

PLANNING COMMITTEE - 18 January 2024

23/0761/FUL – Demolition of the existing dwelling and associated outbuilding and construction of five two storey detached dwellings with associated accommodation in the roof space served by dormer windows and rooflights; Juliet balconies and heat pumps with associated access including works to verges, parking and landscaping works including raised terraces at 1 AND LAND TO THE REAR TOMS LANE, KINGS LANGLEY, HERTFORDSHIRE, WD4 8NA

Parish: Abbots Langley Parish Council
Expiry of Statutory Period: 13 July 2023
Extension of Time: 29th February 2024

Ward: Gade Valley
Case Officer: David Heighton

Recommendation: That subject to the completion of a Section 106 Agreement securing an off-site affordable housing financial contribution and an off-site biodiversity net gain financial contribution that the application be delegated to the Head of Regulatory Services to **grant planning permission** subject to conditions as set out at section 8 below.

Reason for consideration by the Committee: The application has been called in by three Members of the Planning Committee to discuss concerns regarding over development and highway safety from the amended access.

To view all documents forming part of this application please go to the following website:
<https://www3.threerivers.gov.uk/online-applications/applicationDe#tails.do?activeTab=documents&keyVal=RUFGUQQFFNJ00>

1 Relevant Planning History

- 1.1 22/0694/FUL: Demolition of the existing dwellinghouse and associated buildings and construction of two storey semi-detached dwellinghouses with accommodation in the roof space by rear dormers and front rooflights, balconies to rear and detached carports alongside formation of new vehicular access with associated parking, landscaping works and alterations to levels. Withdrawn.

Relevant Enforcement History

- 1.2 22/0119/COMP: Laying of spoil/hard-core. Pending consideration, subject to the outcome of this application. Note: The laying of hardcore identified as a breach of planning control (engineering operation) would be subject to a condition on any approval to be removed as part of a construction management plan.

2 Description of Application Site

- 2.1 The application site includes No. 1 Toms Lane, a detached dwelling and its associated garden, a parcel of open land to the rear and parts of the adjacent highway embankment on Toms Lane.
- 2.2 The street scene generally comprises detached dwellings of varied architectural design set on relatively large plots. Opposite the application site is an open field and to the south west is a bridge which carries the West Coast Main Line railway over Toms Lane. The application site slopes down towards the highway from both the north west to south east and north east to south west.

- 2.3 The existing dwelling (No.1 Toms Lane) is of a two storey form with a single storey conservatory to the western flank, set back approximately 10m from the highway. Part of the front boundary with the highway is screened by significant vegetation. To the front of the dwelling is a large area of hardstanding. To the rear is a detached outbuilding and to the west is a private garden and terrace, which is bordered by vegetation.
- 2.4 Within the rear part of the application site to the north is an open field enclosed by vegetation. To the north east of the application site is land known as Three Acres which is currently a construction site with works relating to the construction of four detached dwellings, permitted via planning application reference 17/1825/FUL, which was subsequently varied under planning application reference 22/1068/FUL.
- 2.5 The application dwelling is set on a similar building line as that of the neighbouring dwelling to the north east, No. 3 Toms Lane, which is set at an elevated level to the application site.

2.6 In terms of policy designations, the site is located within the Metropolitan Green Belt.

3 Description of Proposed Development

- 3.1 This application seeks planning permission for the demolition of the existing detached dwelling (No.1 Toms Lane) and the construction of five detached dwellings with parking and access alterations.
- 3.2 The proposed plots would be directly sited adjacent and not behind one another. The plots sizes would range between 29-44m in depth, decreasing in depth to the rear of the application site, given the splayed nature of the western boundary. Each plot would vary in width ranging from 16m-40m. Each property would have an individual private amenity space and parking spaces for at least three vehicles (Plots 1 and 2 also served by integral garages).
- 3.3 The existing access point on Toms Lane would be widened with a new internal road extending into the site, running parallel with the north eastern boundary to serve the new dwellings. An area of soft landscaping / wildflower grassland will be created in-between the north eastern boundary and the internal road.
- 3.4 The proposed detached dwellings would have a maximum depths of approximately between 10.3m-12.2m with an approximate widths of between 10.5m-16.7m. The proposed new detached dwellings would have gable roof form with a flat roof single storey rear projection.
- 3.5 The 4-bed house on plot 1 (House 1) would be sited to the southwest of the amended access and immediate west of the existing dwelling. The dwelling would have a maximum depth of 10.3m and width of 11.3m. The proposed dwelling would be two storeys with roof accommodation served by dormers with a height of 8.5m and eaves height of 4.7m when measured from the lowest ground level. House 1 would be sited to front Toms Lane with two dormer windows within this roof slope and a metal clad canopy and bay windows at ground floor level. It would be sited a minimum of 34.5m from the splayed southwestern boundary and approximately 12.8m to the southern boundary with the highway. The dwelling would have an attached single storey garage with accommodation in the roofspace served by a dormer window. A Juliet balcony would be inserted within the eastern elevation. This proposed dwelling to the frontage of Toms Lane would have a traditional appearance of buff and grey brick with slate tiles.

- 3.6 The 4-bed house on plot 2 (House 2) would be sited to the northwest of plot 1. A distance of 5.5m would separate the buildings and house 2 would be sited a minimum of 24.5m from the splayed western boundary. The dwelling would have a depth of 12.2m and width of 10.5m. The dwelling would have a maximum height of 9.1m with three front dormers, rear dormer, a two storey rear projection and an integral garage. Juliet balconies would be inserted within the east and west elevations. The dwelling would have a traditional appearance of buff and grey brick with slate tiles.
- 3.7 The proposed 4-bed house on plot 3 (House 3) would be sited to the northwest of plot 2; a distance of approximately 4.6m would separate the buildings and the dwelling would be located approximately 18.5m from the splayed western boundary. House 3 would have a depth of 11m and width of 16.7m. The dwelling would have an eaves height of 5.3m and a maximum height of 9m. The dwelling would include a single storey rear projection with a flat roof form and rear patio. Juliet balconies would be inserted within the eastern and western elevations. The dwelling would have a sunken appearance in relation to the street frontage and be of a traditional appearance of buff and grey brick with slate tiles.
- 3.8 The proposed 4-bed house on plot 4 (House 4) would be sited to the northwest of plot 3; a distance of approximately 8m would separate the buildings and the proposed dwelling would be located a minimum of 15m from the western boundary. The dwelling would include a single storey rear projection with a flat roof form and rear patio. The proposed dwelling would have a depth of 12.2m and width of 16.6m. The dwelling would have an eaves height 5.3m of and maximum height of 9m. The dwelling would have a sunken appearance in relation to the street frontage and be of a traditional appearance of buff and grey brick with slate tiles.
- 3.9 The 4-bed house on plot 5 (House 5) would be sited to the northeast of plot 4 and a distance of approximately 4.6m would separate the buildings. The proposed dwelling would be located a minimum of 26.7m from the western boundary and 23.1m from the north eastern boundary. The dwelling would include a single storey rear projection with a flat roof form and rear patio. The proposed dwelling would have a depth of 11.1m and width of 16.6m. The dwelling would have an eaves height 5.3m of and maximum height of 9m. The dwelling would have a sunken appearance in relation to the street frontage and be of a traditional appearance of buff and grey brick with slate tiles. It would face down towards the new internal road and amended access.
- 3.10 A number of trees (10 in total), would be removed to facilitate the development with approximately 29 replacement trees and additional soft landscaping proposed.
- 3.11 Amendments were sought during the application process to reduce the number of trees removed on the highway land.

