2.3 The Queens Drive is characterised primarily by two storey semi-detached and terraced dwellings. The dwellings generally have pitched or hipped tiled roofs, and the majority benefit from at least one off-street car parking space within a front forecourt area. The neighbouring houses have ground to ridge heights of approximately 8.1 metres.

3 Description of Proposed Development

- 3.1 This application proposes the demolition of all existing garage buildings and the construction of a two storey building containing six two-bedroom flats.
- 3.2 The submitted plans show the building would be brick built and be two storeys high with a pitched roof. The building would be approximately 8.5 metres high to the ridge and 5.6 metres to eaves. It would be approximately 24 metres wide and 12 metres deep. The front

elevation would contain three gable roof forms. The larger front windows would be surrounded by projecting frames and would have brick panelling at first floor level.

- 3.3 The proposed building would be set approximately 24 metres back from the edge of the footway along The Queens Drive. The existing vehicular access would be widened to provide entrance to a new parking forecourt containing 10 car parking spaces. Bin and bicycle stores are proposed to the southern boundary of the site, and soft landscaping areas proposed to be introduced to both sides of the front forecourt and between the spaces.
- 3.4 The existing footpath to the north of the site through to the rear would be retained.
- 3.5 The application is accompanied by the following supporting documents:
- Affordable Housing Statement.
 - Biodiversity Net Gain Report (LC Ecological Services, August 2023).
 - Design and Access Statement (Black Architecture August 2023).
 - Ecological Appraisal (LC Ecological Services, August 2023).
 - Energy Statement (Etude, August 2023).
 - Noise and Vibration Impact Assessment Report (KP Acoustics, March 2023).
 - Phase 1 Desktop Study Report (Opus, December 2017).
 - Transport Statement (RGP, August 2023).
 - Tree constraints impact assessment and tree protection method statement for new dwellings (B.J.Unwin Forestry Consultancy, August 2023).

4 Consultation

4.1 Statutory Consultation

4.1.1 Chorleywood Parish Council: [Object]

Whilst the Committee wishes to support the creation of further Affordable Housing in the Parish, due to key elements of the proposed design which will impact both residents of the new homes and the existing residents of The Queens Drive, it had Objections to this application on the following grounds and wish to CALL IN, unless the Officer are minded to refuse planning permission.

The positioning of the flats towards the rear of the site will result in considerable adverse impact on resident of the new homes from noise and pollution from the M25. The proposals include no clear commitment to how these will be mitigated, particularly for the bedrooms at the rear of the properties. For this application to be acceptable, the Committee feel that the resolution to this needs to be fully identified / documented and committed to as part of the application.

The impact on the privacy of the neighbouring properties (83 and 89 The Queens Drive) through overlooking of the existing properties bedrooms from the first-floor living accommodation of the new homes. The plans show angled glazing surrounds to the outer flats, but examining the sight lines indicate that this is not sufficient to provide appropriate privacy for the existing dwellings, particularly bearing in mind the close proximity of the new properties to the existing homes. This could be resolved by increasing the angling of these first-floor windows and, rather than using surrounds, using fully angled glazing units.

The small windows to the front of the first-floor flats should be obscured to provide proper privacy to 83 and 89 Queens Drive.

It is proposed that the bin store for the new flats will be in close proximity to the front door of 83 The Queens Drive. To prevent a negative adverse impact on existing residents

through rubbish odours, this store should be move further back, possibly swapping with the cycle store.

The site provides for only 10 parking spaces, despite Appendix 5 of the Development Management Policies requiring 2 per dwelling, i.e. 12 in total. This site is not in close proximity to amenities or public transport; therefore it is not acceptable to reduce the requirement below existing policy. It must also be considered that this site is in a sensitive position, on a right angle bend in the road where street parking introduces significant risk for road users due to lack of visibility.

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

4.1.2 Hertfordshire Constabulary – Designing out Crime: [No objection]

Thank you for sight of planning application 23/1619/FUL, Demolition of existing garages and construction of two storey block comprising of 6no. 2 bed 4 person flats with associated bin and bike storage, access, parking, and landscaping works. Garages Between 83 And 89 The Queens Drive Mill End.

I have had a meeting with the architects, and I am content that security has been considered for this application and it is the client's intention to build to the police preferred minimum security standard Secured by Design.

4.1.3 Hertfordshire County Council – Highway Authority: Interim Response

In order for HCC as the Highway Authority to consider the application to be in line with LTP4 policies, it is requested that an amendment is made to alter the realignment/extension of the existing bellmouth, as outlined in the Transport Assessment, to be the installation of a dropped kerb. If alterations are proposed to the access, it would be preferred that those alterations are in line with LTP4, especially policies 1 and 5, and therefore put pedestrian movements above those of vehicles. Under HCC Policy and Guidance, a dropped kerb would be suitable for the number of proposed dwellings at the site and would ensure that pedestrian movements have priority passing the site. The maximum size of a dropped kerb is 7.2m as outlined within the Residential Dropped Kerb Policy and Roads in Hertfordshire: The Highway Design Guide: Section 4. It is noted that the scheme has been previously approved with materially similar plans, however, these plans were submitted prior to the adoption of LTP4; thus, HCC policies have changed.

4.1.3.1 Hertfordshire County Council – Highway Authority (Second Response): [No objections]

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:

Prior to the first occupation of the development hereby permitted the vehicular access shall be completed and thereafter retained at a width of no greater than 7.2m (made up of six flat kerbs and two ramped kerbs) in accordance with details/specifications to be submitted to and approved in writing by the Local Planning Authority in consultation with the highway authority.

Reason: To ensure satisfactory access into the site and avoid carriage of extraneous material or surface water from or onto the highway in accordance with Policy 5 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) Works within the highway (section 278): The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the County Council website at: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> or by telephoning 0300 1234047.

Comments/Analysis

It is noted that an application at the site under reference 18/0322/FUL for the construction of three linked two storey buildings consisting of a total of 6 flats was previously approved.

