

PLANNING COMMITTEE – 23 May 2024

23/1277/OUT – Outline Application: Erection of 5 self-build detached dwellings with associated access and parking (appearance, landscaping, layout and scale as reserved matters) at LAND AT TOMS LANE (NOS 114-118), TOMS LANE, KINGS LANGLEY, HERTFORDSHIRE.
(DCES)

Parish: Abbots Langley Parish Council
Expiry of Statutory Period: 25.01.2023
Extension agreed to 31.05.2024

Ward: Gade Valley
Case Officer: Freya Clewley

Recommendation: That the application is delegated to the Head of Regulatory Services to grant outline planning permission, provided that Hertfordshire Ecology raise no objections to any further information submitted including the required reptile surveys, and following the completion of a Section 106 agreement and subject to conditions and any additional conditions recommended by Herts Ecology.

Reason for consideration by the Committee: The application was called in by the Parish Council and three members of the planning committee due to local concern regarding the overdevelopment of a Green Belt site and the impact of the development on the character of the area.

To view all documents forming part of this application please go to the following website:
<https://www3.threerivers.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RYNBJ1QFGJT00>

1 Relevant Planning History

1.1 No relevant planning history.

2 Description of Application Site

2.1 The application site is roughly rectangular in shape and pertains to a parcel of land 5350sqm in area, located on the southern side of Toms Lane, Kings Langley. Toms Lane is a residential road, characterised by semi-detached and detached dwellings of varying architectural styles and designs, some of which have been extended or altered.

2.2 The application site is currently devoid of any built form, with the exception of one single storey structure to the south western corner of the site, to the rear. The site contains trees, shrubs and vegetation, with an existing vehicular access via Toms Lane, and a gated access. The application site lies adjacent to residential dwellings along the frontage of Toms Lane, with a heavily treed front boundary.

2.3 The neighbour to the east, number 120 Toms Lane, is a detached bungalow dwelling, constructed close to the shared boundary with the application site. The neighbour to the west, number 112 Toms Lane, is a two storey detached dwelling, set in from the shared boundary with the application site.

2.4 The application site is located within the Metropolitan Green Belt.

3 Description of Proposed Development

3.1 The application seeks outline planning permission for the erection of 5 self-build dwellings with associated access and parking (appearance, landscaping, layout and scale as reserved matters).

- 3.2 Whilst appearance, landscaping, layout and scale are reserved matters, the application is accompanied by a proposed block plan indicating the five proposed plots, access and parking serving the dwellings. The proposed block plan (drawing number SD219A) indicates that each plot would have a minimum width of 13.9m, and each plot would have a depth of 31m. Each plot would be served by two parking spaces, with four additional visitor spaces proposed. The plots would be accessed via the existing vehicular access, with a road leading into the site, sweeping round to the east.
- 3.3 Amendments were made during the course of the application to remove from consideration the originally submitted indicative plans and elevations detailing the proposed dwellings. This removal was requested by the Case Officer due to the fact that the current application seeks outline planning permission for the construction of five self-build dwellings, and due to the self-build nature of the proposed development, the appearance, landscaping, layout and scale are currently unknown and should not form part of the application. The outstanding matters would be subject to full assessment under a reserved matters application in the event that outline planning permission is granted.

4 Consultation

4.1 Statutory Consultation

4.1.1 Abbots Langley Parish Council: [Objection]

Members have concerns over the development of this site given there is no existing residential structure on the site. This land has not been previously developed and Members do not feel this application represents a legitimate land use in this greenbelt location. Additionally, Members feel the uniformity of the proposed design and layout of the site is uncharacteristic of Toms Lane, as Toms Lane is a collection of non-uniform dwellings at varying spacing. Members note Hertfordshire Wildlife Trust concerns. Members request this application be brought to committee should the officer be of the opinion to approve this application.

4.1.2 Hertfordshire County Council – Highway Authority (First response): [Further information requested]

Recommendation

Interim

Comments

In order for HCC as the Highway Authority to fully assess the application and make a formal recommendation, some clarification and alterations are requested. The access arrangements into the site shown on the drawing titled "Site Plan as Existing & Site Plan as Proposed", numbered "varied" appears to show two access points onto the highway. Whereas the drawing on the page titled "7.0 Proposed Design", which is unnumbered, shows only one access into the site. The Planning Statement and Transport Statement both agree that there is to be one access into the site, but to avoid confusion it would be helpful if the drawing with two vehicular accesses were removed from the application if they are indeed incorrect, and accurate existing and proposed site plans were provided. Additionally, the Transport and Planning Statements both state that a section of footway with a pedestrian crossing and tactile paving is to be proposed with a width of "minimum 1.8m" and shall be in line with adopted standards. In order to be in line with these current and emerging HCC standards, and DfT's Inclusive Mobility: A Guide to Best Practice on Access to Pedestrian and Transport Infrastructure, the footway should measure 2m and this should be reflected in the proposed plans.

Officer Note: Following receipt of the Highways Officer comments, amended plans were received. The Highways Officer has made the following further comments:

4.1.2.1 Hertfordshire County Council – Highway Authority (Second response): No objection

Recommendation

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

1. Highway Improvements – Offsite

A) Design Approval

Notwithstanding the details indicated on the submitted drawings, no on-site works above slab level shall commence until a detailed scheme for the off-site highway improvement works as indicated on drawing number SD219 have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority.

B) Implementation / Construction

Prior to first use of the development hereby permitted, the improvement works referred to in part A of this condition shall be completed in accordance with the approved details.

Reason: To ensure construction of a satisfactory development and that the highway improvement works are designed to an appropriate standard in the interest of highway safety and amenity and in accordance with Policy 5, 13 and 21 of Hertfordshire's Local Transport Plan (adopted 2018).

2. Construction Management Plan

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 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;

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

Highway Informatives

AN) *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.*

AN) *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.

AN) *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 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.*

Comments

An amended plan has been submitted as part of the above planning application, the details of which are shown on plan number SD219.

The site is proposed to be accessed via a dropped kerb/vehicle crossover leading to a carriageway width of 5.6m, which is considered to be acceptable to provide access to five dwellings and would enable two vehicles to pass one another. Following consideration of the recorded speed on Toms Lane, the levels of visibility as shown on submitted drawing number P03 are considered to be acceptable and sufficient.

A short stretch of footway and pedestrian crossing point (made up of pedestrian dropped kerbs and tactile / blister paving) fronting the site on Toms Lane has been included as part of the proposals. This is supported by HCC as Highway Authority to maximise pedestrian accessibility to and from the site.

Section 278 Highway Works

The applicant would need to enter into a Section 278 Agreement with HCC as Highway Authority in relation to the approval of the design and implementation of the works that would be needed on highway land including:

- *Vehicle crossover access into the site*
- *Pedestrian dropped kerbs and tactile paving on either side of Toms Lane to form an uncontrolled pedestrian crossing point.*

Conclusion

HCC as Highway Authority considers that the proposal would not have an unreasonable impact on the safety and operation of the surrounding highway. The applicant would need to enter into a Section 278 Agreement with HCC to cover the technical approval of the design, construction and implementation of the necessary highway and access works. Therefore HCC has no objections on highway grounds to the application, subject to the inclusion of the above planning conditions and informatives.

4.1.3 National Grid: No response received.

4.1.4 TRDC Tree and Landscape Officer: [No Objection]

Recommend: Approval.

The submitted plans indicate that one good quality tree (T1) an early mature Sycamore, and a small number of poor-quality trees, would need to be removed to facilitate development. However, landscaping plans indicate a substantial number of replacement trees would be planted in mitigation.

Whilst the site is within Metropolitan Green Belt, Toms Lane is extensively suburbanised along most of its length, and particularly the southwestern end with street lighting, tarmacked footpaths and road kerbing. The proposed development would retain the

majority of the existing trees and hedging along the boundary with Toms Lane as screening.

Conditions should be applied that require the applicant to comply with the submitted tree protection and landscaping plans.