4 Consultation

4.1 Statutory Consultation

4.1.1 Abbots Langley Parish Council: [Objection]

Members appreciate the reduction in the number of units however still feel the design is contrived and the development represents an overdevelopment of the site. This development is on greenfield and members feel there are no special circumstances to permit it. Members note a similar planning application was refused at 19 Toms Lane. Furthermore, members are concerned works traffic from this development will

cause traffic flow issues at the bridge adjacent to the entrance to the development and provisions would need to be made for pedestrians to pass safely during the construction of the proposed bank.

4.1.2 Hertfordshire Highways: [No objection, subject to conditions]

Recommendation

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

1) Prior to the first occupation of the development hereby permitted the vehicular access shall be completed and thereafter retained as shown on drawing number 20021wd2.003 in accordance with details/specifications submitted and approved in writing by the Local Planning Authority in consultation with the highway authority. Prior to use appropriate arrangements shall be made for surface water to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

Reason: 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).

2) Construction Management Plan / Statement

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

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

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

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

AN1) Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the County Council website at: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

AN2) Obstruction of highway: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the County Council website at: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

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

AN4) 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.

AN5) Construction Management Plan (CMP): The purpose of the CMP is to help developers minimise construction impacts and relates to all construction activity both on and off site that impacts on the wider environment. It is intended to be a live document whereby different stages will be completed and submitted for application as the development progresses. A completed and signed CMP must address the way in which any impacts associated with the proposed works, and any cumulative

impacts of other nearby construction sites will be mitigated and managed. The level of detail required in a CMP will depend on the scale and nature of development. The CMP would need to include elements of the Construction Logistics and Community Safety (CLOCS) standards as set out in our Construction Management template, a copy of which is available on the County Council's website at: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx>

Comments/Analysis

Description of Proposal Demolition of the existing dwelling and associated outbuilding and construction of five two storey detached dwellings with associated access including works to verges, parking and landscaping works

Site and Surroundings

Toms Lane is a classified C local access route subject to a 30mph speed limit which is highway maintainable at public expense. The site is currently one dwelling with an empty green space to the rear. The site is located to the east of Kings Langley, less than 1km from the centre, in a residential area. There is a footway to the east of the site leading towards Bedmond, but due to the railway bridge there is not a footway leading towards Kings Langley. There are signs warning drivers of the lack of footway which could lead to pedestrians on the carriageway, although the Highway Authority would not consider this route safe and suitable for all users. The site is fronted by a vegetated and treelined bank which is highway land. In terms of sustainability, the closest marked bus stop to the site is approximately 225m from the site on Water Lane, although due to the railway structure, there is not a footway for the entire route. Using the footway fronting the site, although this does not run the whole distance and there is approximately 50m with no footway, there are unmarked bus stops located approximately 120m east of the site served by the H19 and KL80. Kings Langley train station, which is served by West Midlands Trains, is just over 1km to the site following Station Road to the south. The Highway Authority are satisfied the site is in a suitably sustainable location given the size of development and proximity to residential areas in line with the principles set out in HCC's Local Transport Plan 4 (LTP4), although it is acknowledged that the lack of footway in some places surrounding the site would present difficulties for some users.

Access and Parking

The application proposes to create a new, reprofiled, access at the site. At present the site is served by a wide access which has a steep slope from the site down onto the highway. The maximum gradient a sloped access can be is 10%, or 1 in 10, to ensure that there is less risk of vehicles losing control and rolling into the highway; and ensure that pedestrians with mobility issues can access the site. This is outlined within HCC Residential Dropped Kerbs Policy and Inclusive Mobility. Therefore, when the new access is constructed via Section 278, it will be done so to a maximum gradient of 10%. The proposed access is shown as a bellmouth with a 6m kerb radii. This is an acceptable form of access given the size of development and that the site is not fronted by a footway.

In terms of visibility from the new access, a speed survey has been provided which indicates that the 85th percentile speeds passing the site are 32.3mph eastbound and 33.1mph westbound, therefore, the visibility splays provided have been adjusted to suit these speeds. To ensure the visibility splays from the site are suitably clear from the access, reprofiling of the highway bank adjacent to the site has been

proposed. This will involve the removal of highways trees and the likely movement of highways signage and lighting; all of which will be done so at the cost of the applicant through a S278 agreement. Through discussions with HCC Green Infrastructure officers, amendments have been made to ensure that the large T18 oak which is located on the bank is not disturbed by this reprofiling as it is considered a valuable tree. The amended Airspade Report confirms that the roots of the T18 are to remain untouched and unaffected by the reprofiling. Highways trees are still to be removed but these are all category C trees and therefore are not considered to be as ecologically significant. Due to the limited area of highway land surrounding the site, no replacement highways trees can be planted and therefore it must be ensured that there is enough suitable planting within the site; as determined by Three Rivers ecological officers, as this is beyond the jurisdiction of the Highway Authority. It is requested however, that a member of the Green Infrastructure team is on site whilst any root excavation is being carried out on highway land. The developer is asked to contact the team via this email: greeninfrastructure@hertfordshire.gov.uk

Given the classification of Toms Lane, it must be ensured that vehicles can leave the site in forward gear. The swept path drawings which have been provided in the Revised Transport Statement, drawing number 22178/TK10 Rev A, indicated that a car can access the proposed parking spaces fronting the proposed dwellings and turn around within the site to exit in a forward gear.

Regarding trips from the site, a TRICS assessment has been completed and is found in the Transport Statement. Table 5.1 shows the proposed trip generation from the development, a baseline existing trip rate has not been provided but as the existing site is a singular dwelling, the existing trip rate is likely to be minimal. The proposed trip generation has been calculated for trips between the hours of 7am and 7pm, raw TRICS data has been provided also. Table 5.2 shows the predicted AM and PM peak trip rate, given the size of the site, the number of proposed trips from the site is likely to have a negligible impact upon the highway network. There have not been any collisions fronting the site within the last 5 years.

Ultimately the LPA will have to be satisfied with the parking provision, but HCC would like to comment that 3 parking spaces are being provided per dwelling. Some of the dwellings have garages also; in order for garages to fit a modern sized car, they should measure 3m x 6m in accordance with Manual for Streets and Roads in Hertfordshire: The Highway Design Guide. According to the TS covered and secure cycle parking is available for each dwelling; as well as electric vehicle charging at each dwelling, in line with updated building regulations.

Surface Water

The Government's flood risk maps for planning indicate parts of the carriageway to be at a high risk of surface water flooding: <https://check-long-term-flood-risk.service.gov.uk/postcode>. Therefore, a drainage solution from the site which removes the risk of expelling surface water onto Toms Lane should be provided to ensure flood risk does not increase.

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. According to the TS these distances are not to be exceeded and a swept path drawing, number 22178/TK08 Rev A, has been provided which shows that a 12m refuse vehicle can enter the site, turn around and leave in a forward gear.

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. Due to the distance of the proposed dwellings from the edge of the highway, a fire tender is likely to have to enter into the site. A swept path drawing, number 22178/TK09 Rev A, shows that a fire tender can turn around within the site and egress in forward gear.

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 conditions.

4.1.3 Herts Ecology: Latest comments - [No objection, subject to conditions]

Summary of Advice:

- *The biodiversity metric demonstrates a biodiversity net loss, but the use of this metric is not presently mandatory.*
- *If a net gain in line with the rules of the metric is sought, then an offsite solution legally secured and supported by a net gain plan will be required. In this case a net gain plan should be secured by Condition.*

Supporting documents:

I have made use of the following documents in providing this advice:

- *Biodiversity Metric calculation tool V 3.1 by Middlemarch, (assessment date 05 July 2023).*
- *Biodiversity Metric Assessment Middlemarch (report date 05 July 2023).*
- *Planting Plan (1010 L001 Rev F)*

Comments

Measurable Biodiversity Net Gain (BNG): The planning statement states that the proposed development conserves and enhances the existing landscape and that the measures within the landscape plan will improve the existing site conditions as calculated by a Biodiversity Metric Assessment.