Description of Proposal

Demolition of existing garages and construction of two storey block comprising of 6no. 2 bed person flats with associated bin and bike storage, access, parking and landscaping works

Site and Surroundings

The Queens Drive is an unclassified local access route subject to a 30mph speed limit which is highway maintainable at public expense. The site is currently a block of garages set back

behind the existing dwellings fronting The Queens Drive in a residential area. The site is located in the north-western corner of Rickmansworth, approximately 2km from the centre of the town. A parade of shops is located within 1km south of the site on Berry Lane. There are a number of bus stops within 500m of the site, these being stops for the R1, R2 and 321 Sapphire buses. Rickmansworth station is approximately 2.5km from the site and is served by Chiltern Railways and the Metropolitan line. The site is therefore within a suitable area for the size of development and provides options for active travel from the site to local facilities.

Access and Parking

The now amended application proposes to alter the existing access into the site from the existing bellmouth to a dropped kerb. The use of a dropped kerb ensures the proposed development is in line with LTP4 by giving priority to pedestrian movements along the footway fronting the site. The dropped kerb has been shown to be 6.8m wide on drawing number 2023/7170/003 Rev P1. This would not be standard size that HCC would construct and therefore, when the access would be altered via S278, it will be constructed to an HCC standard size, the closest being 6.3m or 7.2m. The proposed development of the garages does not impact upon the existing available visibility splays from the access, which is not to change position. These splays are clear and wholly within highway land for the required area of 2.4m x 43m, as outlined within Roads in Hertfordshire: Highway Design Guide 3rd Edition Section 4 – Design Standards and Advice. There have not been any collisions fronting the access within the last 5 years.

The proposed 6 dwellings are to replace the existing 22 garages, the garages are described within the Transport Statement as “many of which are currently in-use”, although it is also stated that “the majority of the tenanted garages are used for the purposes of storage” likely due to them being smaller than the now required dimensions for garages to allow a modern car to fit. A trip generation assessment has been provided for the proposed use but not for the existing use. However, the number of proposed dwellings by comparison of the number of existing garages would likely have a negligible difference in trips. The proposed trips shown in Figure 6 of the Transport Statement would not have a significant, nor severe, impact upon highway capacity, especially during the peak periods.

Ultimately the LPA will have to be satisfied with the parking provision, but HCC would like to comment that 10 parking spaces are proposed at the site according to the TA. It is noted that the site is located within parking zone 4 of TRDC parking zones, meaning that 75-100% of the parking provision at the site is required. The 100% parking standard would be 6 assigned spaces, the provision at the site is above this. The Design and Access Statement says there is to be electric vehicle charging provision in 6 of the parking bays. Cycle parking is provided in a secure communal store within the site, capable of storing “at least 6 cycles” according to the TA.

In terms of potential displaced parking caused by the demolition of the garages, the TA includes an assessment of on-street parking stress. The survey suggests that 18 of the 22 garages are occupied and therefore a maximum of 18 displaced cars are to be expected. The stress survey was undertaken overnight, as would be expected, and is reported that there is space for up to 47 additional parked vehicles. Therefore, any displaced parking is likely to be accommodated within the local area on routes which do not have parking restrictions.

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 for more than 30m to that location. The TA states that these distances are not to be exceeded and that refuse collection shall occur on-street in line with the current refuse collection methods for the other dwellings along The Queens Drive.

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 proposed flat's footprint being within this 45m. As stated in the TA, the width of the proposed access is also wide enough to allow for an emergency vehicle to enter if absolutely required, although no swept path drawing has been provided.

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 subject to the above condition.

4.1.4 Herts Ecology:

Not received at the time of drafting report. Comments received will be reported at committee.

4.1.5 National Grid:

Not received at the time of drafting report. Comments received will be reported at committee.

4.1.6 National Highways:

Not received at the time of drafting report. Comments received will be reported at committee.

4.1.7 Three Rivers District Council – Environmental Health: [Comment received]

I have reviewed the Phase 1 Desk Study Report prepared by Opus (Report ref. E-E1711.00/LJE/SH).

The preliminary risk assessment has identified a number of plausible contaminant linkages that require further investigation. The Environmental Consultant has recommended that an intrusive investigation be undertaken.

Based on this, the standard contaminated land condition is recommended on this and any subsequent applications for the site.

4.1.8 Three Rivers District Council – Environmental Protection: [Comment received]

Collection would be from the road with the bin store as near to the boundary as possible and 1 x 1100 for refuse and 1 x 1100 for recycling.

4.1.9 Three Rivers District Council – Housing Development Officer: [Support]

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 100% affordable housing for the district that fulfils our current main requirement, I can confirm that I generally support this application.

4.1.10 Three Rivers District Council – Tree and Landscape Officer: [No objections]

Recommend: Approval

The submitted plans indicate that a small number of poor-quality trees will need to be removed to facilitate development. Some replacement planting, including new trees, to the front of the proposed development is indicated, further details of numbers, sizes and species should be required by condition.

4.2 Public/Neighbour Consultation

4.2.1 Site Notice: Displayed 10 October 2023, expires 31 October 2023.

4.2.2 Number consulted: 28

4.2.3 No of responses received: 5 responses received, comprising 3 objections and 2 comments.

4.2.4 Summary of objections:

- Proposal will not respect the character of the area.
- Site would be better suited to householder properties such as two or three bedroom to storey dwellings
- Wildlife would be impacted
- Occupants of garages would be impacted and have to find alternative space for their vehicles. More vehicles on the road would lead to safety issues and overcrowding and higher risk of accidents.
- Residents could face health impacts due to proximity to M25.
- Access is on a dangerous bend where cars are already driven at speed.
- More residents will use already stretched local amenities ie schools.
- Construction would impact neighbours, including their views and enjoyment of their gardens.
- Neighbours would be overlooked
- Flats are not in keeping with the area.
- Properties are set back from the line of existing and will be an eyesore for neighbours, impacting use of their gardens.
- Six individual properties will create large amount of refuse and require large waste management area which will result in smells for neighbours.
- Recommend more flats are built at Pollards site and 2x 4bed semi-detached houses at Queens Drive which would be in line with existing properties and be more suited to the area.