4.1.5 Hertfordshire Ecology: [Further information required]

Overall Recommendation:

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

Summary of Advice:

- *Insufficient information on protected species (reptiles) to allow determination.*
- *The metric submitted overestimates the base line value of the site and should be recalculated.*
- *Habitats Regulations Assessment (HRA) on the impacts on the Chiltern Beachwood SAC should be undertaken.*

Conditions:

- *Mitigation within the Preliminary Ecological Appraisal is suitable and should be followed.*
- *Ecological Management Plan for the proposed orchard.*
- *An Enhancement Plan.*

Supporting Documents:

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

- *Preliminary Ecological Appraisal by Tom Moya Associates (report dated June 2023).*
- *Biodiversity Net Gain Assessment by Tom Moya Associates (report dated June 2023).*

Comments:

Ecological Summary: *The grassland on the site is shown on the biodiversity base line as semi-improved neutral grassland – other neutral grassland. The Southern scrub is contiguous with priority habitat deciduous woodland adjacent to the site.*

Historic maps show this site as containing a traditional orchard through recent aerial photos from 2000 onward show this to be reduced to a small residual number of trees increasingly being absorbed into the scrub encroaching on to the site.

Surveys: *The building was assessed as having negligible potential for bats. Four trees were found to have moderate bat roosting potential. The site was also assessed as having value for commuting and foraging bats. Although the vegetation is suitable terrestrial habitat for great crested newt, there is an absence of water bodies within a suitable distance for this species. The presence of suitable habitat for nesting birds and reptiles was acknowledged. I have no reason to doubt these conclusions. Further surveys for reptiles are recommended by the Preliminary Ecological Appraisal and are still outstanding. The grassland was found to have a species diversity of between 9-15 species / m2. Based on this and the species mix described in the Preliminary Ecological Appraisal it is likely to be a form of other neutral grassland. In line with government guidance the outstanding reptile surveys should be carried out prior to determination of this application.*

Mitigation: *Standard precautions to safeguard terrestrial mammals, badgers (7.22), hedgehogs (7.48) as well as for nesting birds (7.45) are recommended within the report. The measures for nesting birds should also consider the results of any reptile survey and follow the recommendations outlined in section 7.46 to ensure the mitigation for the two species groups does not conflict. If further surveys demonstrate the presence of reptiles, a*

method statement to safeguard both nesting birds and reptiles should be secured by condition. I support these measures and the mitigation outlines in the ecological report should be followed in full. A pre-construction walk over to ensure that mitigation for badgers remains suitable should also be carried out in line with the recommendations of the report (7.21).

Enhancement: The Preliminary Ecological Appraisal (TMA ref: 230453-ED-01) makes recommendations for enhancement measures that may be included within the site, including the following: Inbuilt bat roost boxes, Inbuilt swift nest boxes, Inbuilt sparrow nest terraces, Log piles, Hedgehog dome and an Invertebrate box. If the application is approved I advise that all of these measures are adopted in full and demonstrated on an Enhancement Plan which is secured by condition.

Biodiversity Net Gain: Measurable net gain and the use of a metric is not yet mandatory although the concept and rules that underpin it should now be considered best practice. A measurable Biodiversity Net Gain is not a feature of the current Local Plan.

Nevertheless, the applicant has supplied a completed Biodiversity Net Gain Metric for the development. This shows that the proposal will result in a biodiversity net loss in area habitats of -3.95 units (57.74%) and a biodiversity net gain in hedgerow habitats of 2.05 units (524.02%). The metric also flags up that the trading rules have not been met. Consequently, based on these results, no net gain in any habitat type can be claimed, unless acceptable ecological reasons are given demonstrating that the figures do not represent the real ecological impact. However, in this case the habitat baseline scores include those for a previously present traditional orchard. Since the site was cleared prior to the habitats being surveyed historical sources have been used to define the extent of this previous orchard. Whilst I acknowledge this evidence and support the aim to recreate a traditional orchard over part of the site, photographs show that by 2000 much of the original orchard had already been lost. More recent photos show a further loss in condition and scrubbing over of the remaining orchard. Given the minimal extent of the orchard shown in aerial photographs from 2000 onwards, I consider the figures used in the baseline calculation overestimates the baseline habitat value. Taking this into account if the LPA are minded that the application delivers a net gain across all habitat types, then the metric should be recalculated to establish whether, when considering the reduced extent of the orchard, a net loss in area habitats still results.

The biodiversity measures will result in the recreation of a traditional orchard and represent a significant enhancement. I advise that a management plan as to how it will be created, managed and sustained for its biodiversity value is secured by Condition.

Chilterns Beachwood SAC: The proposed development comprises five new dwellings. This suggests a net increase in residential accommodation. Given that the proposed development lies within the Chilterns Beechwoods Special Area of Conservation (SAC) 'Zone of Influence', the Habitats Regulations 2017 (as amended) apply and we recommend that as the competent authority, the Council must undertake a Habitats Regulations Assessment (HRA).

This is because we consider there is credible risk that harmful impacts from the increase in recreational pressure on the SAC (alone or in combination with other plans or projects) may arise and that likely significant effects cannot be ruled out.

If, following further 'appropriate assessment' the HRA is subsequently unable to rule out adverse effects on the integrity of the SAC, mitigation will be required.

Effective mitigation will be the best delivered by payment of the appropriate tariff(s) set by the Council that will contribute to the implementation of 'strategic access management

and mitigation measures' (SAMMs) alongside the creation of suitable alternative natural green spaces' (SANGs).

As there is no indication in the application that the tariff(s) will be paid, it is our opinion that adverse effects cannot be ruled out and consent cannot be granted until adequate mitigation is provided.

4.1.6 Herts and Middlesex Wildlife Trust: [Objection]

The biodiversity net gain assessment states that a full biodiversity metric should be supplied. This has not been supplied. It must be supplied before the application can be decided so that the figures can be scrutinised.

Irrespective of this, the proposal results in the destruction of a priority habitat and a substantial net loss to biodiversity. No measures are proposed to mitigate or compensate this loss so that the application is compliant with the NPPF requirement for net gain.

Unless this information is submitted and approved the application is not compliant with planning policy and must be refused.

4.1.7 Thames Water: [No Objection]

Waste Comments:

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

Thames Water recognises this catchment is subject to high infiltration flows during certain groundwater conditions. The developer should liaise with the LLFA to agree an appropriate sustainable surface water strategy following the sequential approach before considering connection to the public sewer network. The scale of the proposed development doesn't materially affect the sewer network and as such we have no objection, however care needs to be taken when designing new networks to ensure they don't surcharge and cause flooding. In the longer term Thames Water, along with other partners, are working on a strategy to reduce groundwater entering the sewer network.

With regard to SURFACE WATER drainage, Thames Water would advise that if the developer follows the sequential approach to the disposal of surface water we would have no objection. Management of surface water from new developments should follow guidance under sections 167 & 168 in the National Planning Policy Framework. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. Should you require further information please refer to our website. <https://www.thameswater.co.uk/developers/larger-scale-developments/planning-your-development/working-near-our-pipes> <https://www.gov.uk/government/publications/groundwater-protection-position-statements> and may wish to discuss the implication for their development with a suitably qualified environmental consultant.

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

4.1.8 Affinity Water Asset Sustainability: No response received.

4.1.9 TRDC Local Plans Section: [No objection]

The outline proposal seeks the development of 5 dwellings with associated access via Toms Lane. The site is located within the Other Settlement of Toms Lane. The application site has not been allocated as a housing site by the Site Allocations Local Development Document and as such is not currently identified as part of the District's housing supply. The site should therefore be considered as a windfall site. Policy CP2 of the adopted Core Strategy (adopted 2011) states that applications for windfall sites will be considered on a case by case basis having regard to:

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

The Spatial Strategy states that new development will be directed towards previously developed land and appropriate infilling opportunities in the urban areas of the Principal Town and Key Centres, which are identified as the most sustainable locations in the District. This strategy is supported by Policy PSP2 in the Core Strategy which states that future development will predominately be focused on sites within the urban area. The application is not located within the Principal Town or Key Centres, therefore not complying with the Spatial Strategy or Policy PSP2. However, the development would result in a net gain of 5 dwellings and would subsequently make a positive contribution to meeting the District's current housing target of 637 dwellings per year.

