

PLANNING COMMITTEE – 12 SEPTEMBER 2024

24/1093/PIP – Permission in Principle Application: Erection of a block of six apartments with associated access, bin and bike store, parking and landscaping works AT LAND ADJACENT TO 62-84 AND 99-121, SYCAMORE ROAD, CROXLEY GREEN, RICKMANSWORTH, HERTS

Parish: Croxley Green
Expiry of Statutory Period: 22.08.2024

Ward: Dickinsons.
Case Officer: Suzanne O'Brien

Recommendation: That PERMISSION IN PRINCIPLE IS REFUSED.

Reason for consideration by the Committee: The application has been brought to committee as the application has been called in by three committee members. It has been called in due to the loss of open space, previous decisions of the Local Planning Authority and the level of public interest.

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=SGB5QSQF0F100>

1 Relevant Planning and Enforcement history

- 1.1 8/162/93 - Flat development comprising fourteen 2 bedroom flats with associated parking and creation of new access road. Refused
- 1.2 8/163/93 - Flat development comprising twelve 2 bedroom flats with associated parking and creation of new access road. Refused
- 1.3 05/1055/OUT - Outline Application: Erection of two storey building comprising eight apartments – Refused - 21.10.2005

Refused for the following reasons:.

- R1 The proposed development would involve the loss of an open space which was provided as part of the original development and has subsequently become an established feature of the area and has been used and enjoyed by local residents for many years. The loss of such an open space would have a detrimental effect on the character and appearance of the area. This fails to meet the requirements of Policies GEN1, GEN3, H14, L9 and Appendices 1 and 2 of the Three Rivers Local Plan 1996 – 2011.
- R2 The proposed development is adjacent to the Metropolitan Green Belt. The development of the site would be detrimental to the visual amenities of the Metropolitan Green Belt failing to satisfy the requirements of Policy GB1 of the Three Rivers Local Plan 1996 – 2011 and Planning Policy Guidance Note 2 (Green Belts).

The subsequent planning appeal was dismissed in relation to R1.

- 1.4 20/2737/FUL - Erection of a block of six apartments and a terrace of three residential dwellings, with the associated access from Sycamore Road, parking and landscaping – Refused - 30.04.2021

Refused for the following reasons:

- R1 The proposed development by reason of its design and layout would be detrimental to the visual amenities, spacing, setting and general open character of the area,

harming the 1960's character of the area and locality. The proposal would therefore be contrary to Policies CP1 and CP12 of the Core Strategy (adopted October 2011), Policies DM1 and Appendix 2 of the Development Management Policies document (adopted July 2013), Policy CA1 of the Croxley Green Neighbourhood Plan (Referendum Version December 2018), and NPPF.

R2 In the absence of an agreement under the provisions of Section 106 of Town and Country Planning Act 1990, the development would not contribute to the provision of affordable housing. The proposed development therefore fails to meet the requirements of Policy CP4 of the Core Strategy (adopted October 2011) and the Affordable Housing Supplementary Planning Document (approved June 2011).

1.4.1 Planning refusal 20/2737/FUL was dismissed at appeal (appeal reference: APP/P1940/W/21/3276715; decision dated 10 March 2022). The Planning Inspector identified that:

‘Consequently, the proposal would erode the distinctive characteristic of verdant communal space between dwellings, and the postwar style landscape identity of the neighbourhood’.

1.4.2 The Planning Inspector’s decision will be expanded on in greater detail within the Analysis Section of this report (Attached as **Appendix A**).

2 Description of Application Site

2.1 The application site has an area of 0.3Ha and is located on the south eastern side of Sycamore Road. The site is currently open land and has an individual TPO tree within the centre of the site and a group TPO to the northern boundary.

2.2 The site is relatively flat with little change in land levels and currently mostly comprises of a large grassed area enclosed by a low level chain link fence and hedging. Mature trees are also evident within and around the perimeter of the site. The lower part of Sycamore Road adjacent to the application site contains flatted development. The blocks of flats follow a similar building line, set back from the highway, with green amenity space to the rear. Parking bays are also evident within this vicinity providing parking for the flatted units. Soft landscaping and spacing is provided by way of verges with mature trees and front gardens within the area with the parcel of land subject to this application being the only larger area of open amenity space adjacent to existing development. This open space makes a positive contribution to the character and appearance of this part of the street scene.