4.2.5 Summary of comments:

- Will 25% of units be First Homes in line with National and TRDC planning policy? [Officer response: Affordable housing is assessed within the appraisal below]
- The development is suitable for the inclusion of integrated swift bricks within the walls of the proposed building. The submitted Biodiversity Net Gain report proposes a swift brick, however the generalist external nest box proposed does not comply with the British Standard and is unnecessary. Recommend 4 integrated swift bricks are proposed.

5 Reason for Delay

5.1 No delay.

6 Relevant Planning Policy, Guidance and Legislation

6.1 National Planning Policy Framework and National Planning Practice Guidance

In September 2023 the National Planning Policy Framework was updated. This is read alongside the National Planning Practice Guidance (NPPG). The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another. The NPPF is clear that “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework”.

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

6.2 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 PSP2, CP1, CP2, CP3, CP4, CP8, CP9, CP10, CP11 and CP12.

The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies DM1, DM2, DM4, DM6, DM8, DM10, DM11, DM13 and Appendices 2 and 5.

6.3 Other

Affordable Housing Supplementary Planning Document (adopted June 2011).

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

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

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

7 Planning Analysis

7.1 Principle of Development

- 7.1.1 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...”. The application site is located within Mill End, which is identified as a Key Centre in the Core Strategy’s Spatial Strategy. Policy PSP2 sets out that development in Key Centres will “Focus future development predominately on sites within the urban area, on previously developed land”. The supporting text sets out that there is scope for continued infilling within the urban areas, primarily on previously developed land, subject to the protection of existing residential and historic character and amenities.
- 7.1.2 Policy CP1 of the Core Strategy sets out the overarching policy on sustainable development and sets out that all development in Three Rivers will contribute to the sustainability of the District. This means taking into account the need to “make efficient use of land by guiding development onto previously developed brownfield land”. The application site is not allocated for housing within the Site Allocations LDD, and as such is not identified as part of the District’s housing supply. However it is a previously developed brownfield site. The site is therefore to be considered a windfall site. 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; and
 - iv. monitoring information relating to housing supply and the Three Rivers housing target.
- 7.1.3 Having regard to the Spatial Strategy within the Core Strategy, the application site is within Mill End which is identified as a Key Centre where future development should be focussed on previously developed land. The proposed development would be located on previously developed land and would make efficient use of that land. Therefore no objections are raised to the principle of developing this land.
- 7.1.4 When considering the principle of the development, it is also considered important to give some consideration to the planning history. It is acknowledged that planning permission 18/0322/FUL was granted at this site for the construction of three buildings, each containing two flats. Those flats were specifically proposed to be used to provide temporary accommodation. Regardless of the proposed use of the buildings, the principle of developing the site was considered acceptable as part of the consideration of that planning application, subject to other considerations. That planning permission was not implemented and has now expired, and it therefore carries only very limited weight. However given the site circumstances and development plan have not changed, the conclusions reached during the assessment of that application are considered to be of some relevance when considering the current scheme.

- 7.2 Impact on the character and appearance of the street scene and locality, and on the adjacent Green Belt
- 7.2.1 Policy CP1 of the Core Strategy (adopted October 2011) seeks to promote buildings of a high enduring design quality that respect local distinctiveness and Policy CP12 of the Core Strategy (adopted October 2011) relates to design and states that in seeking a high standard of design the Council will expect development proposals to 'have regard to the local context and conserve or enhance the character, amenities and quality of an area'. Development should make efficient use of land but should also respect the 'distinctiveness of the surrounding area in terms of density, character, layout and spacing, amenity, scale, height, massing and use of materials'; 'have regard to the local context and conserve or enhance the character, amenities and quality of an area' and 'incorporate visually attractive frontages to adjoining streets and public spaces'.
- 7.2.1 In terms of new residential development, Policy DM1 of the DMLDD advises that the Council will protect the character and residential amenity of existing areas of housing from forms of 'backland', 'infill' or other forms of new residential development which are inappropriate for the area. Development will only be supported where it can be demonstrated that the proposal will not result in:
- i. Tandem development;
 - ii. Servicing by an awkward access drive which cannot easily be used by service vehicles; [This point will be assessed separately below]
 - iii. The generation of excessive levels of traffic; [This point will be assessed separately below]
 - iv. Loss of residential amenity; [This point will be assessed separately below]
 - v. Layouts unable to maintain the particular character of the area in the vicinity of the application site in terms of plot size, plot depth, building footprint, plot frontage width, frontage building line, height, gaps between buildings and streetscape features (e.g. hedges, walls, grass verges etc.)
- 7.2.2 The application site contains single storey flat roofed garage buildings, and is in an area characterised primarily by two storey pairs of semi-detached dwellings, with some terraces of three or four dwellings also found. The development of this site is not considered to comprise tandem development but a modern addition to the existing two storey built form. The proposed building is set further back in its plot than the adjacent houses, and this reflects the siting of the existing built form of the garages. The development in terms of its siting in the plot is considered acceptable.
- 7.2.3 The proposal utilises the front part of the plot for soft landscaping and car parking, and the rear for amenity space. The front part would therefore be similar to the existing which comprises garages and forecourt with some areas of soft landscaping. The footprint of the building would be greater than that of neighbouring buildings, however spacing is retained all around the building such that it is not considered to appear cramped within the plot. The building would appear wide and approximately 0.4m taller than neighbouring buildings, however it would be set back into the plot which mitigates any adverse impact of this height and width.
- 7.2.4 The proposed building would have three front gable projections, which would visually split the building into three parts. Rainwater goods would help to emphasise the vertical divide between the buildings. This would give the building more of the appearance of a terrace of three houses, rather than a single solid block of flats. The multiple entrances to the building would be visible, within the under-croft entrance porch, but its setback into the elevation would minimise its prominence.
- 7.2.5 In terms of materials, few details are given but the drawings suggest red brick and grey windows. They are unclear regarding the colour of the roofing tile. The proposed material pallet appears to be generally acceptable, and the full details would be secured by condition.