The submitted biodiversity metric (05 07 2023) found that the site would result in a post development reduction in area biodiversity units of 0.47 (-16.16%) resulting in the main from the loss of poor condition modified grassland. This is listed as being a habitat that is not of strategic importance in the assessors notes and I have no reason to dispute this. The metric also shows a gain in 0.37 hedgerow biodiversity units (35.49%). The rules of the metric stipulate that these different percentages cannot be summed. Consequently, taken as a whole the submitted metric demonstrates that the application will result in a biodiversity net loss and does not meet the metric trading rules.

Nevertheless, it is not yet mandatory for any site to deliver a biodiversity net gain of a minimum of 10% nor is it yet mandatory to use a metric to calculate net gain, although it can now be considered the accepted means of doing so. Furthermore, for sites of this size mandatory net gain as defined by the environment act is not due to become mandatory till 2024. Consequently, the LPA will need to take a view as to whether the greater increase in hedgerow habitats is sufficient to compensate for the

loss of grassland habitat so resulting in no net loss of biodiversity value and a biodiversity enhancement in line with its local policy.

If, however the LPA is seeking a biodiversity net gain from the site in line with the rules of the metric, which would now be considered best practice even if not presently mandatory, then given the limitations imposed by the proposal an offsite solution will be required in order for the development to deliver sufficient net gain. Any such provision would need to be legally secured such as through an s106 and the means by which it is delivered set out in a net gain plan this latter could be secured by condition.

4.1.3.1 Original comments: Further information required.

Overall Recommendation:

Further information and/or amendments required before application can be determined.

Summary of Advice:

- Sufficient information on European protected species to allow determination*
- The use of soft felling methods for trees with low bat potential should be secured by Condition.*
- Further precautionary bat surveys can be secured by Condition*
- Precautionary and enhancement measures outlined in the ecological reports should be demonstrated within a Landscape and Ecological Management Plan*
- and Construction Ecological Management Plan as appropriate and secured by Condition.*
- The landscape and biodiversity metric referenced as demonstrating a biodiversity uplift to the site should be provided for scrutiny.*

Supporting documents:

I have made use of the following documents in providing this advice:

- A Preliminary Ecology Assessment (PEA) by Middlemarch (report date April 2023)*
- Preliminary Roost Assessment by Middlemarch (report date December 2022).*
- Dusk emergence and Dawn Re-Entry Bat Surveys by Middlemarch (report date May 2022)*
- Badger Survey by Middlemarch (Report date April 2023)*
- Red Kite Survey letter by Middlemarch (Report date April 2023)*

Comments

Bats: Considerable survey effort has been expended with a previous surveys including a Preliminary Ecological Appraisal carried out in 2017 and emergence surveys being conducted in 2021 by Enzygo Ltd.as well as the latest surveys in 2022 by Middlemarch. In the most recent Preliminary Ecological Appraisal (see listed report above) two buildings on site were identified as having high potential and trees T22, T19 and T18 have low potential to support roosting bats. The trees found to have a low potential if required to be felled, should be soft felled in line with Conservation Trust best practice guidelines. I advise this is secured by Condition.

The subsequent Dusk emergence and Dawn Re-Entry Bat Report gives details of surveys carried out on the 11th May, 29th June and 29th July 2022 and provides an adequate assessment of the impact of the proposals on bats and is based on

appropriate survey methods. No behaviour indicative of the presence of a roost was reported. These surveys are enough to demonstrate that the likelihood of an adverse impact is negligible-low as bats and that bats are not directly affected. Consequently, I advise that with this information in place the LPA has sufficient information to determine the application with regards bats. I note this report is dated May 2022 which is prior to the date of the final survey this should be corrected. The report suggests reasonable unlicensed mitigation measures to ensure that legally protected bats are not harmed. These recommendations should be followed in full.

Updated surveys: The Ecological report advises updated surveys if work is commenced beyond July 2022 and the planning statement confirms that further surveys will be undertaken to ensure the bat surveys are not more than 12 months ago. If the LPA is minded to approve this application and there is going to be a significant delay prior to demolition, then given the assessment of the high potential of the buildings for bat roosts, this is a sensible precaution to ensure against future changes that might risk an offence being committed. Such precautionary survey updates can be secured by Condition.

Other protected species: A Red Kite Survey in 2023 was undertaken and concluded that the nest occupied in a previous breeding season is currently inactive.

I advise measures to safeguard protected species as recommended in the April 2023 Preliminary Ecological Appraisal should be detailed within a Landscape and Ecological Management Plan and Construction Ecological Management Plan as appropriate and secured by Condition.

Enhancements: The location, type and number of ecological as recommended within the ecological reports should be shown within the Landscape and Ecological Management Plan.

Measurable Biodiversity Net Gain (BNG): The planning Statement states that the proposed development conserves and enhances the existing landscape and that the measures within the landscape plan will improve the existing site conditions as calculated by a Biodiversity Metric Assessment. Presently neither the landscape plan or metric referenced have been made available and so I am unable to advise that this application will deliver a biodiversity net gain.

Further Information required:

- Biodiversity Net Gain Metric.
- Landscape Plan

4.1.4 Herts & Middlesex Wildlife Trust: [No objection, subject to condition]

In accordance with the ecological report the following condition should be applied to secure integrated bat and swift boxes in the new buildings.

'No development shall commence until details of the model, and location of 5 integrated bat boxes and 10 integrated swift boxes has been supplied to and approved by the LPA. They shall be fully installed prior to occupation and retained as such thereafter.'

Reason: To contribute to biodiversity net gain in accordance with NPPF.

4.1.5 Landscape Officer: [No objection, subject to condition]

Recommend: Approval.

The submitted plans indicate that that; four B grade (moderate quality); six C grade (low quality) trees; and a small amount of low-quality Cypress hedge would need to be removed to facilitate development. However, these removals would be mitigated by the proposed planting of 29 standard trees and 200 metres of replacement hedging. A condition should be applied that requires the applicant to implement and follow the submitted tree protection method statement and remedial landscaping plans.

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 18

4.2.2 No of responses received: 2 objections received.

4.2.3 Site Notice: Posted: 26.05.2023 Expired: 17.06.2023.

Press Notice: N/A

4.2.4 Summary of Objections:

- Pedestrian and traffic safety
- Construction safety
- Protection of Green Belt
- Rich in biodiversity

5 Reason for Delay

5.1 Amendments and consultee comments sought.

6 Relevant Planning Policy, Guidance and Legislation

6.1 Legislation

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

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

6.1.3 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.

Policy / Guidance

6.2 National Planning Policy Framework and National Planning Practice Guidance.

6.2.1 In December 2023 the revised NPPF was published, to be read alongside the online National Planning Practice Guidance. The 2023 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”.

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

6.3 The Three Rivers Local Development Plan

6.3.1 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.

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

6.3.3 The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM1, DM2, DM6, DM8, DM9 and DM13 and Appendices 2 and 5.

6.4 Other

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

7 **Planning Analysis**

7.1 Principle of Development

7.1.1 The proposed development would result in a net gain of 4 dwellings. The site is not identified as a housing site in the Site Allocations document and would be considered as a windfall site. However, as advised in this document, where a site is not identified for development, it may still come forward through the planning application process where it will be tested in accordance with relevant national and local policies.