The proposal site falls within the Green Belt. Policy CP11 of the Core Strategy (adopted 2011) states that 'there will be a general presumption against inappropriate development that would not preserve the openness of the Green Belt, or which would conflict with the purpose of including land within it.' The National Planning Policy Framework (NPPF) (2023) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Policy DM2 of the Development Management Policies LDD (adopted 2013) states that the construction of new buildings in the Green Belt is inappropriate, with certain exceptions listed in the NPPF. According to the NPPF, very special circumstances will not exist unless the potential harm to the Green Belt by reasons of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Policy CP3 of the Core Strategy advises that housing proposals take into account the range of housing needs, in terms of size and type of dwellings as identified by the SHMA and subsequent updates. The Local Housing Needs Assessment (LNHA) was finalised in 2020 and is the most recent update to the SHMA. The recommended mix for market housing, affordable home ownership and social/affordable rented housing identified in the LNHA is shown below:

	1-bed	2-bed	3-bed	4+ bed
Market Housing	5%	23%	43%	30%
Affordable Home Ownership	21%	41%	28%	9%
Social / Affordable Rented Housing	40%	27%	31%	2%

The application proposes a total of 5 4+ bed dwellings. While this does not meet the recommended mix, policy CP3 recognises that a proposed housing mix may need to be adjusted for specific schemes to take account of market information and specific site

factors; where adjustment to the proportions is sought, applications should explain how relevant factors have contributed to the mix of housing proposed.

The NPPF states that self-build and custom-build housing can be either market or affordable housing. Policy CP4 of the Core Strategy requires 45% of all new housing to be provided as Affordable Housing, unless it can be clearly demonstrated with financial evidence that this is not viable. Policy CP4(e) goes on to state that for small sites delivering between one and nine dwellings, the Council will consider the use of commuted payments towards affordable housing provision off site. Such payments will be broadly equivalent in value to on-site provision but may vary depending on site circumstances and viability.

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 15

4.2.2 No of responses received: 10 objections, 0 supporting

4.2.3 Site Notice: Expired: 28.09.2024. Press notice: Not required

4.2.4 Summary of Responses:

- An obvious site for redevelopment, for which a neutral stance should be taken given housing pressures on the UK – objections relate to the design as opposed to the actual development of the area.
- The preservation of some natural vegetation trees etc to the adjacent area to Toms Lane itself seems counterproductive, wasteful and not in keeping with other houses along the road itself.
- Traffic rarely keeps to the speed limit along Toms Lane.
- Houses and parking area should be moved closer to the road to enable a larger area to the rear.
- Two entrances for vehicles seems wasteful.
- Concerns regarding visibility.
- Above issues are highlighted by a proposed pedestrian crossing at the north end of the development, along with the proposed communal waste collection areas.
- No information regarding bats and newts that live in the current site.
- Design is not in keeping with surrounding properties.
- Proposed height is not in keeping with surrounding properties.
- Impact on existing views.
- Considerable impact on wildlife.
- Concerns regarding lack of parking.
- Added pressure on an already busy road at a very narrow point of the lane.
- Based on profit, not what the environment needs.
- Green spaces should be left along for the benefit of all.
- The site has not previously been used for housing, its open and natural.
- Additional housing in Toms Lane should be the right sort of housing, one or two bedroom units, bungalows or social housing.
- Infringement on Green Belt.
- Overbearing to opposite residents.
- Mature trees along front boundary should be retained.
- Impacts infrastructure and the environment.
- 5 houses would be an overdevelopment of the site.
- Concerns regarding safety of residents with speeding cars and no pavement outside the application site.

- Toms Lane has already suffered with recent drainage and surface water issues, electricity cabling issues, burst pipes. Further heavy goods vehicles and housing will exacerbate the problems.
- Toms Lane is a semi-rural lane, with several green undeveloped spaces breaking up the housing.
- Lots of detached houses on the market that are not selling. This is not what the housing crisis needs.
- Toms Lane suffers far more accidents than noted.
- Large vehicles mount the pavement when they meet along narrow parts of Toms Lane.
- Removal of trees would increase the noise experienced by neighbours from the M25.
- Access to Toms Lane will be blind unless the mature trees in front of the development are felled, access from the existing gate is already dangerous as the mature tree line prevents a clear view of the road and oncoming traffic.
- Proposed crossing would be hidden behind the tree line when approached from Bedmond unless the trees are removed, which would not be acceptable.
- High chance further traffic accidents will occur.
- Bin area should not be on the boundary with neighbours.
- Lesser properties would be more appropriate.

4.2.5 In addition to the responses reported above, a response was received from 'Action for Swifts' as follows:

This development would benefit from the inclusion of integrated Swift bricks within the fabric of the new buildings.

The Preliminary Ecological Appraisal proposes Sparrow Terraces, however Swift bricks would provide much more of a biodiversity enhancement. This is because Swift bricks are universal, conforming to BS 42021:2022 and in doing so providing nest cavities for a number of birds, including four red-listed species of conservation concern: Swift, House Martin, House Sparrow and Starling. Specifically, House Sparrows will readily use Swift bricks, but the reverse does not apply.

For this development Swift bricks would be ideally sited grouped together under the eaves of the north elevation of the most northerly dwelling.

I would suggest that such bricks are secured by way of a condition worded such as "no development shall take place until written details are approved by the LPA of the model and location of 3 integrated Swift bricks, such bricks to be fully installed prior to occupation and retained thereafter" in accordance with the NPPF.

4.2.6 Officer comment: It is noted that some comments refer to the design of the proposed dwellings. The indicative elevations and plans have been withdrawn from the application, as the current outline planning application does not seek permission for the appearance, landscaping, layout or scale of the buildings. The plans have been updated to indicate the existing access would be retained, and no additional access is proposed.

5 Reason for Delay

5.1 Detailed discussions took place in respect of whether the scheme could viably afford to provide a contribution towards affordable housing. There was also a delay due to the receipt of additional information and subsequent reconsultation.

6 Relevant Planning Policy, Guidance and Legislation

6.1 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).

6.2 National Planning Policy Framework and National Planning Practice Guidance

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

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

6.3 The Three Rivers Local Development Plan

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

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies CP1, CP3, CP4, CP9, CP10, CP11 and CP12.

The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM1, DM2, DM4, DM6, DM9, DM13 and Appendices 2 and 5.

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

6.4 Other

Affordable Housing Supplementary Planning Document (adopted June 2011).

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

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

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

7 **Planning Analysis**

7.1 Outline Nature of Development

- 7.1.1 The application has been submitted in Outline with Appearance, Landscaping, Layout and Scale reserved. Therefore, if outline planning permission were to be granted, the reserved matters would all need to be the subject of another application or applications. Consequently, this application only seeks a decision on the principle of development and on the detailed access.
- 7.1.2 The application may acknowledge the reserved matters but may not give these matters significant weight as they would be assessed and agreed at a subsequent stage, if the current outline application were to be approved.