2.3 To the north and east of the site are three storey flat roofed flatted developments with parking bays to the frontages, a garage block and areas of soft landscaping. To the western side of the site are two storey dwellings. The southern side of the site abuts the Grand Union Canal.

3 Description of Proposed Development

3.1 This application seeks permission in principle for the erection of 6 residential units on land adjacent to 62-84 and 99-121 Sycamore Road.

3.2 The application has been supported by an illustrative Site Plan; this provides indicative information to demonstrate how the development could be delivered on site including siting, parking, bike store, access and landscaping details. The Site Plan indicates the creation of public open space to the front of the site, however, this will not form part of the assessment of the proposal as detailed later in this report.

4 Consultation

4.1 Statutory Consultation

4.1.1 Croxley Green Parish Council: Objection.

Croxley Green Parish Council objects to the application. CGPC agree with the previous decision of the Inspector who refused permission on the site as it conflicts with Policies CP1 & CP12 of the Three Rivers Core Strategy, Appendix 2 & Policy DM1 of the Three Rivers Development Management Policies and Policy CA1 of the Croxley Green Neighbourhood Plan.

In addition, the application will result in harm to the wider character of the area and a loss of green space widely used not just by the residents of the existing flats but those other residents of Croxley Green who live nearby. There are also further concerns over parking and access to the site.

There is a strong sense of public objection to this application and their concerns are shared by CGPC.

4.1.2 Hertfordshire County Council - Highway Authority: [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:

HCC as the Highway Authority would request that the technical details consent, as part two of the permission in principle application, shall include full details (in the form of scaled plans and / or written specifications) to illustrate the following:

- i) Proposed highway works
- ii) Widths of internal carriageway
- iii) Visibility splays
- iv) Turning head and swept path a suitable size for the largest anticipated vehicle to enter the site

Reason: To ensure suitable, safe and satisfactory planning and development of the site in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018).

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

AN1) Works within the highway (section 278): The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the County Council website at:

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> or by telephoning 0300 1234047.

AN2) Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence.

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

AN3) 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.

AN4) Debris and deposits on the highway: It is an offence under section 148 of the Highways Act 1980 to deposit compost, dung or other material for dressing land, or any rubbish on a made up carriageway, or any or other debris on a highway to the interruption of any highway user. Section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development and use thereafter are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available by telephoning 0300 1234047.

AN5) Extent of Highway: Information on obtaining the extent of public highway around the site can be obtained from the HCC website: www.hertfordshire.gov.uk/services/highways-roads-and-pavements/changes-to-your-road/extent-of-highways.aspx

Comments/Analysis

Description of Proposal

Permission in Principle Application: Erection of a block of six apartments with associated access, bin and bike store, parking and landscaping works

Site and Surroundings

Sycamore Road is an unclassified local access route subject to a 30mph speed limit which is highway maintainable at public expense. As per Hertfordshire County Council's new design guide (Place and Movement Planning Design Guide (PMPDG)), Sycamore Road is classified as a P2/M1 (e.g. Residential Street). The site is currently an open space adjacent to the Grand Union Canal. The surrounding area is mostly residential and is located 2.3km to the west of the centre of Watford and is less than 1km to the east of Croxley Green. A footway fronts the site and the nearest bus stop is approximately 450m away on Watford Road, whilst Croxley Green underground station is approximately 1.1km from the site; along with a variety of shops in Croxley Green. The canal path along the Grand Union Canal, which is considered a shared use footway, and is therefore open to cyclists, is located at the rear of the site also. Therefore, the Highway Authority are satisfied the site is in a suitably sustainable location, which is in line with the principles set out in HCC's Local Transport Plan 4 (LTP4).

Access and Parking

As the application is a Permission in Principle, details of the exact vehicular access and any proposed highway works are not fully set out in the provided plans. Drawing number PA-SR-KH-201 and the Design and Access Statement suggest there are to be highway works involved at the access from the highway into the existing flats and the application site. The existing access and informal parking area which is used by the existing flats is highway land, meaning that any alterations to create formalised parking and a carriageway to allow access into the application site would require Section 278 works within the highway. As per the above condition, details of the proposed works should be provided during the second part of the application when technical details are provided.