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

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

7.1.3 The application site is located adjacent to the settlement boundary of Kings Langley, a secondary centre as defined within the Core Strategy (Policy PSP3). Due to the

existence of the railway bridge, there is no defined pavement linking the application site to the settlement of Kings Langley, however, that said, it is closely related in terms of distance to local services. This application would also look to contribute to the housing need in Three Rivers which currently cannot demonstrate a 5 year supply of housing.

7.1.4 Subject to other material considerations, the principle of re-development of the application site is considered acceptable.

7.2 Housing Mix

7.2.1 Core Strategy Policies CP1 and CP3 require new development to contribute a range of house types and sizes to reflect needs. Core Strategy Policy CP3 also seeks to cater for a range of housing needs which should include provision of housing for the elderly and supported and specialist accommodation.

7.2.2 Policy CP3 of the Core Strategy also sets out proportions that should form the basis for the housing mix of development and indicates that proposals should broadly be for 30% 1-bedroom units, 35% 2-bedroom units, 34% 3-bedroom units and 1% 4-bedroom units. However, the most recent SHMA, published in January 2016 identified the indicative targets for market sector dwelling size within Three Rivers District as:

1 bedroom 7.7% of dwellings
2 bedrooms 27.8% of dwellings
3 bedrooms 41.5% of dwellings
4+ bedrooms 23.0% of dwellings

7.2.3 The development would provide 5 + plus bedroom units (100% provision). Whilst the housing mix would not strictly accord with Policy CP3, it is not considered that a development of this scale would prejudice the ability of the Council to deliver overall housing targets and thus is considered to have a negligible impact upon the acceptability of the development.

7.3 Affordable Housing

7.3.1 Policy CP4 of the Core Strategy requires development that would result in a net gain of one or more dwellings to contribute to the provision of affordable housing. The Policy sets out that the Council will seek an overall provision of 45% of all new housing as affordable housing, incorporating a mix of tenures (70% being social rented and 30% being intermediate). The Affordable Housing Supplementary Planning Document (AHSPD) was approved by the Council in June 2011 as a material consideration and supports implementation of Core Strategy Policy CP4.

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

7.3.3 The proposed development would result in a requirement for a commuted sum of £802,500 (plus indexation) towards affordable housing based on a habitable floor-space of 1070sqm multiplied by £750 per sqm, which is the required amount in the 'The Langleys and Croxley Green' market area. The applicant has submitted a viability assessment that supported the contention that the scheme would not be viable if a financial contribution were to be made. Upon review by the Council it was found that the site could viably afford an affordable housing financial contribution of £69,056, which the applicant has agreed to.

7.3.4 As such, a S106 agreement would need to be completed to secure the required contribution which is to be index linked from the date of the deed, prior to the grant of planning permission to comply with the requirements of Policy CP4 of the Core Strategy (adopted October 2011) and the Affordable Housing Supplementary Planning Document (approved June 2011).

7.4 Impact on the openness of the Green Belt

7.4.1 The site is within the Metropolitan Green Belt, where the fundamental aim is to prevent urban sprawl by keeping land permanently open; the essential characteristics of the Green Belt are its openness and permanence. The NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

7.4.2 The NPPF identifies the five purposes of including land in Green Belts as:

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

7.4.3 The NPPF sets out that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are given at paragraph 154 as follows:

- a) buildings for agriculture and forestry;
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- e) **limited infilling in villages;**
- f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
- g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
 - not have a greater impact on the openness of the Green Belt than the existing development; or
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to

meeting an identified affordable housing need within the area of the local planning authority.

- 7.4.4 The NPPF sets out that certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are:
- a) mineral extraction;
 - b) **engineering operations;**
 - c) local transport infrastructure which can demonstrate a requirement for a Green Belt location;
 - d) the re-use of buildings provided that the buildings are of permanent and substantial construction;
 - e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and
 - f) development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order.
- 7.4.5 Policy CP11 of the Core Strategy and Policy DM2 of the DMP LDD relate to development within the Green Belt and reflect the guidance as set out in the NPPF.
- 7.4.6 The proposed development, which comprises the demolition of the existing dwelling and the erection of 5 two storey detached dwellings may be considered to fall within the fifth exception, i.e. limited infilling in villages (para 154(e)). The changes to the access and provision of parking areas would be considered as an engineering operation (para 155(b)) and could also be an accepted form of development in the Green Belt.
- 7.4.7 The application site is located outside of the settlement boundaries and is not located within any of the Settlement of Hierarchies as set out in the Core Strategy, however, it is acknowledged it is situated very close to a secondary centre. It is therefore important to firstly consider whether the application site falls within a village; in this instance, Kings Langley. The NPPF does not specify a village must be designated as such in the development plan, or specify what the limits of the village should be. Having regard to appeal decisions, it is accepted that the definition of a village is a matter of planning judgement and even if a site falls outside a designated settlement boundary, this is not definitive as to whether a site falls within a village or not.
- 7.4.8 The application site lies adjacent to residential development on Toms Lane to the east and adjacent to the railway line to the west, the latter of which forms a physical barrier with Kings Langley. Toms Lane comprises of predominantly residential dwellings that are built of a linear form either side of the road. This is largely continuous, although it is noted there are various tracks and accesses, which lead to further residential development beyond the frontages, which are located in more spacious surroundings with fields further beyond. Toms Lane connects the application site to Primrose Hill, a part of Kings Langley which comprises mixed uses; residential properties of higher density and general and light industry clusters. Within less than a 5 minute walk from the application site there is a sandwich bar and petrol garage which includes a small supermarket. These are services generally found in villages. Whilst it is accepted that there are no designated footpaths to Primrose Hill, this does not outweigh the fact the site could reasonably fall within the village of Kings

Langley. Furthermore, within a greater walking distance access can be gained to the main defined centre of Kings Langley which accommodates a far greater range of services. Having regard to the above, it is considered that the application site can, by virtue of the surrounding site circumstances, fall within a village.

- 7.4.9 In an appeal decision at 19 Toms Lane, Kings Langley (APP/P1940/W/20/3257184) the Inspector dismissed an appeal following the Council's refusal to grant outline planning permission for the demolition of existing dwelling and outbuildings and construction of five detached dwellings. Whilst the appeal was dismissed, the Inspector considered that the locational circumstances of the site bore a close enough relationship with Kings Langley to meet the criteria of being within a Village. This site is some 0.2km from the edge of the settlement of Kings Langley.
- 7.4.10 Notwithstanding the above, in order for the development to not comprise inappropriate development within the Green Belt, the proposed development application site would need to comprise "limited infilling." There is no definition of limited infilling, but it is considered to constitute a "small gap" having regard to both the scale and form of the development, interpreted in the context of the overall aim of the Green Belt. It is noted that the application site lies adjacent to new residential development currently under construction to the northeast with further buildings to the north and east with the site hemmed in the west by the railway line.
- 7.4.11 It is acknowledged that the proposed dwellings beyond the linear frontage are more spacious in character than the dwellings to the frontage of Toms Lane. In terms of the adjacent development and other forms of development along other accesses the proposal would appear to relate to these and have a similar form of relationship of properties beyond the frontage of Toms Lane. Whilst the application proposes a considerable amount of development in terms of built form including hard surfacing in order to accommodate the number of dwellings proposed, it is considered as limited infilling, of a similar scale and appearance to other surrounding two storey development within plots comparable nature to other neighbouring dwellings. It is therefore considered that given the size of the application site, its context, and the layout and number of dwellings proposed, that the development would fall within the definition of "limited".
- 7.4.12 In light of the above, it is therefore considered that the proposal constitutes limited infilling within a village. On this basis, the proposed development is considered to fit into the exception provided at paragraph 154(e) and would therefore be considered appropriate development.
- 7.4.13 Given that the development is appropriate, it is not necessary to consider the harm to openness.
- 7.4.14 In terms of the access and parking areas, these would need to be considered within the context of the location of the dwellings which are acceptable within the Green Belt and would therefore reasonably require parking spaces and access. Whilst there would be an impact arising from the areas of hard standing, this would be offset by the new landscaping and siting of the access road, close to the north eastern boundary. As such, it is considered that the engineering operations to create the access, road and parking areas would preserve the openness of the Green Belt when viewed against the development as a whole. There would be no conflict with the purposes of the Green Belt. These aspects of the development would therefore fall within paragraph 155 of the NPPF.
- 7.4.15 As such, it is considered that the scheme would fall within the exceptions to inappropriate development within the Green Belt and as a result would not harm the