7.2 Principle of Residential Development

- 7.2.1 The proposed development would result in a net gain of five dwellings on the application site. The site is not identified as a housing site in the Site Allocations LDD (SALDD) (adopted November 2014). However, as advised in this document, where a site is not identified for development, it may still come forward through the planning application process where it will be tested in accordance with relevant national and local policies.
- 7.2.2 Policy CP2 of the Core Strategy (adopted October 2011) advises that in assessing applications for development not identified as part of the District's housing land supply, including windfall sites, applications will be considered on a case by case basis having regard to:
- i. The location of the proposed development, taking into account the Spatial Strategy.
 - ii. The sustainability of the development and its contribution to meeting local housing needs.
 - iii. Infrastructure requirements and the impact on the delivery of allocated housing sites.
 - iv. Monitoring information relating to housing supply and the Three Rivers housing targets.
- 7.2.3 The application site lies outside of any defined settlement boundary as defined within the Core Strategy. Notwithstanding this, the site is considered to share a physical and functional connection with Kings Langley, as endorsed by the Inspector in appeal decision APP/P1940/W/21/3286584 relating to number 100 Toms Lane. In considering this appeal, the Inspector commented: 'I note that the Council has calculated that the site is approximately 1.8km from the centre of Kings Langley, where shops, restaurants, pubs and cafes are found...I consider that 1.8km is not so far as to preclude walking, and any journeys by private vehicles to access the services and facilities in Kings Langley would likely be brief. A bus stop is very near to the site, which provides services into Kings Langley. Hence, in functional terms the site is well-connected to the main built-up area of Kings Langley'. Given the close proximity between the two sites, it is considered that the same conclusions can be drawn to the current application site.
- 7.2.4 It is noted that the application seeks permission for five self build plots. The NPPF promotes the use of self build. At paragraph 70 it sets out that 'small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built out relatively quickly. It continues that 'to promote the development of a good mix of sites, local planning authorities should...seek opportunities through policies and decisions to support small sites to come forward for community led development for housing and self build and custom build housing'. The delivery of self-build plots would be positive and would help to meet the demand for self- and custom-build plots.
- 7.2.5 In summary, the proposed development is acceptable in this regard and would therefore be subject to an assessment against other material considerations.

7.3 Principle of Development: Green Belt

7.3.1 The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the most important attribute of Green Belts is their openness. Green Belts can shape patterns of urban development at sub-regional and regional scale and help to ensure that development occurs in locations allocated in development plans. They help to protect the countryside, be it in agricultural, forestry or other use.

7.3.2 7.3.2 Paragraph 154 of the NPPF states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

- 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.

7.3.3 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.

7.3.4 The application site lies outside of any defined settlement boundary as defined in the adopted Core Strategy. Whilst this is given weight, recent appeal decisions within the district have considered the individual locational circumstances of Toms Lane, and relationship with nearby settlements where the site lies outside the defined settlement boundary. In considering the appeal for the construction of three dwellings at a neighbouring site, number 100 Toms Lane (LPA ref 21/1863/FUL, appeal reference APP/P1940/W/21/3286584), which is approximately 0.75km from the edge of Kings Langley, the Inspector considered that the site had a strong physical and functional connection with Kings Langley and accordingly considered that the site is within the village of Kings Langley. The current application site is approximately 80m east (ie further from Kings Langley) of the site referenced above at number 100 Toms Lane, and given this proximity it is considered reasonable that a similar conclusion be reached.

7.3.5 In considering an appeal for a new dwelling at land off Seabrook Road, rear of 139 Toms Lane (approx. 325m east of the application site, therefore further from Kings Langley but closer to Bedmond) the Inspector noted that site was over 1km from Bedmond but Bedmond could be safely accessed by pedestrians and that there was a sense of being part of the same settlement experienced along the full length of the route between that appeal site and Bedmond High Street. On the basis of the characteristics on the ground, the Inspector found that appeal site is located within a village.

- 7.3.6 Having regard to the cases above, their proximity to the application site and to the character of this part of Toms Lane, it is considered that the site is within a village.
- 7.3.7 Turning to whether the proposed development constitutes “limited infilling”, the proposal would largely follow the linear line of the dwellings to the east and west of Toms Lane. As such, the LPA consider that with the proposed arrangement of the dwellings, and surrounding site characteristics, it would constitute an infill site.
- 7.3.8 In terms of whether or not the proposal is considered to be ‘limited’, it is considered that the number of dwellings relative to the width of the plot would not appear cramped. This is further endorsed by the submitted proposed block plan which illustrates that the proposed plots would be well spaced and would not appear cramped but would reflect the size of neighbouring plots. In addition, the land to the rear part of the site would remain undeveloped and open, thus it is considered that the proposal would constitute limited infilling.
- 7.3.9 The proposal would therefore fall within the exception of constituting limited infilling in a village, as defined within the NPPF and as a result would not constitute inappropriate development in the Green Belt and would not harm the openness of the Green Belt. The proposed development is therefore acceptable in accordance with Policy CP11 of the Core Strategy, Policy DM2 of the DMP LDD and Para 154 of the NPPF.

7.4 Highways and Access

- 7.4.1 The proposal would utilise the existing access for entrance and exit to the site, with an access through the site serving the five plots and additional visitor’s spaces. The proposal would include a pedestrian crossing.
- 7.4.2 In relation to the access arrangements, crossing and footpath, the Highways Officer considers that, whilst some works would be required to facilitate the proposed development, the principle nature of the development would be acceptable. Visibility would be acceptable and the scheme includes a short section of footway and pedestrian crossing point which is supported by HCC.
- 7.4.3 On the basis of the above the proposed means of access to the site is considered acceptable.

7.5 Affordable Housing

- 7.5.1 In view of the identified pressing need for affordable housing in the District, Policy CP4 of the Core Strategy seeks provision of around 45% of all new housing as affordable housing and requires development resulting in a net gain of one or more dwellings to contribute to the provision of affordable housing. This is set out further at **Appendix A**. Developments resulting in a net gain of between one and nine dwellings may meet the requirement to provide affordable housing through a financial contribution. Details of the calculation of financial contributions in lieu of on-site provision of affordable housing are set out in the Affordable Housing Supplementary Planning Document. The proposed development would result in a net gain of five dwellings and as such a monetary contribution would be required to be sought unless viability demonstrates otherwise.
- 7.5.2 Floor plans have not been submitted and as such it is not possible to calculate the required commuted sum amount which is based on a payment per square meeting based on the market area set out in the Affordable Housing SPD. In this case the required amount would be £750 per sqm of habitable floor space (plus indexation).
- 7.5.3 The current application was accompanied by Viability Reports outlining that no financial contribution could be made as this would result in an unviable scheme. There have been a number of reviews with the Council’s Viability Assessor who has reviewed further evidence supplied by the applicant, in particular in relation to the self build nature of the

proposal and the implications of this. They have suggested an amount (£373,605) that would be viable, and have supported this with evidence. The applicant has agreed to the amount put forward. A S106 agreement needs to be completed to secure the affordable housing contribution. Given the self-build nature of the development, the S106 would also need to account for any variations to the assumed floor area of the dwellings as they come forward at the reserved matters stage. The S106 would also secure the buildings as self-build, given that the affordable housing assumptions are made on this basis. Subject to the completion of a S106 the proposal would comply with Policy CP4 of the Core Strategy.

7.6 Principle of Development: Character and Streetscene

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

7.6.2 In terms of new residential development, Policy DM1 of the DMLDD advises that the Council will protect the character and residential amenity of existing areas of housing from forms of 'backland', 'infill' or other forms of new residential development which are inappropriate for the area. Development will only be supported where it can be demonstrated that the proposal will not result in:

- i. Tandem development;*
- ii. Servicing by an awkward access drive which cannot easily be used by service vehicles;*
- iii. The generation of excessive levels of traffic;*
- iv. Loss of residential amenity;*
- v. Layouts unable to maintain the particular character of the area in the vicinity of the application site in terms of plot size, plot depth, building footprint, plot frontage width, frontage building line, height, gaps between buildings and streetscape features (e.g. hedges, walls, grass verges etc.)*

7.6.3 Elevations and floor plans have not been submitted, as this application seeks outline permission with only the matter of access to be assessed in detail. A full assessment of the visual impact of the development on the character of the street scene and locality would be made at reserved matters stage.

7.7 Principle of Development: Impact on amenity of neighbours

7.7.1 Policy CP12 of the Core Strategy advises that development will be expected to protect residential amenity. Policy DM1 and Appendix 2 of the Development Management Properties LDD provides further guidance and states that residential development should not result in a loss of light or loss of privacy to neighbouring dwellings.

7.7.2 As above, Elevations and floor plans have not been submitted, as this application seeks outline permission with only the matter of access to be assessed in detail. A full assessment of the visual impact of the development on the character of the street scene and locality would be made at reserved matters stage. It is considered that the site could be developed in such a way so as to avoid any adverse impacts to neighbouring properties, both visual impacts and privacy impacts.