- 7.2.6 It is noted that the previously approved scheme included three detached buildings with spaces between them. The current scheme proposes one single building, which would have a greater frontage width overall. However given its setback and its design, it is not considered that the proposed building would result in an adverse impact on the character or appearance of the street scene or the wider locality.
- 7.2.7 The proposed development would be visible from the Green Belt to the rear of the site. However, due to the separation distance (approximately 6 metres from the boundary), that the site is previously developed and that the built form would be set back from the Green Belt boundary further than the existing garage buildings, it is not considered that the proposal would have any adverse impact on the openness of the Green Belt.
- 7.2.8 In summary, it is considered that the proposed building would be of a layout and appearance that would not have a detrimental impact on the character or appearance of the area. The proposal would accord with Policies CP1 and CP12 of the Core Strategy and DM1 of the Development Management policies LDD.

7.3 Housing Mix

- 7.3.1 Policy CP3 of the Core Strategy advises that housing proposals take into account the range of housing needs, in terms of size and type of dwellings as identified by the SHMA and subsequent updates. The 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

- 7.3.2 The SHMA and the Core Strategy recognise that these proportions may need to be adjusted taking account of market information, housing needs and preferences and specific site factors. The nature of the proposed development means that it would provide 6 x 2 bedroom flats. 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 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).

7.4 Affordable housing

- 7.4.1 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**.
- 7.4.2 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 multiplied by £550 per sqm (Rickmansworth South and Maple Cross) plus indexation.
- 7.4.3 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.

- 7.4.4 The application is accompanied by an Affordable Housing Statement which sets out that the six 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.
- 7.4.5 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.
- 7.4.6 The application is for 6 dwellings, so 45% of this would be 2.7, rounded to 3 dwellings. Applying the 70%/25%/5% split would require the provision of two social rented dwellings and one first home.
- 7.4.7 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 and this is 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.
- 7.4.8 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. The cap at LHA rates would remain in perpetuity. The applicant has provided a worked example within their Affordable Housing Statement to demonstrate the difference in affordability:

As a worked example, assuming the typical 2 Bedroom Flat for rent in Mill End 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 the monthly rent would be £1,000 per month (£230.14/week). This means that the average 2 bed flat 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. It is therefore, not significantly close to the Affordable Rent figures of 80% of Market Rent.

- 7.4.9 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 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.
- 7.5 Impact on amenity of existing neighbouring properties

7.5.1 Policy CP12 of the Core Strategy states that development should 'protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space'.

7.5.2 Privacy

7.5.2.1 In respect of privacy, Appendix 2 sets out that "distances between buildings should be sufficient so as to prevent overlooking, particularly from upper floors. As an indicative figure, 28 metres should be achieved between the faces of single or two storey buildings backing onto each other". It also states "where privacy is achieved by means such as careful layout, screening, or differing levels, rear gardens may be of varied lengths. However where rear garden length alone is relied on to provide privacy the minimum length should be 14 metres".

7.5.2.2 The proposed building would be a minimum of 8.6m from the attached garage at No. 83 and 10.2m from the rear wall of the main house. The proposed building would have no side-facing windows and its rear-facing windows would face toward the rear amenity area serving the building. Therefore, any privacy impacts to No. 83 would be limited to the front facing windows in the proposed building. At ground floor level, the front facing windows would have no views of No. 83 due to the boundary treatments. At first floor level, the front facing windows would both serve living/dining rooms. The larger window serving this room would have an external projecting frame 0.7m deep which would act to screen most views from the first floor window toward No. 83. Some oblique views would be visible from the smaller window, which is located in a smaller enclosed corner of that room, toward the rear garden and rear facing windows of No. 83, however such views would be oblique and limited to one small window in a corner of a room. It is noted that the front elevation faces broadly south east and No. 83 faces broadly west. Given the separation and the relationship between the buildings, it is not considered that the proposal would result in any demonstrable harm to the amenities of the occupants of No. 83.

7.5.2.3 In respect of the impact on the privacy of No. 89, the ground floor windows in the proposed building would not impact privacy due to the presence of boundary treatment, and the rear facing windows face the communal amenity space. There are no side facing windows. Of the two front-facing windows, the window closest to No. 89 features the same projecting frame referenced above which would restrict views from that first floor room toward No. 89. The second window serving that room would be set further from No. 89. Given the minimum distance of 8.5m between buildings, the orientation of the buildings, and the boundary treatments, it is not considered that the proposal would result in any demonstrable harm to the privacy of the occupants of No. 89.

7.5.3 Visual Impact

7.5.3.1 In respect of the impacts of new development, Section 5 of Appendix 2 of the DMP LDD sets out that "new development should take into consideration impacts on neighbouring properties, both within and surrounding the development and visual impacts generally". It states that new development must "not be excessively prominent in relation to adjacent properties".

7.5.3.2 The proposed building would be 2.6m from the boundary with No. 83 at the front corner. No. 83 has a rear garden approximately 10m wide and 30m deep. The proposed building would be visible from rear-facing windows and the rear amenity area at No. 83. However, it is noted that the main aspect/outlook from the property is toward the west, with the building visible in wider views from the neighbouring property. The proposed building would splay away from the neighbouring garden and overall given its separation from the house at No. 83 and its garden, the size of the garden at 83 and the splayed layout, it is considered that whilst visible the proposed building would not be excessively prominent or appear overbearing when viewed from No. 83.

7.5.3.3 The proposed building would be approximately 1.8m from the boundary with No. 89 at its closest point (front corner) and then splays away from the boundary. The rear elevation of No. 89 faces north/north-west. The proposed building would be visible from the rear garden and from the rear-facing windows at No. 89. Given the separation distance and the splay of the building relative to the boundary, it is not considered that the proposal would appear overbearing when viewed from No. 89.

7.5.3.4 It is of note that planning permission was granted for two storey built form adjacent to the boundary with each neighbour as part of the previous application at this site. The building subject of the current application is on the whole further from the boundary with No. 89, and closer to the boundary with No. 83. In respect of the relationship with No. 83, whilst closer, it is considered that the orientation is such that the actual visual impact would be comparable to the approved scheme.