openness of the Green Belt. The development would comply with Policies CP11 of the Core Strategy, Policy DM2 of the Development Management Policies LDD and the provisions of the NPPF (2023).

7.5 Design and impact on character and street scene

- 7.5.1 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 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' and 'conserve and enhance natural and heritage assets.'
- 7.5.2 Policy CP3 of the Core Strategy (adopted October 2011) states that the Council will promote high quality residential development that respects the character of the district and caters for a range of housing needs. Development will make the most efficient use of land, without compromising the quality of the environment and existing residential uses.
- 7.5.3 In terms of new residential development, Policy DM1 of the Development Management Policies LDD advises that the Council will protect the character and residential amenity of existing areas of housing from forms of backland development. Development will also only be supported where it can be demonstrated that the proposal will not result in:
- i) Tandem development.
 - ii) Servicing by an awkward access drive which cannot easily be used by service vehicles.
 - iii) The generation of excessive levels of traffic
 - iv) Loss of residential amenity
 - v) Layouts unable to maintain the particular character of the area in the vicinity of the application site in terms of plot size, plot depth, building footprint, plot frontage width, frontage building line, height, gaps between buildings and streetscape features (e.g. hedges, walls, grass verges etc).
- 7.5.4 The Design Guidelines at Appendix 2 of the Development Management Policies document set out that new development should not be excessively prominent in relation to the general street scene and should respect the character of the street scene, particularly with regard to the spacing of properties, roof form, positioning and style of windows and doors and materials. Specific guidance includes that to prevent terracing and maintain spacing, the flank elevations of development should be set in at least 1.2m from flank boundaries at first floor level and above.
- 7.5.5 The application site is located to the rear of No.1 Toms Lane and the proposed redevelopment of the site would not result in significant harm to the character or appearance of the area. This is as a result of the long internal access road leading to residential development of four properties beyond the highway at Three Acres and other similar examples within the immediate area which are clearly distinct from other areas of Toms Lane which are heavily characterised by ribbon forms of development. On this basis, the introduction of a further cul-de-sac would be considered acceptable.
- 7.5.6 It is acknowledged that the proposed dwellings would be set on generously sized plots of land. The size of the properties within the immediate vicinity of the application site are characterised by relatively spacious plots with a generous amount of private amenity space to the rear. Whilst the rear of the application site would not appear as

part of the existing linear built form of Toms Lane and viewed against the more rural and existing countryside setting it lies within and beyond; the dwelling sizes and their plots are characteristic of the area and follows the pattern of development at the adjacent site.

- 7.5.7 The proposed siting and orientation of the replacement detached dwelling adjacent to the frontage would follow the prevailing pattern of development within the street scene of Toms Lane and maintain an active frontage. The proposed dwelling on plot 1 would front Toms Lane to ensure the character and appearance of the street scene is maintained and when viewed in a wider context.
- 7.5.8 In terms of design aspects of the dwellings, Appendix 2 of the Development Management Policies LDD sets out that dormer windows should always be subordinate to the main roof. They should be set down from the existing ridge level; set in from either end of the roof and set back from the plane of the front or rear wall. The proposed dormer windows would appear subordinate to the roofslope and those within the south elevation of Plot 1 would be considered in keeping with the street scene.
- 7.5.9 It is acknowledged from the submitted indicative street scene that the proposed replacement dwelling adjacent to the frontage of Toms Lane would have a lower ridge height than the neighbouring properties, which rise to the northeast. It would therefore have a ridge height in keeping with the street scene and conform to the existing topography. It is also acknowledged that the proposed dwelling adjacent to Toms Lane would be set on a similar building line with the existing dwelling and the adjacent neighbouring dwelling, thus in keeping with the existing street scene.
- 7.5.10 The existing land levels have been raised and altered with spoil and material from the adjacent development site to the rear open field. The proposed plans indicate that this would be removed with levels further lowered in comparison to pre-existing levels to respect the topography of the area. As such, the proposed topography would similarly rise to the north east, which would ensure that the proposed dwellings would not be a visually obtrusive form of development to the detriment of the visual amenities of the area.
- 7.5.11 The proposed buildings would be set in a significant distance from all of the external boundaries of the site and generous distances would separate the proposed dwellings, in character with the surrounding area. The proposed development would therefore not result in a cramped feature or result in overdevelopment of the site.
- 7.5.12 To protect the overall character of the site and surrounding area, certain permitted development rights would be removed from the proposed dwellings.
- 7.5.13 In light of the above the overall scale, siting and layout of the proposed development would therefore not appear contrived or result in any demonstrable harm to the visual amenities or character of the area. The proposed development would therefore be in accordance with Policies CP1 and CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies LDD.
- 7.6 Impact on amenity of neighbours and of 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'.

- 7.6.2 Policy DM1 and Appendix 2 of the Development Management Policies LDD 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.
- 7.6.3 The Design Criteria at Appendix 2 of the Development Management Policies document also set out that two storey development at the rear of properties should not intrude a 45 degree splay line across the rear garden from a point on the joint boundary, level with the rear wall of the adjacent property, although this principle is dependent on the spacing and relative positions of properties and consideration will be given to the juxtaposition of properties, land levels and the position of windows and development on neighbouring properties.
- 7.6.4 In the interests of privacy and to avoid overlooking, the Design Criteria advise that a distance of 28m should be achieved between the faces of single or two storey buildings backing on to each other. Distances should be greater between buildings in excess of two storeys with elevations which directly face each other or in situations where there are site level differences involved. Appendix 2 of the Development Management Policies document also advises that windows of habitable rooms at first floor level should not generally be located in flank elevations and that flank windows of other rooms should be non-opening below 1.7m and obscure glazed. Development should not incorporate balconies or first floor conservatories which overlook neighbouring properties to any degree.
- 7.6.5 The proposed dwellings would be sited beyond to the northwest of the rear garden of No.3 Toms Lane and the dwellings currently under construction at Three Acres. The siting of the dwellings and height above ground level, being set on a lower land level relative to No 3 and the site at Three Acres, would not result in any unacceptable loss of light or harm to the visual amenities of this neighbouring property.
- 7.6.6 In terms of overlooking, the ground floor levels of plots 3-5 would be set below the external pre-existing ground level, with the existing spoil removed, which would be subject to a condition, and therefore would not permit overlooking of the neighbouring properties adjacent to the application site. A distance of over 26m would separate the elevation of the proposed dwelling on plot 1 and flank elevation of No.3, a distance of over 39m would separate the front elevation of plot 4 and a distance of approximately 20m with plot 5 and the nearest elevation of a dwelling on the Three Acres site. As such, it is not considered that the proposed development would result in any unacceptable overlooking of the adjacent site neighbouring properties. Furthermore, due to the land level changes the proposed first floor level would not sit at true first floor level so would not appear unduly prominent as viewed from the neighbouring properties.
- 7.6.7 The Residential Design Criteria at Appendix 2 of the Development Management Policies document also advise that in the interests of privacy and to prevent overlooking, windows of habitable rooms at first floor level and above should not generally be located in flank elevations. Flank windows of other rooms should be non-opening, below 1.7m from internal floor level and obscure glazed.
- 7.6.8 Given the separation distances between the proposed dwellings, it is not considered that any harm in term of overlooking would occur with regard to the sunken patios. Furthermore, the patios would be set in from the shared boundaries and the proposed boundary treatments would be subject to a condition. Furthermore, the siting and scale of the proposed Juliet balconies would not permit unacceptable overlooking into the proposed dwellings or curtilages, although the flat roofs would need to be