7.8 Principle of Development: Quality of Accommodation for future occupants

7.8.1 With regard to overlooking, Appendix 2 of the Development Management Policies LDD sets out that where garden length alone is relied upon for privacy a minimum of 14m should be retained and a back to back distance of 28m should be maintained.

7.8.2 As above, this application seeks outline permission with only the matter of access to be assessed in detail. A full assessment of the quality of accommodate for future occupiers, taking account of aspect and outlook, and amenity space provision, would be made at reserved matters stage.

7.9 Wildlife and Biodiversity

7.9.1 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. Whilst it is noted that the Environment Act now applies and requires mandatory Biodiversity Gains, this does not apply if a planning application was made before day one of mandatory Biodiversity Net Gain (BNG) on 12 February 2024. Therefore this development is exempt from mandatory BNG.

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

7.9.3 Paragraph 186 of the NPPF advises that when determining planning applications, local planning authorities should apply principles including if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

7.9.4 The application site is located within the Zone of Influence (ZOI) for the Chilterns Beechwoods Special Area of Conservation (SAC). The location of the site within the ZOI is a material consideration, however it is acknowledged that the site, and Three Rivers District is at the outer edge of the ZOI, and the District has been identified as generating less than 2% of the visits to the SAC. Taking this into account, it is considered that material harm would be unlikely to be caused to the SAC as a result of this development, and no compensatory measures are required in respect of this matter.

7.9.5 The application is accompanied by a Preliminary Ecological Appraisal prepared by Tom Moya Associated (dated June 2023) and a Biodiversity Net Gain Assessment by Tom Moya Associates (dated June 2023). The key results of the submitted Preliminary Ecological Appraisal include that the site is dominated by grassland and scrub habitats, a line of trees is present and is a notable habitat and the site contains potentially suitable habitat for badgers, birds (nesting/breeding/wintering), hedgehogs, invertebrates (common), reptiles (common) and Stag Beetles. The closest statutory site is 3.2km south east of the site, and the closest non-statutory site is 0.33km east of the site. The proposed development is not anticipated to have a detrimental impact on these sites. The proposed development is due to result in the loss of semi-improved grassland and dense scrub habitats. Line of tree habitats are due to be retained within the development.

7.9.6 The Preliminary Ecological Appraisal outlines some recommendations including the retention and replacement of trees, the submission and approval of reptile surveys prior to determination of the current application to ascertain whether the development would

impact reptiles and any necessary mitigation measures needed as a result, specifically designed lighting to minimise illumination of suitable habitats to avoid an impact on commuting and foraging bats, vegetation and buildings suitable for nesting birds may only be removed during the nesting season if they have been checked by an ecologist and no nests are present, care should be taken when moving brash or dense vegetation to avoid harm to hedgehogs which may be present, gaps created within the line of trees should be kept to a minimum and where possible the crowns of trees and other vegetation are allowed to span the gaps to maintain the continuity of the line of trees habitat, to confirm that Badger setts continue to be absent from the site and surrounding area prior to works commencing and to minimise the risk of Badgers and other animals becoming trapped, excavations within the site should include ramps or sloped sides to allow animals to escape.

7.9.7 Herts Ecology have been consulted as part of the current application, and whilst the approach, mitigation and compensation measures outline within the submitted reports are considered acceptable, further surveys for reptiles are recommended by the Preliminary Ecological Appraisal and are still outstanding. As such, the application cannot be determined until such surveys are submitted and considered.

7.9.8 The requirement for Biodiversity Net Gain is not currently a statutory requirement for the proposed development thus cannot be secured via this application. Nevertheless, Policy DM6 of the DMP LDD requires biodiversity to be conserved and as such a Landscape Ecological Management Plan is considered reasonable to require via condition to address the potential net loss.

7.9.9 On the basis of the surveys submitted, and with the outstanding Reptile Survey to be submitted and considered prior to determination of this application, it is considered, subject to conditions and the submission of a satisfactory reptile survey, that the LPA have sufficient information to be able to determine the application.

7.10 Trees and Landscaping

7.10.1 Policy DM6 of the Development Management Policies LDD (adopted July 2013) states that development proposals on sites which contain existing trees and hedgerows will be expected to retain as many trees and hedgerows as possible, particularly those of local amenity or nature conservation value. Policy DM6 further states that development proposals should demonstrate that existing trees, hedgerows and woodlands will be safeguarded and managed during and after development.

7.10.2 The Tree and Landscape Officer has been consulted as part of the current application and has commented that the submitted plans indicate that one good quality tree (T1) an early mature Sycamore, and a small number of poor-quality trees, would need to be removed to facilitate development. However, landscaping plans indicate a substantial number of replacement trees would be planted in mitigation. Landscaping is not a consideration for the current application, and would be considered as part of a future reserved matters application in the event outline planning permission is given. However the LPA considers the submission demonstrates suitable compensatory landscaping could be provided. Tree protection measures can be secured by condition at this time, and this is considered reasonable and necessary to ensure that existing trees are protected during the course of any development works at the site. As such, subject to conditions, the proposed development is considered to be acceptable in this regard.

7.11 Parking

7.11.1 Core Strategy Policy CP10 requires development to provide a safe and adequate means of access to make adequate provision for all users, including car parking. Appendix 5 of the Development Management Policies document sets out parking standards for developments within the District.

7.11.2 No plans have submitted which set out the proposed bedroom number of the dwellings. Appendix 5 of the DMP LDD sets out the parking standards for residential dwellings this is outlined below:

1 bedroom dwellings: 1.75 spaces (1 assigned)

2 bedroom dwelling: 2 spaces (1 assigned)

3 bedroom dwellings: 2.25 spaces (2 assigned)

4 or more bedrooms: 3 spaces (3 assigned).

7.11.3 The submitted block plan indicates that each plot would be served by two spaces, with four additional visitors spaces proposed. It is noted that, given that floor plans have not been submitted as part of the current application, it cannot be confirmed whether the proposed parking arrangement would comply with standards, however, it is noted that additional parking to the front of each plot, or within a garage, could be provided should three spaces per plot be required.

7.12 Sustainability

7.12.1 Policy CP1 of the Core Strategy sets out that all applications for all new commercial development of one unit or more will be required to submit an Energy Statement demonstrating the extent to which sustainability principles have been incorporated into the location, design and construction. Policy DM4 of the Development Management Policies Document states that development should provide 5% less Carbon Dioxide than Building Regulations Part L (2013) having regard to feasibility and viability. The policy states that from 2016, applicants will be required to demonstrate that new residential development will be zero carbon. However, the Government has announced that it is not pursuing zero carbon and the standard remains that development should produce 5% less carbon dioxide emissions than Building Regulations Part L (2013) requirements having regard to feasibility and viability.

7.12.2 This application has not been accompanied by an Energy Statement, however given that the application is made in outline the lack of a statement is not considered objectionable. A condition would be attached requiring the submission of an Energy Statement for each dwelling.

7.13 Refuse and Recycling

7.13.1 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

7.13.2 Further details of refuse/recycling provision would be required at reserved matters stage also taking into account the comments of the Highways Officer in respect of the access.

7.14 Planning Balance

7.14.1 The LPA cannot currently demonstrate a 5-year housing land supply, and therefore paragraph 11 footnote 7 of the NPPF (2023) is engaged. Paragraph 11 and footnote 7 clarifies that in the context of decision-taking “the policies which are most important for

determining the application are out-of-date when the LPA cannot demonstrate a five year supply of deliverable housing sites". The most important policies for determining a housing application are Policies CP2 (Housing Supply) and Policy CP3 (Housing Mix and Density). Paragraph 11 continues, "Plans and decisions should apply a presumption in favour of sustainable development... where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: a) the application of policies in this Framework that protect area or assets of particular importance provides a clear reason for refusing the development proposed; or b) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."