Any carriageway, internal and as part of the access from the highway, should measure 5.5m to ensure two vehicles can pass each other. HCC would be supportive of the alterations to the access onto Sycamore Road to make the bellmouth a more standard size with a 6m radii alongside tactile paving and crossing points for pedestrians, especially if the front of the site is to remain as an open green space for the public. Visibility splays of 2.4m x 43m should be dimensioned on plans of the proposed altered access. Regarding matters within the site, HCC agrees in principle with the access into the site from the adjacent highway land but would request that a turning head be added to the internal layout to allow for the largest anticipated vehicle to enter the site to turn around, most likely a TRDC refuse vehicle measuring 12m in length. Swept path analysis drawings should also be provided showing that this size vehicle can enter and exit the site in forward gear. Overall, HCC does not object to the development in principle, but would request the above amendments and details before planning permission is decided once part two of the Permission in Principle is provided.

Ultimately the LPA will have to be satisfied with the parking provision, but HCC would like to comment that cycle parking and electric vehicle charging should also be included when full details are provided. HCC are satisfied with the dimensions of the proposed parking spaces being 2.5m x 5m, in line with the Place and Movement Planning Design Guide, as well as the 6m behind the parking spaces to allow for manoeuvring.

Refuse and Waste Collection

Manual for Streets Paragraph 6.8.9 states that waste collection vehicles must be able to get within 25m of the bin storage location and residents must not carry waste for more than 30m.

Emergency Vehicle Access

In accordance with Manual for Streets Paragraph 6.7, the entirety of the footprint of a dwelling must be within 45m from the edge of the highway so an emergency vehicle can gain access. The addition of a turning head within the site for large vehicles such as a fire tender would alleviate concerns regarding emergency access.

Conclusion

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

4.1.3 Environment Agency: No objection:

Environment Agency Position

Based on a review of the submitted information, we have **no objection in principle**. However, due to the sites proximity to the Grand Union Canal, the applicant should submit a Flood Risk Assessment (FRA), which demonstrate the following:

- The exact location of the flood defence, in relation to the development (including any buried elements such as foundation and/or anchor ties).
- Provision of an 8m undeveloped buffer zone, if an 8m buffer zone is not considered feasible, the applicant must provide sufficient environmental justification as to why this cannot be achieved.
- Submission of a condition survey demonstrating that the flood defence is currently in sufficient condition and that it will be maintained for the lifetime of the development.

If the flood defence condition is insufficient, its condition must be improved before we can consider the proposal acceptable. This can be achieved through maintenance, upgrade or replacement. Where the flood defence is 3rd party owned/maintained (i.e. not EA owned or maintained), the applicant must provide an asset maintenance plan to ensure the culvert will be maintained post construction.

- Provide evidence that the proposed works will not increase the likelihood of structural failure to the flood defence due to additional loading which poses the risk of collapse, increasing flood risk. This can be demonstrated through loading calculations, vibration information, and foundation/piles drawings as appropriate.

Informative – Flood Risk Activity Permit (FRAP)

The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culvert **including any buried elements** (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission.

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activitiesenvironmental-permits> or contact our National Customer Contact Centre on 03702 422 549 or by emailing enquiries@environment-agency.gov.uk. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

Advice to Local Planning Authority (LPA)

Connection to mains foul drainage (no foul drainage assessment submitted)

Government guidance contained within the national Planning Practice Guidance (Water supply, wastewater and water quality – considerations for planning applications, paragraph 020) sets out a hierarchy of drainage options that must be considered and discounted in the following order:

1. Connection to the public sewer

2. Package sewage treatment plant (adopted in due course by the sewerage company or owned and operated under a new appointment or variation)

3. Septic Tank

Foul drainage should be connected to the main sewer. Where this is not possible, under the Environmental Permitting Regulations 2016 any discharge of sewage or trade effluent made to either surface water or groundwater will need to be registered as an exempt discharge activity or hold a permit issued by the Environment Agency, additional to planning permission. This applies to any discharge to inland freshwaters, coastal waters or relevant territorial waters.