controlled by condition to prevent their use for amenity purposes. Due to the layout of the proposed dwellings and fenestration details the proposed development would not result in any unacceptable overlooking between the properties, subject to a condition to obscure any first flank window(s).

- 7.6.9 Policy DM9 of the Development Management Policies LDD states that development which 'has an unacceptable adverse impact on the indoor and outdoor acoustic environment of existing or planned development' will not be supported. The application site is bounded to the west by a railway line, which carries trains on the west coast mainline route. As such the application is supported by a noise and vibration impact assessment. It concluded that it would be feasible to achieve internal noise levels in line with guidelines with double-glazed or triple-glazed windows. Alternative means of cooling may be required; however, it is not recommended that residents should be prevented from opening windows should they wish to do so. Further, it concludes that train-induced vibration would not pose any significant risk of adverse effects on residential amenity. As such no objection is raised in this regard. Therefore, it is not considered that the development would result in any adverse impact on residential amenity.
- 7.6.10 The proposed development would result in a more intensive use of the site resulting in a net increase in vehicular movements. However, it is considered that the proposed redevelopment of the site to accommodate five dwellings would not result in any harm to the neighbouring properties in terms of noise and disturbance. However, it is recommended that a construction management plan is submitted and agreed prior to commencement of the development in the interests of neighbour amenity, which would be secured by condition.
- 7.6.11 Subject to conditions, it is not considered that the proposed development would result in a significant adverse impact on neighbouring dwellings and the development would be acceptable in this regard in accordance with Policy CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies LDD.

7.7 Amenity Space

- 7.7.1 Policy CP12 of the Core Strategy states that development should take into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space. Specific standards for amenity space are set out in Appendix 2 of the Development Management Policies LDD.
- 7.7.2 Appendix 2 of the Development Management Policies LDD sets out guidance with regard to amenity provision. The Design Criteria stipulates that the following indicative amenity space provision should be provided:

- 4 Bed dwelling - 105 square metres
- any additional bedrooms - 21 square metres

- 7.7.3 The proposed dwellings would be served by amenity space provisions in excess of the above indicative requirements. The overall size and scale of the amenity space provisions would not appear cramped and would provide acceptable and useable garden areas.

7.8 Access and Parking

- 7.8.1 Core Strategy Policy CP10 sets out that development should make adequate provision for car and other vehicle parking and Policy DM13 and Appendix 5 of the

Development Management Policies document set out requirements for parking provision.

- 7.8.2 Hertfordshire Highways have been consulted on the proposed altered access and consider it acceptable. A speed survey and proposed visibility splay adjustments including the reprofiling of the existing adjacent bank and removal of highways trees has been considered as acceptable, subject to a section 278 agreement. Given the size of the proposed site, the number of proposed trips is considered to have a negligible impact on the highway network and is considered acceptable, with no reported collisions fronting the site within the last 5 years.
- 7.8.3 Amendments during the course of the application sought to retain as many highways trees as possible, with the remaining Category C trees, which are not considered as ecologically significant, removed.
- 7.8.4 Policy DM13 of the Development Management Policies LDD requires development to make provision for parking in accordance with the parking standards set out at Appendix 5 of the Development Management Policies LDD. These standards identify the following car parking requirements for residential development:
- 4 plus bedroom units - 3 spaces (3 assigned spaces)
- 7.8.5 Three parking spaces would be provided for each unit in accordance with the parking requirements as set out in Appendix 5. The proposed development would therefore meet the requirements of Policy DM13 and Appendix 5 of the Development Management Policies LDD. It is not considered that the provision of five houses (four additional) on the site would lead to additional parking pressures within the surrounding area. Further two of the proposed dwellings would include garages and they would meet the required size (3m x 6m). It is considered that these garages on plots 1 and 2 would be subject to a condition to ensure their internal conversion is controlled and requires planning permission as their loss would lead to a short fall.
- 7.8.6 In terms of the amended access, the Highway Authority have considered that it would be acceptable with works required off-site within the highway boundary which would be secured by a section 278 agreement with the Highway Authority. Subject to conditions that the proposed vehicular access is completed in accordance with drawing No. 20021wd2.003 and that a Construction Traffic Management Plan is submitted there is no highway objections to the development.
- 7.9 Trees and Landscaping
- 7.9.1 Policy CP12 of the Core Strategy expects development proposals to 'have regard to the character, amenities and quality of an area', to 'conserve and enhance natural and heritage assets' and to 'ensure the development is adequately landscaped and is designed to retain, enhance or improve important existing natural features' and Core Strategy Policy CP9 seeks a net gain in the quality and quantity of Green Infrastructure through the protection and enhancement of assets and the provision of new green spaces.
- 7.9.2 Policy DM6 of the DMP LDD sets out that development proposals should seek to retain trees and other landscape and nature conservation features, and that proposals should demonstrate that trees will be safeguarded and managed during and after development in accordance with the relevant British Standards.
- 7.9.3 The proposed development would not impact on any protected trees. However, the site contains a number of trees contained within land adjacent to the highway, some

of which are proposed to be retained as part of the proposed development. The submitted plans indicate that 10 unprotected trees, four B grade (moderate quality); six C grade (low quality) trees; and a small amount of low-quality Cypress hedge would need to be removed to facilitate development. The Landscape Officer has been consulted in relation to the proposed development and considers that the tree removals would be mitigated by the proposed planting of 29 standard trees and 200 metres of replacement hedging, which would be subject to a condition to implement and follow the submitted tree protection method statement and remedial landscaping plan.

7.9.4 The submitted information details that the retained trees would be protected and supervised excavations would be used within the root protection area of other particular trees. Based on the information submitted it is considered that the proposed mitigation measures would not result in any harmful impact and the protection and construction methods would serve to protect the existing established trees, which are to be retained.

7.10 Refuse and Recycling

7.10.1 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

7.10.2 The plans indicate that each dwelling would be served by a bin store or have dedicated space for bins. Further, due to the length of the access a refuse truck would be required to access the site on collection days. A tracking diagram has been submitted demonstrating that a refuse truck could access and turn within the site to exit in forward gear. Drawing, number 22178/TK08 Rev A, has been provided which shows that a 12m refuse vehicle can enter the site, turn around and leave in a forward gear.

7.11 Sustainability

7.11.1 Policy CP1 of the Core Strategy (adopted October 2011) requires all applications for new residential development of one unit or more to submit an Energy Statement demonstrating the extent to which sustainability principles have been incorporated into the location, design, construction and future use of proposals and the expected carbon emissions.