- 7.14.2 The development would be appropriate development within the Metropolitan Green Belt and no other harm has been identified within the analysis section above. It is recognised that the development would contribute to the shortfall in housing and would provide self build houses. The applicant has agreed to enter into a deed in accordance with Section 106 of Town and Country Planning Act 1990 in respect of affordable housing, and as such the development would make a financial contribution to the provision of affordable housing in Three Rivers. Furthermore, there would be economic benefits of the construction plus expenditure from future occupiers. In view of the above, it is considered that in relation to paragraph 11 part (d)(ii) of the NPPF the benefits of the development significantly and demonstrably outweigh any adverse impact of the development.

8 Recommendation

- 8.1 That Outline PLANNING PERMISSION BE GRANTED subject to the following conditions and subject to the completion of a Section 106 Agreement:

- C1 Details of the access, appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.

Reason: To prevent the accumulation of unimplemented planning permissions, to enable the Local Planning Authority to review the suitability of the development in the light of altered circumstances and to comply with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- C2 An application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall commence before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: In pursuance of Section 92(2) of the Town and Country Planning Act 1990 and as amended by the Planning and Compulsory Purchase Act 2004.

- C3 The development hereby permitted relates to the application site as outlined on the approved location plan reference SD200 and SD219 REV A.

Reason: For the avoidance of doubt and in the proper interests of planning in accordance with Policies CP1, CP2, CP3, CP4, CP8, CP9, CP10, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM2, DM4, DM6,

DM8, DM9, DM10, DM12, DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013).

- C4 No development or other operation shall commence to each plot or the approved access whatsoever until an arboricultural method statement (prepared in accordance with BS: 5837 (2012) 'Trees in relation to design, demolition and construction') relevant to the trees within or surrounding the access or plot being developed has been submitted to and approved in writing by the Local Planning Authority. This method statement shall include details relevant to the individual plot and access of timetables of works, method of demolition, removal of material from the site, importation and storage of building materials and site facilities on the site, tree protection measures and details including location and depths of underground service routes, methods of excavation and construction methods, in particular where they lie close to trees.

The construction methods to be used shall ensure the retention and protection of trees, shrubs and hedges growing on or adjacent to the site. The development shall only be implemented in accordance with the approved method statement.

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

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

- C5 Construction Management Plan

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 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;

Reason: This is a pre-commencement condition to protect highway safety and the amenity of other users of the public highway and rights of way 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).

C6 Highway Improvements – Offsite

A) Design Approval

No on-site works above slab level shall commence until a detailed scheme for the off-site highway improvement works as indicated on drawing number SD219 have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority.

B) Implementation / Construction

Prior to first occupation of any dwelling hereby permitted, the improvement works referred to in part A of this condition shall be completed in accordance with the approved details.

Reason: To ensure construction of a satisfactory development and that the highway improvement works are designed to an appropriate standard in the interest of highway safety and amenity and 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).

C7 A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of the development. The LEMP should cover the entire site and 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.
- e. Prescriptions for management actions.
- f. Preparation of a works schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g. Details of the body or organisation responsible for the implementation of the plan.
- h. Ongoing monitoring and remedial measures.

The LEMP should also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(s) responsible for its delivery.

The LEMP shall be carried out as approved.

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

C8 Prior to the commencement of any works about ground level to any of the dwellings hereby approved, details of the specification and location of the ecological enhancement measures as set out in section 8 of the submitted Preliminary Ecological Appraisal (June 2023, Report 230453-ED-01) to be installed within that plot shall be submitted to and approved in writing by the Local Planning Authority. The measures shall thereafter be installed in accordance with the approved details prior to the first occupation of that dwelling, and permanently maintained thereafter.

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

C9 No development shall take place (including ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has

been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include the following.

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

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

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

- C10 Prior to the commencement of any development above ground level in respect of any dwelling hereby approved, an energy statement relating to that dwelling shall be submitted to and approved in writing which sets out the measures to be utilised to ensure the dwelling meets the requirements of Development Management Policy DM4. The dwelling subject of the statement shall thereafter be constructed only in accordance with the measures identified within that statement, and those measures shall be permanently maintained as such thereafter.

Reason: To ensure that the development meets the requirements of Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM4 and Appendix 2 of the Development Management Policies LDD (adopted July 2013) and to ensure that the development makes as full a contribution to sustainable development as possible.

8.2 **Informatives:**

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

All relevant planning conditions must be discharged prior to the commencement of work. Requests to discharge conditions must be made by formal application. Fees are £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 01438 879990 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 (cil@threerivers.gov.uk). 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/services/planning/community-infrastructure-levy>).

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

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

- 12 The applicant is reminded that the Control of Pollution Act 1974 allows local authorities to restrict construction activity (where work is audible at the site boundary). In Three Rivers such work audible at the site boundary, including deliveries to the site and running of equipment such as generators, should be restricted to 0800 to 1800 Monday to Friday, 0900 to 1300 on Saturdays and not at all on Sundays and Bank Holidays.
- 13 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning

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

- 14 The applicant is reminded that this planning permission is subject to either a unilateral undertaking or an agreement made under the provisions of Section 106 of the Town and Country Planning Act 1990.
- 15 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.
- 16 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.
- 17 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 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.

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

Background

- 1.1 In November 2014, the Minister of State for Housing and Planning issued a Written Ministerial Statement (WMS) setting out changes to national planning policy. The WMS stated that financial contributions towards affordable housing should no longer be sought on sites of 10 units or less and which have a maximum combined gross floor area of 1,000sqm. National Planning Practice Guidance (NPPG) was amended to reflect this. However on 31st July 2015 the High Court held (*West Berkshire Council v SSCLG* [2015]) that the policy expressed through the WMS was unlawful and the NPPG was changed to reflect this. On 11th May 2016 the Court of Appeal reversed the High Court decision. The NPPG was subsequently amended to reflect the WMS on 19th May 2016.
- 1.2 In light of the above developments, between November 2014 and August 2015 and May 2016 and 1st September 2017 the Council gave greater weight to the WMS policy and associated NPPG guidance in it than to adopted Policy CP4 of its Core Strategy in respect of development proposals for 10 dwellings or less and which had a maximum combined gross floor area of 1000 sq metres. However, having undertaken an analysis of up to date evidence of housing needs (**The Needs Analysis**), officers advised in 2017 that when considering the weight to be given to the WMS in the context of breaches of the adopted development plan policy, the local evidence of housing need contained in the Needs Analysis should generally be given greater weight. On 1st September 2017 the Council resolved to have regard to the Needs Analysis as a consideration of significant weight when considering the relationship between Policy CP4 and the WMS for the purposes of Section 70(2) Town and Country Planning Act 1990 and Section 38(6) Planning and Compulsory Purchase Act 2004 in respect of development proposals of 10 dwellings or less.
- 1.3 On 24th July 2018 a new version of the National Planning Policy Framework¹ (the Framework) was published with immediate effect for development management purposes. Paragraph 64 of the Framework advises that *“Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer).”* Annex 2 of the NPPF defines *“major development”* as *“for housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more.”*
- 1.4 The Council's current affordable housing policy is set out in Policy CP4 of the Core Strategy (adopted in October 2011) and establishes that :
 - a) “...All new development resulting in a net gain of one or more dwellings will be expected to contribute to the provision of affordable housing.”
 - e) “In most cases require affordable housing provision to be made on site, but in relation to small sites delivering between one and nine dwellings, consider the use of commuted payments towards provision off site. Such payments will be broadly equivalent in value to on-site provision but may vary depending on site circumstances and viability.”
- 1.5 The supporting text to Policy CP4 summarises the justification for it:

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.

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

1.6 This policy remains the legal starting point for the consideration of planning applications under Section 38(6) PCPA 2004, which requires that the Council determines applications in accordance with the adopted development plan unless material considerations indicate otherwise. Revised NPPF 64 is a material consideration. The weight to be given to it is a matter for the decision maker when determining each planning application. This note explains the advice from the Head of Planning Policy & Conservation and Head of Regulatory Services on the weight that they recommend should be given to NPPF 64 for these purposes in light of the Needs Analysis.