Please note that the granting of planning permission does not guarantee the granting of an Environmental Permit. Upon receipt of a correctly filled in application form we will carry out an assessment. It can take up to 4 months before we are in a position to decide whether to grant a permit or not.

Domestic effluent discharged from a treatment plant/septic tank at 2 cubic metres or less to ground or 5 cubic metres or less to surface water in any 24-hour period must comply with General Binding Rules provided that no public foul sewer is available to serve the development and that the site is not within an inner Groundwater Source Protection Zone.

A soakaway used to serve a non-mains drainage system must be sited no less than 10 metres from the nearest watercourse, not less than 10 metres from any other foul soakaway and not less than 50 metres from the nearest potable water supply.

Where the proposed development involves the connection of foul drainage to an existing non-mains drainage system, the applicant should ensure that it is in a good state of repair, regularly de-sludged and of sufficient capacity to deal with any potential increase in flow and loading which may occur as a result of the development.

Where the existing non-mains drainage system is covered by a permit to discharge then an application to vary the permit will need to be made to reflect the increase in volume being discharged. It can take up to 13 weeks before we decide whether to vary a permit.

Further advice is available at: Septic tanks and treatment plants: permits and general binding rules.

Use of Sustainable Drainage Systems (SuDS)

Support for the use of SuDS to ensure development does not increase flood risk elsewhere is set out in paragraph 173 of the National Planning Policy Framework.

Surface water run-off should be controlled as near to its source as possible through a sustainable drainage approach to surface water management (SuDS). SuDS manage surface water run-off by simulating natural drainage systems. Whereas traditional drainage approaches pipe water off-site as quickly as possible, SuDS retain water on or near to the site. As well as reducing flood risk, this promotes groundwater recharge, helps absorb diffuse pollutants, and improves water quality. Ponds, reedbeds and seasonally flooded grasslands can also be particularly attractive features within public open spaces.

SuDS involve a range of techniques including soakaways, infiltration trenches, permeable pavements, grassed swales, green roofs, ponds and wetlands. As such, virtually any development should be able to include a scheme based around these principles. In doing so, they'll provide multiple benefits and will reduce costs and maintenance needs.

Further information on SuDS can be found in:

- the CIRIA C697 document SuDS manual

- HR Wallingford SR 666 Use of SuDS in high density developments
- CIRIA C635 Designing for exceedance in urban drainage – good practice
- the Interim Code of Practice for Sustainable Drainage Systems – the Interim Code of Practice provides advice on design, adoption and maintenance issues and a full overview of other technical guidance on SuDS

Advice to Applicant

Water Resources

Increased water efficiency in new developments potentially enables more growth to be realised without an increased availability of water resources. Developers can highlight responsible water use as a positive corporate social responsibility message that will boost the commercial appeal of the development. For the homeowner/tenant, lower water usage also reduces water and energy bills.

We endorse the use of water efficiency measures in all developments, particularly in those that are new. Use of technology that ensures efficient use of natural resources could support the environmental benefits of future proposals and could help attract investment to the area. Therefore, water efficient technology, fixtures and fittings should be all considered as an integral part of new developments and/or refurbishments. The technology used to achieve improved water efficiency (e.g. efficient fittings, greywater recycling, etc) is also an attractive feature for many prospective building owners and tenants.

Residential developments

The supply of water in the area is under serious water stress (as identified in our report:

Water stressed areas – 2021 classification). All residential developments must therefore achieve the higher water consumption efficiency standard of 110 litres per person per day, as set out within the Building Regulations &c. (Amendment) Regulations 2015. This standard or higher may already be a requirement of the local planning authority.

We also recommend you contact your local planning authority for more information.

FRA advice

Although the majority of the site the development is proposed on is within flood zone 1 (low probability of flooding), the area is in close proximity to the designated main river. We are unable to fully assess the flood risks until a site-specific FRA is submitted.