7.6 Quality of accommodation for future occupants

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

7.6.2 Privacy and Outlook

7.6.2.1 The rear facing windows to the proposed building would not be overlooked and would provide views over the communal garden.

7.6.2.2 The front facing windows to the development would be set back from The Queens Drive and would not be overlooked from the main frontage area. It is noted that they would be set beyond the rear wall of the neighbouring houses at Nos. 83 and 89 The Queens Drive. It is noted that those neighbouring dwellings are angled away from the application site, and this layout, combined with the projected frames to the larger front facing windows, ensure future occupants would not be overlooked. The windows would all have a suitable outlook.

7.6.3 Amenity Space

7.6.3.1 Section 3 of Appendix 2 sets out the Amenity Space requirements for new development. it sets out that one bed flats should provide 21 square metres, with 10 square metres for each additional bedroom. This application proposes six 2-bedroom flats, and therefore is required to provide a total of 186 square metres of outdoor amenity space.

7.6.3.2 The amenity space to the rear of the site would have an area in excess of 200 square metres, therefore providing sufficient area. The area of amenity space immediately rear of the building would include some defensible space for occupants of the ground floor flats to ensure some privacy and separation from the main communal area. The space would measure approximately 6m deep, and be enclosed by 1.2m steel chainlink fence with the rearmost part of the garden enclosed by 1.8m high close boarded fence with 0.5m trellis. Therefore, the garden would be secure and useable and provide sufficient space for future occupants.

7.6.4 Acoustic environment

7.6.4.1 DM9 sets out that the council will refuse planning permission for development which would or could give rise to polluting emissions by reason of disturbance. It states that planning permission will not be granted for development which has an unacceptable adverse impact on the indoor and outdoor acoustic environment of existing development.

7.6.4.2 The application site is around 6m from the boundary with the M25 motorway, with the rear elevation of the building itself around 16 metres at its closest. The carriageway of the M25 is approximately 10 metres beyond that point. The motorway is at a lower level to the site with a tall timber fence on the boundary with the motorway. As a result of the proximity to the M25, the application has been accompanied by a Noise and Vibration Impact Assessment. This sets out that measured noise levels allowed a robust glazing specification to be proposed which would provide internal noise levels for all residential environments in accordance with the relevant standards with no further mitigation measures required. These are to be secured by condition. In respect of vibration, the report found that measurements of traffic vibration indicates that levels are below the threshold of human perception.

7.6.4.3 It is acknowledged that the rear garden area would not benefit from the same protection from noise as the internal environment. Nevertheless it is important to note that the M25 is some distance from the site and the site is in a residential area with other residential gardens backing onto the M25 just as close as the application site. Given the intervening distance, it is considered that the communal amenity space would remain useable.

7.7 Highways

7.7.1 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.

7.7.2 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*

7.7.3 The application is accompanied by a Transport Assessment.

7.7.4 HCC as Highways Authority (HA) have been consulted and have confirmed that they raise no objection subject to a condition requiring the vehicular access to be provided, and subject to a number of informatives. Whilst not requested by the Highway Authority, officers also consider that a condition requiring a Construction Management Plan (CMP) to be submitted for approval would be reasonable and necessary given the constrained nature of the site and its close proximity to neighbouring properties.

7.7.5 Within their assessment, the HA note that there would be a negligible difference in trips between the proposed six dwellings and the use of the existing 22 garages. They also acknowledge that any displaced car parking is likely to be accommodated in the local area on routes without parking restrictions.

7.7.6 The HA note that in accordance with Manual for Streets, to ensure emergency vehicle access the entirety of the footprint of a dwelling must be within 45m from the edge of the highway, and the development complies with this requirement. The proposed access is wide enough for an emergency vehicle to enter if required.

7.7.7 Therefore, on the basis of the HA's response, the proposal is considered to provide a safe and adequate means of access with no adverse impact on highway safety or the free flow of traffic.

7.8 Parking

7.8.1 Policy DM13 of the Development Management Policies LDD (adopted July 2013) advises that development should make provision for parking in accordance with the parking standards set out in Appendix 5. For Use Class C3, the standards require 2 spaces per dwelling (with one assigned space) for 2 bedroom dwellings.

7.8.2 This application proposes six 2-bedroom flats, with a parking requirement of 12 spaces (6 assigned). The proposed layout includes 10 car parking spaces which would represent a shortfall of 2 parking spaces.

7.8.3 The application is accompanied by a Transport Assessment which considers car ownership statistics within the area, and finds that average car ownership based on 2011 census data is between 1.40 and 1.43 cars per property. Based on that ratio, it could be projected that the site could generate demands for between eight and nine cars, and the proposed 10 spaces would be sufficient to accommodate these, with visitor spaces too.

7.8.4 In addition, the Transport Assessment also includes a survey of on-street parking demands. It notes that the site contains 22 garages, of which four are currently vacant and 18 occupied, although some of those are used for storage purposes rather than to accommodate a car. On street parking stress surveys were undertaken in May 2023, based on an area 200m from the site with a lawful capacity of 100 cars. This found between 52 and 53 cars parked in the area overnight, showing space for at least 47 cars to park lawfully on the street. This shows that the street could accommodate 18 displaced cars from the garages with capacity still remaining. Even accounting for 18 displaced cars from garages and the shortfall of two on-site car parking spaces, demands in the survey area would increase to 73 cars, meaning there is still space for 27 cars to park. On the basis of the evidence supplied, it is considered that the car parking provision on site is acceptable.

7.8.5 It is noted that a similar exercise was undertaken during the course of the previous application, which proposed six parking spaces for the six flats, therefore having a shortfall of six. That application was approved on the basis of the evidence provided. Overall, it is considered that the car parking spaces proposed are sufficient.

7.9 Sustainability

7.9.1 Paragraph 152 of the NPPF states that "the planning system should support the transition to a low carbon future in a changing climate" and that it should " support renewable and low carbon energy and associated infrastructure".