1.7 Since the adoption of its Core Strategy in 2011 and as of 31 December 2022, Three Rivers has received small site affordable housing contributions amounting to over **£2.9 million**. Utilising those monies has funded the delivery of 55 units of additional affordable housing to date. It is clear that Three Rivers' policy has already delivered a significant contribution towards the delivery of much needed affordable housing in the district.

1.8 In addition to the £2.9 million already received, small scale (1-9 unit) schemes have secured to date a further **£760,000.00 to £2million²** of affordable housing contributions in respect of unimplemented but current planning permissions. All of those schemes were agreed to be viable with those sums secured. The Council has several large-scale future residential developments planned which will aim to deliver substantial quantities of further affordable housing in the District in the medium term future, utilising those additional affordable housing contributions as and when they are received.

1.9 Policy CP4 makes it clear that a requirement for a scheme to contribute towards the provision of affordable housing is subject to viability considerations and is therefore consistent with paragraph 124 of the Framework. The application of CP4, which includes this in-built viability allowance, cannot properly be said to be a barrier to delivery. Indeed between 1 October 2011 and 31 March 2022, 255 planning permissions were granted for minor residential developments which contribute a net dwelling gain. Of those only 18 have been permitted to lapse which is only 7.1% of all such schemes³.

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

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

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

Importance of Small Sites to Three Rivers

- 1.11 It is important to acknowledge the percentage of residential development schemes which tend to come forward in the District which propose the delivery of less than 10 dwellings: from 1 April 2017 to 31 March 2022, 254 planning applications for residential development involving a net gain of dwellings were determined⁴ by the Council. Of these, 227 applications (89%) were for schemes which proposed a net gain of 1-9 units. Having a large number of small sites is an inevitable consequence of the District being contained within the Metropolitan Green Belt. The contribution to both market housing supply and affordable housing supply are therefore both material to the overall identified needs and adopted development plan objectives. This is dealt with in more detail below.
- 1.12 If the weight to be given to the Framework is greater than the adopted development plan, this large proportion of Three Rivers' expected new housing delivery will contribute nothing towards affordable housing. This would compromise Three Rivers' ability to deliver its objectively assessed need for affordable housing.

2 Development Plan Policies and the WMS

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

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

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

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

this Needs Analysis (January 2023) has therefore been revised to exclude application sites which are subject to later approvals which are either outstanding, under construction or complete.

⁴ Includes refused and approved applications. Excludes prior approval developments.

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

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

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

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

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

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

General House Price Affordability in Three Rivers

2.5 Due to the District’s close proximity to London, Three Rivers has traditionally been situated within a high house price area. According to data published by the Office of National Statistics (ONS) in the third quarter of 2016⁵, the lowest quartile house price in Three Rivers in 2016, representing the cheapest properties in the District was £325,000.00,

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

making it the **fifth**⁶ most expensive local authority area in England and Wales (excluding London), out of a total of three hundred and three local authority areas (see table 1 below).

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

Table 1.

Since the publication of the above ONS data in 2016, the general house price affordability position has grown worse. According to data published by the Office of National Statistics (ONS), the lowest quartile house price in Three Rivers in September 2021 was £385,000⁷. The lowest quartile house price of £385,000 places Three Rivers as the **seventh** most expensive local authority area in England and Wales (excluding London), out of a total of three hundred and three local authority areas (see table 2 below). Although Three Rivers' position has improved slightly, the lowest quartile house price has risen by £60,000 from 2016 to 2021, demonstrating an ongoing worsening affordability position.

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

Table 2.

Lowest quartile earnings in Three Rivers in 2016 were £24,518.00 and £27,003.00 in 2021⁸, 13.3 times worsening to 14.3 below the lowest quartile house prices (ratio of lower quartile house prices to lower quartile gross annual, residence based earnings⁹). In a mortgage market where lenders are traditionally willing to lend 4 times a person's income, clearly a lending requirement at over 14 times such an income means that most first time buyers are simply unable to purchase a dwelling in the District. Such a lending ratio would have required a first-time buyer in 2021 to have a deposit of £276,988.00, or (without such a deposit) to earn £108,012.00 per annum to get onto the lowest/cheapest rung of the property ladder. An additional Stamp Duty payment would also have been due (subject to COVID related temporary relaxation).

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

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

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

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

When one considers the median affordability ratio¹⁰ for Three Rivers compared to the rest of England and Wales, the position is even more serious: in 2016, the median quartile income to median quartile house price affordability ratio¹¹ was 13.77, the fourth¹² worst affordability ratio in England and Wales (excluding London), as set out in table 3 below, again when compared against three hundred and three local authorities.

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

Table 3.

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

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

Table 4.

Looking at the ratio of lower quartile house prices to lower quartile to gross annual, residence based earnings, in 2016 the ratio was 13.26. By September 2021 that had risen to 14.26, showing a worsening ratio over the period from 2016 to 2021¹³.

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

Affordable Housing Requirements in Three Rivers

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

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

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

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

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

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

Affordable Housing Need - To Rent

- 2.7 The South-West Hertfordshire Local Housing Needs Assessment (LHNA) (August 2020) found that at that time there were approximately 1,276 households within Three Rivers that were situated in unsuitable housing. Unsuitability is based on the numbers of homeless households and in temporary accommodation, households in overcrowded housing, concealed households and existing affordable housing tenants in need. 57% of these households are estimated to be unable to afford market housing without subsidy, which means the revised gross need is reduced to 727 households¹⁴.
- 2.8 In addition to needs arising from those in unsuitable housing, the LNHA also analyses affordable need to rent arising from newly-forming households within the District. The LNHA estimates 800 new households forming per annum in Three Rivers over the period 2020 to 2036. 45% of these newly-forming households are estimated to be unable to afford market housing (to rent) resulting in 360 new households with a need for affordable housing to rent each year over the period 2020 to 2036¹⁵.
- 2.9 The LNHA also considers newly arising need for affordable rent from existing households (i.e. households residing in market accommodation now requiring affordable housing). The LNHA estimates an additional 77 existing households falling into need for affordable rent per year over the period 2020 to 2036¹⁶.
- 2.10 Taking into account the figures of need noted above and the supply of affordable housing to rent through re-lets, the LNHA calculates the annual affordable housing need to rent over the period 2020 to 2036 as 350 in Three Rivers¹⁷. This need involves households who cannot afford anything in the market without subsidy and is equivalent to 55% of the District's total local housing need requirement calculated by the standard methodology. This indicates the substantial scale of need for this type of affordable housing.

Affordable Housing Need - To Buy

- 2.11 In addition, the LNHA estimates a need of 162 units for affordable home ownership per annum¹⁸ over the period 2020 to 2036, although this is a need which is formed by households identified as being able to afford to rent privately without subsidy.

Total Affordable Housing Need

- 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).