7.11.2 Policy DM4 of the Development Management Policies LDD states that from 2016, applications for new residential development will be required to demonstrate that the development will meet a zero carbon standard (as defined by central government). However, the Government is yet to provide a definition for zero carbon and the Council is therefore continuing to apply the 2013 requirements, i.e. applicants will be required to demonstrate that development will produce 5% less carbon dioxide emissions than Building Regulations Part L (2013) requirements having regard to feasibility and viability.

7.11.3 The Energy Statement submitted with the application confirms that the proposed development would result in a 9.63% carbon dioxide saving which would meet the requirements of Policy DM4 of the Development Management Policies LDD. This would include a high specification thermal envelope minimising heat loss and air source heat pumps.

7.12 Biodiversity

7.12.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive. The Habitats Directive places a legal duty on all public bodies to have regard to the habitats directive when carrying out their functions.

7.12.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of this application in accordance with Policy CP9 of the Core Strategy and Policy DM6 of the Development Management Policies document. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications where biodiversity may be affected prior to the determination of a planning application. Policy DM6 also states that development must conserve, enhance and, where appropriate, restore biodiversity.

7.12.3 A biodiversity checklist was submitted with the application this stated that some protected species and biodiversity factors will be affected as a result of the development. As such, an Ecological Appraisal, bat roost assessment, bat survey, red kite survey, badger survey and Biodiversity Matrix Assessment accompanied the submitted application.

7.12.4 Herts Ecology were consulted with regards to the above documentation and raised no objection, subject to conditions. This would be in the form of precautionary bat and badger surveys prior to the commencement of the development. This would include the implementation of mitigation measures detailed in the ecological report including the installation of 5 bat boxes and 10 swift boxes. Furthermore, the Ecology Officer recommends further details to be submitted in the form of a Landscape and Ecological Management Plan and Construction Ecological Management Plan, which would be secured by condition.

7.12.5 Notwithstanding the above survey's, the submitted information confirms that the development would result in a post development reduction in biodiversity (net loss) which fails to comply with Policy DM6. Given the constraints of the site it is not possible to provide a net gain on site. As such, whilst currently only best practice, the applicant has agreed to securing off-site biodiversity net gain (1%) via a financial contribution applying a Biodiversity Offsetting Contribution Formula which is to be secured by legal agreement.

7.12.6 The applicant has agreed a 1% contribution, which therefore would be policy compliant. Any such provision would be legally secured through a S106 agreement and the means by which it is delivered set out in a net gain plan, which would be secured by condition.

7.13 Section 106 / Heads of Terms

- 7.13.1 Any grant of planning permission would be subject to the completion of a Section 106 Agreement. The Section 106 Agreement would include Heads of Terms securing the provision of an agreed affordable housing off-site contribution and a commitment to provide 1% biodiversity net gain.
- 7.13.2 An agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 would also be required 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.
- 7.14 Other material considerations
- 7.14.1 The NPPF identifies that there are 3 dimensions to sustainable development: social, economic and environmental.
- 7.14.2 The development would make a contribution towards housing delivery, with a net increase of four units, making up the shortfall in housing in the district and the future occupiers can assist in supporting local settlements by using nearby amenities. Furthermore, the short term benefits of the construction of four additional dwellings are noted, including the off-site contribution toward affordable housing and off-site biodiversity net gain. With this considered, the LPA consider that the scheme would result in sustainable development, with social, economic and environmental benefits including housing delivery.

8 Recommendation

8.1 That subject to the completion of a Section 106 Agreement securing an off-site affordable housing contribution (index linked from the date of the deed) and an off-site biodiversity net gain financial contribution, that the application be delegated to the Head of Regulatory Services to **GRANT PLANNING PERMISSION** subject to the following conditions:

8.2 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: 20021SU1.300, 20021SU1.301, 20021SU1.103, 20021SU1.104, 20021SU1.302, 20021WD2.003 REV A, 20021WD2.350, 20021WD2.351, 20021WD2.352, 20021WD2.353, 20021WD2.354, 20021WD2.360, 20021WD2.361, 20021WD2.362, 20021WD2.363, 20021WD2.364, 20021WD2.371, 20021WD2.372, 20021WD2.373, 20021WD2.374, 20021WD2.375, 1010_L001 REV F

Reason: For the avoidance of doubt, to protect the character of the area and amenities of neighbouring properties and in the proper interests of planning in accordance with Policies CP1, CP2, CP3, CP4, CP6, CP8, CP9, CP10, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM2, DM3,

DM4, DM6, DM7, DM8, DM9, DM10 and DM13 and Appendices 2, 4 and 5 of the Development Management Policies LDD (adopted July 2013).

C3 No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan: The Construction Management Plan / Statement shall include details of:

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

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

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

C4 No development shall take place until details of the existing site levels and the proposed finished floor levels and sections of the proposed buildings have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: This condition is a pre commencement condition in order to ensure a satisfactory form of development relative to surrounding buildings and landscape and to meet the requirements of 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).

C5 No development shall take place (including ground works, vegetation clearance) until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. The LEMP shall include the following:

- a. A Description and evaluation of the features to be managed.
- b. Ecological trends and constraints on site that might influence management.
- c. Aims and objectives of management.

- d. Appropriate management options for achieving aims and objectives (for example but not limited to tree maintenance, native-species hedgerow planting; pond creation, and wildflower and marshy areas; tree-mounted- bat and bird boxes including swift boxes; hedgehog homes and highways through boundary fences; log piles).
- e. Prescriptions for management options.
- f. Preparation of a works schedule (including an annual work plan capable of being rolled forward over a minimum five year period).
- g. Management responsibilities.
- h. Ongoing monitoring and remedial measures.
- i. Updated bat survey.
- j. Updated badger survey.

These works shall be carried out in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: This condition is a pre commencement condition to ensure to ensure that any protected species are safeguarded and to meet the requirements of Policies CP1, CP9 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

- C6 Prior to the above ground works to the dwellings hereby permitted the existing dwelling (No.1 Toms Lane) and associated outbuilding shall be demolished.

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

- C7 Prior to the first occupation of the development hereby permitted a hard landscaping scheme, which shall include a specification of all hard landscaping including locations, materials and method of drainage shall be submitted to and approved in writing by the Local Planning Authority.

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

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

- C8 The development shall be undertaken in full compliance with the construction methods detailed in the Arboricultural Method Statement prepared by BHA trees Ltd dated 12th April 2023, Tree Protection Plan (03/08/2023).

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

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

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

- C9 The development shall be undertaken in full compliance with the proposed soft landscaping and Detailed Planting Plan (1010_L001 rev F) forming part of this application. The soft landscaping and tree planting shall be carried out as approved.

All soft landscaping works required by the approved scheme shall be carried out before the end of the first planting and seeding season following first occupation of any part of the buildings or completion of the development, whichever is sooner. If any existing tree shown to be retained, or the proposed soft landscaping, are removed, die, become severely damaged or diseased within five years of the completion of development they shall be replaced with trees or shrubs of appropriate size and species in the next planting season (ie November to March inclusive).

Reason: In order to ensure that the approved landscaping is satisfactorily maintained, in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

- C10 Prior to the first occupation of the development hereby permitted the vehicular access shall be completed and thereafter retained as shown on drawing number 20021wd2.003 in accordance with details/specifications submitted and approved in writing by the Local Planning Authority in consultation with the highway authority. Prior to use appropriate arrangements shall be made for surface water to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

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

- C11 Before any building operations above ground level hereby permitted are commenced, samples and details of the proposed external materials shall be submitted to and approved in writing by the Local Planning Authority and no external materials shall be used other than those approved.