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

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

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

7.9.4 The submitted Energy Statement identifies that the proposal is currently forecast to achieve a 61% reduction in carbon emissions over Part L1 of the 2021 Building Regulations, and the proposal would therefore exceed the requirements of DM4. This would be achieved via a fabric first approach, along with air source heat pumps and the use of mechanical ventilation with heat recovery.

7.10 Tree and Landscaping

7.10.1 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”.

7.10.2 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.

7.10.3 There are no protected trees in or adjacent to the site. The Tree and Landscape Officer has been consulted and acknowledges that whilst some poor quality trees are proposed for removal, replacement planting is shown on the plans. This will be secured by condition.

7.10.4 Tree protection information has been submitted showing how the retained trees to the rear of the site would be protected during construction works and it is considered reasonable and necessary to ensure the trees are protected in accordance with this document. Subject to conditions, the proposal is considered to comply with DM6.

7.11 Wildlife and Biodiversity

7.11.1 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.

7.11.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of applications in accordance with Policy CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the DMLDD. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications that may be affected prior to determination of a planning application.

7.11.3 The application is accompanied by an Ecological Appraisal. This notes that the proposal would result in the loss of hardstanding bare ground tall ruderals and buildings but would ensure the retention of broad-leaved woodland which is part of a corridor suitable for commuting and foraging mats. Measures to prevent impacts to bats during and after construction are recommended primarily relating to lighting design. The report recommends the submission of a Construction and Ecological Management Plan and this will be secured by condition. The provision of bird boxes, interplanting of the woodland with native shrubs and providing a hedgehog house are all recommended and would be subject of a condition.

7.11.4 The Environment Act will mandate the requirement for Biodiversity Net Gain (BNG). However mandatory BNG as provided for in the Environment Act will apply by amending the Town and Country Planning Act, and this has not yet happened (it is expected from

January 2024 for major applications and April for non-major). The requirement for 10% BNG is, therefore, not yet enshrined in planning law.

7.11.5 The applicant has submitted a Biodiversity Net Gain report. This details that based on the proposed creation of habitats the scheme is predicted to achieve a gain of 72.93%. This is based on the creation of 0.031ha of vegetated garden and 0.049ha of urban trees to be planted comprising 12 small trees. These would be secured by condition. In addition, one swift box and one bat box are recommended and these will be secured by condition.

7.11.6 On the basis of the matters above which would be secured by condition, it is considered that the proposed development would comply with the requirements of DM6 and would conserve and enhance biodiversity.

7.12 Safety and Security

7.12.1 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.

7.12.2 The Designing out Crime officer has reviewed the plans and is content that security has been considered for the application and that it is the applicant's intention to build to the minimum security standard of secured by design. This is considered to comply with CP1 and CP12.

7.13 Flood Risk, Drainage and Ground Conditions

7.13.1 The scale of the development is such that there is no statutory requirement for a Sustainable Drainage Scheme (SuDS) to be submitted. Similarly, the site is located within Flood Zone 1 and as such a Flood Risk Assessment is not required to be submitted. Policy DM8 of the Development Management Policies document stipulates that development will only be permitted where it would not be subject to unacceptable risk of flooding and would not unacceptably exacerbate risk of flooding elsewhere. Where practicable, existing flood risks should be reduced.

7.13.2 The existing site contains large areas of hard standing and single storey garage buildings. The proposal would introduce buildings with drainage provision and soft landscaping would also be introduced to the site. As such it is considered that drainage would be improved and the development would not therefore result in any greater risk of flooding within the site or neighbouring properties.

7.13.3 It is acknowledged that the site is within a source protection zone. Comments have not been received from Affinity Water on this application at the time of writing. However as part of the previous application, Affinity Water raised no objections subject to the development works being undertaken in accordance with relevant British Standards and Best Management Practice. The Environment Agency raised no objections to the previous application, and due to changes to consultation requirements since the previous application, have not been consulted as part of the current application. The Environmental Health Officer has raised no objections subject to a standard contaminated land condition.

7.14 Refuse and Recycling

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

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

7.14.2 The submitted plans indicate a communal refuse area adjacent to the proposed parking area and adjacent to the boundary with No. 83 The Queens Drive. The store would measure approximately 4.8 metres in width and would be enclosed by 1.8 metre high timber fencing, to match the height of the boundary fence. The proposed store is of sufficient size to accommodate the bins necessary for a development of this size, and is an acceptable distance (12m) from the highway for collection. Whilst the store would be adjacent to the garden of No. 83 The Queens Drive, the height of the enclosure is such that it would not be clearly visible from this neighbouring dwelling and is not considered to appear overbearing or visually intrusive. The proposed refuse and recycling storage arrangements are considered acceptable.

7.15 Conclusion

7.15.1 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.

7.15.2 It is acknowledged that the proposal would result in an uplift of six 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 amenity space provided. 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. The proposed development would introduce soft landscaping to the. The development would far exceed the requirements of Policy DM4 in relation to carbon emissions.

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

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

- C2 The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos. 1001, 1010, 1050 A, 1055 A, 1060 A, 1070 A, 1071, 1100, 1101, 1200, 1400 and 2023/7170/003 P1.

Reason: For the avoidance of doubt, in the proper interests of planning and in accordance with Policies PSP1, CP1, CP6, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policies DM2, DM4, DM6, DM8, DM9, DM10, DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

Affordable Housing (Pre-commencement)

- C3 No development shall take place until a scheme for the provision of six 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 six 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).

Construction Management Plan (Pre-commencement)

- C4 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:

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

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

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

Construction Environmental Management Plan (Pre-commencement)

- C5 No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following.

- A) Risk assessment of potentially damaging construction activities.

- B) Identification of "biodiversity protection zones".
- C) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements) including resulting from chemicals and dust and noise suppression.
- D) The location and timings of sensitive works to avoid harm to biodiversity features.
- E) The times during which construction when specialist ecologists need to be present on site to oversee works.
- F) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- G) Responsible persons and lines of communication.
- H) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: This is a pre commencement condition in the interests of safeguarding protected species and to meet the requirements of Policies CP1 and CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

Tree Protection (Pre-commencement):

- C6 The protective measures, including fencing, shall be undertaken in full accordance with the approved scheme as shown on Tree Retention and Protection Plan QDTRP-Aug23 before any equipment, machinery or materials are brought on to the site for the purposes of development, and shall be maintained as approved until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made. No fires shall be lit or liquids disposed of within 10.0m of an area designated as being fenced off or otherwise protected in the approved scheme.