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

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

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

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

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

Affordable Housing Provision in Three Rivers

- 2.13 Core Strategy CP4 requires around 45% of all new housing in the District to be affordable. As stated previously, prior to the WMS, all new developments that had a net gain of one or more dwellings would, subject to viability, be expected to contribute towards this.
- 2.14 Since the start of the plan period from 1 April 2001 to 31st March 2022 (the latest date where the most recent completion figures are available), 5,168 gross dwellings were completed. From this, 1,162 were secured as affordable housing, a total of 22.5%. This percentage is significantly below the Core Strategy target of 45% which means there was a shortfall of a further 1,162 or 22.5% affordable dwellings in order to fulfil the 45% affordable housing requirement up to 31 March 2022. This shortfall only exacerbates the already pressing need for small sites to contribute towards the provision of affordable housing.
- 2.15 In the latest monitoring period of 2021/22 (financial year), 22 sites¹⁹ delivered a net gain of one or more dwellings and would therefore be required to contribute to affordable housing under Policy CP4 (either through an on-site or off-site contribution). These were made up of three major developments (14%) and 19 minor developments (86%). 10 of the 22 schemes contributed to affordable housing provision whilst 12 of the 22 schemes did not contribute:
- Four out of the 22 sites provided viability justification, in line with CP4 policy, for the absence of affordable housing provision. One of the 22 sites was found to have suitable viability justification by the Planning Inspector at an Appeal.
 - One of the 22 sites was found to not have appropriately secured affordable housing contributions in breach of CS policy CP4. However there was no agreement between the parties in respect of the viable quantum of affordable housing and the Inspector nevertheless granted planning permission. This is the only appeal decision out of the 32 that have been determined since September 2017 where the Council's position on the relative weight to be afforded Policy CP4(e) was not fully upheld.
 - One of the applications completed during the monitoring period 2021/22 which did not contribute towards affordable housing had contributed towards on-site provision during the previous monitoring period 2020/21.
 - Five of the applications were determined during the 2014/15 and 2016/17 periods noted at 1.2 above (when the Council was dealing with applications on the basis that the WMS should be given overriding effect regardless of the viability position on specific schemes). Affordable housing provision was forgone on them on this basis, which is now reflected in the low affordable provision as they are built out.
 - Of the 10 schemes which did contribute, five made contributions via commuted sums towards off-site provision; all five schemes were minor developments, demonstrating the important role of small sites in collecting financial payments to be spent on affordable housing provision. Of the remaining five schemes which contributed via on-site provision in 2021/22, two were major developments and three were minor developments.

¹⁹ Sites with completions in the monitoring year 2021/22

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

2.16 In 2017/2018 (financial year), there were 67 planning applications determined²⁰ for net gain residential schemes, of which 57 were small site schemes (85%). In 2018/19 (financial year), there were 50 planning applications determined for net gain residential schemes, of which 46 were small site schemes (92%). In 2019/20 (financial year), there were 60 planning applications for net gain residential schemes determined, of which 55 were small sites schemes (92%). In 2020/21 (financial year), there were 38 planning applications for net gain residential schemes determined, of which 33 were small site schemes (87%). In 2021/22 (financial year), there were 39 planning applications for net gain residential schemes determined, of which 36 were small site schemes (92%). It is therefore clear that a high proportion of small site schemes have been proposed in the District, equating to 89% of applications over the past four financial years.

2.17 In terms of numbers of completed dwellings proposed by those small site schemes, between 2011-2022 (financial years) some 429 net dwellings were completed which equates to 39 net dwellings per annum and to 22.8% over the 2011-2022 period. 22.8% is a significant proportion of the overall supply. Whilst such numbers are significant, it is acknowledged that major developments, whilst far less frequent, provided significantly greater quantities of housing. However CP4(e) does not generally require small site schemes to provide on-site affordable housing (small-scale piecemeal development is unattractive to RP's). Instead commuted sums in lieu of on- site provision are required and thus it is the sums of money secured and the contribution those make towards the provision of additional much needed affordable housing in the District which the policy should be tested against. This has been acknowledged by Planning Inspectors on appeal, as referred to at paragraph 2.21 below:

APP/P1940/W/19/3230999, 27 Gable Close, Abbots Langley: "It also identifies the importance of small sites in providing affordable housing with contributions from small sites amounting to over £2.1 million since 2011 being spent towards the delivery of 38 affordable dwellings."

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

2.18 As set out at paragraphs 1.7 and 1.8 above, the commuted payments (£2.9 million) spent on the provision of affordable housing which have been collected by the Council to date have made a direct contribution towards the identified affordable housing shortfall in the district: providing some 55 units of affordable housing. Furthermore, as set out at paragraph 1.8 above, small scale (1-9 unit) schemes have (as at February 2023) secured a further **£760,000.00 - £2million** (see footnote 2) in respect of unimplemented but current planning permissions. The Council continues to work with Registered Providers to deliver further affordable housing in the District in the medium term future, utilising those additional affordable housing contributions as and when they are received. It is clear therefore that CP4(e) has made and will continue to make a significant contribution towards the provision of much needed affordable housing in the District in the future.

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

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

2.19 As set out at paragraph 1.9 above, Policy CP4 makes it clear that a requirement for a scheme to contribute towards the provision of affordable housing is subject to viability considerations and is therefore consistent with paragraph 124 of the Framework. The application of CP4, which includes this in-built viability allowance, cannot properly be said to be a barrier to delivery. The Council accepts that if, properly tested, viability cannot be established on current day costs and values then a scheme should not currently be required to provide or contribute to affordable housing delivery. Between 1 October 2011 and 31 March 2022 there were 255 planning permissions granted for minor (net gain) residential developments in the District. Of those only 18 have lapsed (7.1%)²¹. This demonstrates that the application of CP4 has not acted as a brake on small scale residential developments.

Relevant Appeal Decisions

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

²¹ See footnote 3.

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

2.25 It is clear therefore that the Planning Inspectorate considered that although the WMS (and now the Framework) was a material consideration, this should be balanced against the policies within a plan along with any further evidence that supports a Local Planning Authority’s application of the policy.

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

- **APP/P1940/W/19/3222318, Eastbury Corner, 13 Eastbury Avenue, Northwood, Decision date: 21st June 2019:**
“The Council has however provided robust evidence to demonstrate high affordable housing need locally and that affordability in the District continues to deteriorate. Indeed, needs analysis carried out by the Council highlights the importance of small sites in addressing shortfall and the lack of affordability that exists in the District. I apply substantial weight to this local evidence due to its recentness and the clear conclusions that can be drawn from it. Policy CP4 makes it clear that site circumstances and financial viability will be taken into account when seeking affordable housing provision.”
- **APP/P1940/W/19/3221363, The Swallows, Shirley Road, Abbots Langley Decision date: 27th June 2019:**
“The Council has however provided robust evidence to demonstrate high affordable housing need locally and that affordability in the District continues to deteriorate. Indeed, needs analysis carried out by the Council highlights the importance of small sites in addressing shortfall and the lack of affordability that exists in the District. I apply substantial weight to this local evidence due to its recentness and the clear conclusions that can be drawn from it.”
- **APP/P1940/W/19/3225445, 6 Berkely Close, Abbots Langley Decision date 5th August 2019:**
“The Council has provided robust evidence of high affordable housing need in the District, and in line with the findings of other appeal decisions cited by the Council, I attribute substantial weight to that need as a consequence and consider that a contribution towards the provision of affordable housing is necessary.”
- **APP/P1940/W/19/3230999, 27 Gable Close, Abbots Langley Decision Date: 1st November 2019:**
“The Council has provided detailed evidence of acute affordable housing need locally: a Needs Analysis was undertaken in May 2016 after the publication of the Written Ministerial Statement which introduced the affordable housing thresholds now included in the Framework. Based on the Needs Analysis, the Council’s evidence highlights the issue of general house price affordability in the District, plus an exceptionally high need for affordable housing exacerbated by a significant shortfall in supply. It also identifies the importance of small sites in providing affordable housing with contributions from small sites amounting to over £2.1 million since 2011 being spent towards the delivery of 38 affordable dwellings.

²² Paragraph 7, Planning Inspectorate Letter, March 2017.

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

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

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

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

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

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

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

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

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

Decision Date 5th May 2019:

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

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

Decision Date 16th August 2019:

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

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

Decision Date 10th December 2019

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

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

Decision Date 9th March 2020

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

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

Decision Date 7th May 2020

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

remains. It was also clear that small sites play a key role in ensuring this provision. As such, in this case, I am satisfied that although considerable weight should be given to the Framework, it does not outweigh the development plan policy.”

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

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

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

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

- **APP/P1940/W/20/3260602: 8-10 Clarendon Crescent, 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/eqcl-page/core-strategy>

2. Annual Monitoring Report 2020/2021 (December 2021)
<http://www.threerivers.gov.uk/eqcl-page/annual-monitoring-report>
3. Affordable Housing Supplementary Planning Document (June 2011)
<http://www.threerivers.gov.uk/eqcl-page/supplementary-planning-documents>
4. South West Hertfordshire Local Housing Needs Assessment (August 2020)
<https://www.threerivers.gov.uk/eqcl-page/new-local-plan-evidence-base>
5. Office of National Statistics Housing Data 2002-21
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

March 2023