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

- C12 The parking and turning space shall be constructed in accordance with the approved plans prior to the first occupation of any part of the development hereby permitted. The parking and turning space shall thereafter be kept permanently available for the use of residents and visitors to the site.

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

- C13 Immediately following the implementation of this permission, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any other revoking and re-enacting that order with or without modification) no development within the following Classes of Schedule 2 of the Order shall take place.

Part 1

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

Class B - enlargement consisting of an addition to the roof

Class F - any hard surface

Part 2

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

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

Reason: To ensure adequate planning control over further development having regard to the limitations of the site and neighbouring properties and in the interests of the visual amenities of the site and the area in general, in accordance with Policies CP1, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1, DM2 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C14 No external lighting shall be installed on the site or affixed to any buildings on the site unless the Local Planning Authority has first approved in writing details of the position, height, design and intensity. The lighting shall be installed in accordance with the approved details before the use commences.

Reason: In the interests of visual amenity, biodiversity and the openness of the Green Belt and to meet the requirements of Policies CP1, CP9, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM2, DM6 and DM9 of the Development Management Policies LDD (adopted July 2013).

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

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

- C16 Prior to the first occupation of the building hereby permitted, the measures detailed within the submitted Energy Statement shall be incorporated into the approved development.

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

- C17 Should they be required, detailed proposals for fire hydrants serving the development as incorporated into the provision of the mains water services for the development, whether by means of existing water services or new mains or extension to or diversion of existing services or apparatus, shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of development. The development shall thereafter be implemented in accordance with the approved details prior to occupation of any building forming part of the development.

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

- C18 The garages (both those permitted as integral garages to Plot 1 and Plot 2) serving the residential dwellings hereby permitted, shall be permanently retained for the garaging of private vehicles. No alterations both externally or internally shall be carried out to the garages such as to prevent their use for garaging private vehicles.

Reason: To ensure that on-site car parking provision is maintained in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011) and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

- C19 The flat roof on the single storey rear projections of the dwellings hereby permitted, shall not at any times be used for amenity purposes other than for maintenance purposes.

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

- C20 Before the first occupation of the detached dwellings hereby permitted, the first floor windows in the northern elevation of the dwelling on Plot 1 and the northern and southern flank elevation of Plot 2 shall be fitted with purpose made obscured glazing and shall be top level opening only at 1.7m above the floor level of the rooms in which the windows are installed. The windows shall be permanently retained in that condition thereafter.

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

8.3 **Informatives**

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

All relevant planning conditions must be discharged prior to the commencement of work. Requests to discharge conditions must be made by formal application. Fees are £145 per request (or £43 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. If your development is CIL liable, even if you have been granted exemption from the levy, please be advised that before commencement of any works it is a requirement under Regulation 67 of The Community Infrastructure Levy Regulations 2010 (As Amended) that CIL form 6 (Commencement Notice) must be completed, returned and acknowledged by Three Rivers District Council before building works start. Failure to do so will mean you lose the right to payment by instalments (where applicable), and a surcharge will be imposed. However, please note that a Commencement Notice is not required for residential extensions IF relief has been granted.

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

A) Making a Non-Material Amendment

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

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

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

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

12 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development

Management Procedure) (England) Order 2015. The development maintains/improves the economic, social and environmental conditions of the District.

- 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 Local Planning Authority suggested modifications to the development during the course of the application and the applicant and/or their agent submitted amendments which result in a form of development that maintains/improves the economic, social and environmental conditions of the District.
- 14 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.
- 15 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.
- 16 *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.*
- 17 *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.*

18 *The purpose of the CMP is to help developers minimise construction impacts and relates to all construction activity both on and off site that impacts on the wider environment. It is intended to be a live document whereby different stages will be completed and submitted for application as the development progresses. A completed and signed CMP must address the way in which any impacts associated with the proposed works, and any cumulative impacts of other nearby construction sites will be mitigated and managed. The level of detail required in a CMP will depend on the scale and nature of development. The CMP would need to include elements of the Construction Logistics and Community Safety (CLOCS) standards as set out in our Construction Management template, a copy of which is available on the County Council's website at: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx>*

Appendix A

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

Background

- 1.1 In November 2014, the Minister of State for Housing and Planning issued a Written Ministerial Statement (WMS) setting out changes to national planning policy. The WMS stated that financial contributions towards affordable housing should no longer be sought on sites of 10 units or less and which have a maximum combined gross floor area of 1,000sqm. National Planning Practice Guidance (NPPG) was amended to reflect this. However on 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 :

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.

- a) "...All new development resulting in a net gain of one or more dwellings will be expected to contribute to the provision of affordable housing."
- e) "In most cases require affordable housing provision to be made on site, but in relation to small sites delivering between one and nine dwellings, consider the use of commuted payments towards provision off site. Such payments will be broadly equivalent in value to on-site provision but may vary depending on site circumstances and viability."

1.5 The supporting text to Policy CP4 summarises the justification for it:

- 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

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

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.
- 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

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 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.

the starting point under section 38(6) of the 2004 Planning and Compulsory Purchase Act. The correct approach is to:

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

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

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

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

"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, 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

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

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>

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).

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.

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>

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).

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) 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

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>

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

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

- 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

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)

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.

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

¹⁹ Sites with completions in the monitoring year 2021/22

²⁰ Includes refused and approved applications. Excludes prior approval developments.

(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

- 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.

²¹ See footnote 3.

The seventh paragraph in the response from the Inspectorate, summarised the approach that the Inspectorate acknowledges should be taken:

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

²² Paragraph 7, Planning Inspectorate Letter, March 2017.

the Written Ministerial Statement which introduced the affordable housing thresholds now included in the Framework. Based on the Needs Analysis, the Council's evidence highlights the issue of general house price affordability in the District, plus an exceptionally high need for affordable housing exacerbated by a significant shortfall in supply. It also identifies the importance of small sites in providing affordable housing with contributions from small sites amounting to over £2.1 million since 2011 being spent towards the delivery of 38 affordable dwellings.

A further Needs Analysis following publication of the revised Framework in July 2018 demonstrated that housing stress had increased since 2016. The Council has therefore revisited its position following the update to national policy. There is no evidence before me that affordable housing contributions are acting as a brake on development. Rather, the evidence is that contributions from small sites collected since the policy was adopted in 2011 are delivering affordable housing on the ground. Due to its recentness and the clear conclusions that can be drawn from it, I give this local evidence substantial weight. It underpins the approach in Policy CP4 as an exception to national policy."

- **APP/P1940/W/19/3230911, 67 & 69 St Georges Drive, Carpenders Park, Decision date 22nd October 2019:**

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

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

"The Council states that its Strategic Housing Market Assessment (2010) has demonstrated that there is a significant affordable housing need locally due to very high house prices and rents and a constricted supply of suitable housing sites. Further, the South West Hertfordshire Strategic Housing Market Assessment (2016) estimated a net affordable housing need of 14,191 in the District between 2013-36 and there is also a worsening situation with regards to affordability. Based on the 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 Claremont Crescent, Croxley 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/egcl-page/core-strategy>
2. Annual Monitoring Report 2020/2021 (December 2021)
<http://www.threerivers.gov.uk/egcl-page/annual-monitoring-report>
3. Affordable Housing Supplementary Planning Document (June 2011)
<http://www.threerivers.gov.uk/egcl-page/supplementary-planning-documents>
4. South West Hertfordshire Local Housing Needs Assessment (August 2020)
<https://www.threerivers.gov.uk/egcl-page/new-local-plan-evidence-base>
5. Office of National Statistics Housing Data 2002-21
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepericetoresidencebasedearningslowerquartileandmedian>

March 2023