The development shall be carried out in full accordance with the approved Tree Constraints, Impact Assessment and Tree Protection Method Statement by B.J.Unwin Forestry Consultancy Ltd (dated 21 August 2023).

Reason: This condition is a pre commencement condition to ensure that no development takes place until appropriate measures are taken to prevent damage being caused to trees during construction and to meet the requirements of Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

Contaminated Land (pre-commencement)

- C7 Prior to the commencement of development approved by this planning permission, the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:
- i) A site investigation, based on the findings of the Phase 1 Desk Study Report prepared by Opus (Report ref. E-E1711.00/LJE/SH), to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - ii) The site investigation results and the detailed risk assessment (i) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - iii) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (ii) are complete and identifying any

requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

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

Materials (Before above ground works)

- C8 Before any building operations above ground level hereby permitted are commenced, samples and details of the proposed external materials for the building 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).

Ecological enhancements (Pre-occupation, for submission)

- C9 Prior to the first occupation of the development hereby permitted, details of the ecological enhancement measures to be installed at the site as recommended at Section 5.4 of the submitted Ecological Appraisal shall be submitted to and approved in writing by the Local Planning Authority. The measures shall thereafter be installed in accordance with the approved details prior to the first occupation of the development and maintained as such thereafter.

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 Policies DM6 and DM9 of the Development Management Policies LDD (adopted July 2013).

Landscaping (Pre-occupation, for submission)

- C10 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, which shall include the location of all existing trees and hedgerows affected by the proposed development, and details of those to be retained, together with a scheme detailing measures for their protection in the course of development. The scheme shall include details of size, species, planting heights, densities and positions of any proposed soft landscaping including the 12 new trees shown on the approved plans and referenced in the Biodiversity Net Gain report, 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).

Parking to be provided (Pre-occupation)

- C11 Prior to the first occupation of the development hereby permitted, the parking and turning spaces as shown on drawing 1055 Rev A shall be provided on site and retained thereafter only for the parking of vehicles associated with this development and visitors.

Reason: This is a condition in the interest of highway safety and traffic movement and to meet the requirements of 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).

Bicycle storage (Pre-occupation)

- C12 No dwelling shall be occupied until its secure cycle storage as shown on plans 1050 and 1400 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).

Bin store (Pre-occupation)

- C13 The development hereby permitted shall not be first occupied until the refuse storage area as shown on plan no. 1400 has been implemented in full, 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, DM3, DM10 and Appendix 2 of the Development Management Policies document (adopted July 2013).

Boundary treatments (Pre-Occupation)

- C14 Prior to the first occupation of the development hereby approved, the boundary treatments shown on Drawing 1055 Rev A shall be installed in accordance with that drawing and permanently maintained as such thereafter.

Reason: This is a pre-commencement condition to ensure that appropriate boundary treatments are proposed to safeguard the amenities of neighbouring properties and the character of the locality 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).

Contamination

- C15 Following completion of measures identified in the approved remediation scheme and prior to the first occupation of the development, a verification report that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the Local Planning Authority for approval. The approved monitoring and maintenance programme shall be implemented.

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

Unidentified contamination

- C16 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken, and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

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

Energy Statement (Pre-occupation):

- C17 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.

Lighting details (Before installation)

- C18 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 of the lighting. The lighting shall be installed only in accordance with the approved details and retained as such thereafter.

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).

Noise mitigation (Compliance)

- C19 The development shall be completed in accordance with the construction methodology and mitigation measures as set out within the submitted Noise and Vibration Impact Assessment Report 16721.NVA.02 including window design and ventilation.

Reason: To ensure that occupiers of the development are not subjected to excessive noise and disturbance having regard to Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1 and DM9 of the Development Management Policies LDD (adopted July 2013)

Bird Nesting Season (Compliance):

- C20 No removal of trees, hedges or scrub shall take place between 1 March and 31 August inclusive unless searched immediately beforehand and certified free of nesting birds by a qualified ecologist.

Reason: To protect the amenities of wildlife during the primary nesting season and to meet the requirements of Policies CP1 and CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

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 0208 207 7456 or at buildingcontrol@hertfordshirebc.co.uk who will be happy to advise you on building control matters and will protect your interests throughout your build project by leading the compliance process. Further information is available at www.hertfordshirebc.co.uk.

Community Infrastructure Levy (CIL) - Your development may be liable for CIL payments and you are advised to contact the CIL Officer for clarification with regard to this. It is a requirement under Regulation 67 (1), Regulation 42B(6) (in the case of residential annexes or extensions), and Regulation 54B(6) (for self-build housing) of The Community Infrastructure Levy Regulations 2010 (As Amended) that a Commencement Notice (Form 6) is submitted to Three Rivers District Council as the Collecting Authority no later than the day before the day on which the chargeable development is to be commenced. DO NOT start your development until the Council has acknowledged receipt of the Commencement Notice. Failure to do so will mean you will lose the right to payment by instalments (where applicable), lose any exemptions already granted, and a surcharge will be imposed.

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

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

- 12 The applicant is reminded that the Control of Pollution Act 1974 allows local authorities to restrict construction activity (where work is audible at the site boundary). In Three Rivers such work audible at the site boundary, including deliveries to the site and running of equipment such as generators, should be restricted to 0800 to 1800 Monday to Friday, 0900 to 1300 on Saturdays and not at all on Sundays and Bank Holidays.
- 13 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The applicant and/or their agent and the Local Planning Authority engaged in pre-application discussions which result in a form of development that maintains/improves the economic, social and environmental conditions of the District.

14 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.

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 31st July 2015 the High Court held (*West Berkshire Council v SSCLG* [2015]) that the policy expressed through the WMS was unlawful and the NPPG was changed to reflect this. On 11th May 2016 the Court of Appeal reversed the High Court decision. The NPPG was subsequently amended to reflect the WMS on 19th May 2016.
- 1.2 In light of the above developments, between November 2014 and August 2015 and May 2016 and 1st September 2017 the Council gave greater weight to the WMS policy and associated NPPG guidance in it than to adopted Policy CP4 of its Core Strategy in respect of development proposals for 10 dwellings or less and which had a maximum combined gross floor area of 1000 sq metres. However, having undertaken an analysis of up to date evidence of housing needs (**The Needs Analysis**), officers advised in 2017 that when considering the weight to be given to the WMS in the context of breaches of the adopted development plan policy, the local evidence of housing need contained in the Needs Analysis should generally be given greater weight. On 1st September 2017 the Council resolved to have regard to the Needs Analysis as a consideration of significant weight when considering the relationship between Policy CP4 and the WMS for the purposes of Section 70(2) Town and Country Planning Act 1990 and Section 38(6) Planning and Compulsory Purchase Act 2004 in respect of development proposals of 10 dwellings or less.
- 1.3 On 24th July 2018 a new version of the National Planning Policy Framework¹ (the Framework) was published with immediate effect for development management purposes. Paragraph 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.”

¹ 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 £2million²** 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 schemes³.

² The sums payable secured by Sec 106 will be subject to indexation, in most cases from June 2011 which will not be calculable until the date of payment. The quoted upper limit includes a policy compliant contribution of £1,341,250.00 which relates to a minor development PP subject to a late stage viability review mechanism. The AHC, whilst capped at this figure, will only be known once viability is re-run at occupation when actual build costs and realised sales values are understood. The contribution paid could therefore be substantially less than the policy compliant sum referred to above, hence the range specified. Data is as of February 2023

³ 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 determined⁴ 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"

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.

⁴ 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 2016⁵, the lowest quartile house price in Three Rivers in 2016,

⁵ 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**⁶ 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
5	Three Rivers	£325,000.00

Table 1.

Since the publication of the above ONS data in 2016, the general house price affordability position has grown worse. According to data published by the Office of National Statistics (ONS), the lowest quartile house price in Three Rivers in September 2021 was £385,000⁷. 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
7	Three Rivers	£385,000

Table 2.

Lowest quartile earnings in Three Rivers in 2016 were £24,518.00 and £27,003.00 in 2021⁸, 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 earnings⁹). 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).

⁶ 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).

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

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

⁹ 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 ratio¹⁰ 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 ratio¹¹ was 13.77, the fourth¹² 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 ⁸ (2016)
1	Hertsmere	14.23
2	Mole Valley	14.18
3	Elmbridge	13.86
4	Three Rivers	13.77

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
5	Three Rivers	14.25

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 2021¹³.

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)

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

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

¹² 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).

¹³ 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 households¹⁴.
- 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 2036¹⁵.
- 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 2036¹⁶.
- 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 Rivers¹⁷. 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 annum¹⁸ 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

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

¹⁵ 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)

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

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

¹⁸ 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 sites¹⁹ 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.

¹⁹ 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 determined²⁰ 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

²⁰ 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%)²¹. 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:

²¹ 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.”²²

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: 21st June 2019:**
“The Council has however provided robust evidence to demonstrate high affordable housing need locally and that affordability in the District continues to deteriorate. Indeed, needs analysis carried out by the Council highlights the importance of small sites in addressing shortfall and the lack of affordability that exists in the District. I apply substantial weight to this local evidence due to its recentness and the clear conclusions that can be drawn from it. Policy CP4 makes it clear that site circumstances and financial viability will be taken into account when seeking affordable housing provision.”
- **APP/P1940/W/19/3221363, The Swallows, Shirley Road, Abbots Langley Decision date: 27th June 2019:**
“The Council has however provided robust evidence to demonstrate high affordable housing need locally and that affordability in the District continues to deteriorate. Indeed, needs analysis carried out by the Council highlights the importance of small sites in addressing shortfall and the lack of affordability that exists in the District. I apply substantial weight to this local evidence due to its recentness and the clear conclusions that can be drawn from it.”
- **APP/P1940/W/19/3225445, 6 Berkely Close, Abbots Langley Decision date 5th August 2019:**
“The Council has provided robust evidence of high affordable housing need in the District, and in line with the findings of other appeal decisions cited by the Council, I attribute substantial weight to that need as a consequence and consider that a contribution towards the provision of affordable housing is necessary.”
- **APP/P1940/W/19/3230999, 27 Gable Close, Abbots Langley Decision Date: 1st November 2019:**
“The Council has provided detailed evidence of acute affordable housing need locally: a Needs Analysis was undertaken in May 2016 after the publication of the Written Ministerial Statement which introduced the affordable housing thresholds now included in the Framework. Based on the Needs Analysis, the Council’s evidence highlights the issue of general house price affordability in the District, plus an exceptionally high need for affordable housing exacerbated by a significant shortfall in supply. It also identifies the importance of small sites in providing affordable housing with contributions from small sites amounting to over £2.1 million since 2011 being spent towards the delivery of 38 affordable dwellings.

²² 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 22nd October 2019:**

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

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

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

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

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

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

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

Decision Date 5th May 2019:

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

- **APP/1940/W/19/3229274: 101 Durrants Drive, Croxley Green**

Decision Date 16th August 2019:

“Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise... Therefore, I find that the proposal would fail to make appropriate provision for affordable housing and as such, would be contrary to policy CP4 of the CS which seeks to secure such provision, which although does not attract full weight, in light of the evidence provided, attracts significant weight sufficient to outweigh paragraph 63 of the Framework.”

- **APP/P1940/W/19/3229038: 124 Greenfield Avenue**

Decision Date 10th 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 9th March 2020

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

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

Decision Date 7th May 2020

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

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

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

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

- **APP/P1940/W/20/3259397 24 Wyatts Road**

Decision Date 8th 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 18th 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 4th 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 15th 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: 10th 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: 16th 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: 29th 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: 30th 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: 23rd 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: 27th 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