We do not prepare or provide FRAs. However, our Customers and Engagement teams can provide any relevant flooding information that we have available. Please contact HNL enquiries@environment-agency.gov.uk for flood data. Your local planning authority should have undertaken a Strategic Flood Risk Assessment (SFRA) which will also include local flood risk information to inform your FRA. Please contact your local planning authority to determine what information is available. Further advice on what to include in an FRA can be found at <https://www.gov.uk/guidance/flood-risk-and-coastalchange#site-specific-flood-risk-assessment-all>

Pre-Application Advice

Regarding future applications, if you would like us to review a revised technical report prior to a formal submission, outside of a statutory consultation, and/or meet to discuss our position, this will be chargeable in line with our planning advice service. If you wish to request a document review or meeting, please contact our team email address at HNL Sustainable Places@environment-agency.gov.uk.

Further information on our charged planning advice service is available at; Planning and marine licence advice: standard terms for our charges - GOV.UK (www.gov.uk).

Final comments

Thank you for contacting us regarding the above application. Our comments are based on our available records and the information submitted to us. Please quote our reference number in any future correspondence. Please provide us with a copy of the decision notice for our records. This would be greatly appreciated.

4.1.4 Canal and River Trust: No objection.

We are the charity who look after and bring to life 2000 miles of canals & rivers. Our waterways contribute to the health and wellbeing of local communities and economies, creating attractive and connected places to live, work, volunteer and spend leisure time. These historic, natural and cultural assets form part of the strategic and local green-blue infrastructure network, linking urban and rural communities as well as habitats. By caring for our waterways and promoting their use we believe we can improve the wellbeing of our nation. The Trust is a statutory consultee in the Development Management process.

The Trust is a statutory consultee where application sites for Permission in Principle fall within our notified area (Town and Country Planning (Permission in Principle) Order 2017 (as amended) article 5J and the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) Schedule 4 para za). The Trust has now reviewed the application and offers the following advice:

The Trust hereby notifies Three Rivers District Council that **it wishes to be consulted in respect of any technical details consent application for the site identified above**, in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 article 18(1A).

We note that the NPPG (PiP para 20) encourages the inclusion on a Permission in Principle of details of what is expected to be included in a technical details consent application. The matters which the Trust wish to see addressed at the Technical Details Consent stage are largely as identified in our response to the previous planning application, your ref: 20/2737/FUL (copy attached) and as outlined below and we ask that they be included in your notes if permission in principle is granted.

- Layout, height and design of any proposed building and car parking areas.
- Landscaping, including assessment of any existing planting adjacent to the site and whose root systems may extend into the site.
- Boundary treatment
- Lighting
- Drainage – details of foul and surface water drainage strategy and details of any necessary mitigation measures.

These comments are based on the limited information currently available and further information may be required depending upon the height, design and proximity of any proposed development to the site boundary with the canal.

The Trust would be happy to provide more detailed pre-application comments and advice for this site prior to the submission of the technical details consent application to yourselves and the developer.

Should Permission in Principle be granted we request that the following informatives are appended to the decision notice:

1. The applicant/developer is advised to review the Canal & River Trust “Code of Practice for Works affecting the Canal & River Trust” to ensure that any necessary consents are obtained and that the works comply with the code. More details can be found via our website: <https://canalrivertrust.org.uk/business-andtrade/undertaking-works-on-our-property-and-our-code-of-practice> and for any queries, please contact the Trust’s Works Engineering Team on 0303 040 4040.S

2. Sites which have a shared boundary with the canal may have the potential to discharge surface water to the canal with the prior agreement of the Trust. Applicants may wish to contact the Trust for further advice in respect of this matter, prior to the Technical Detail stage. If you have any queries please contact Chris Lee, Utilities surveyor (chris.lee@canalrivertrust.org.uk)

4.1.5 Landscape Officer: No response received.

4.1.6 National Grid: [No Objection]

Affected Apparatus

The apparatus that has been identified as being in the vicinity of your proposed works is:

Low or Medium pressure (below 2 bar) gas pipes and associated equipment. (As a result it is highly likely that there are gas services and associated apparatus in the vicinity)

Requirements

BEFORE carrying out any work you must:

- Carefully read these requirements including the attached guidance documents and maps showing the location of apparatus.
- Contact the landowner and ensure any proposed works in private land do not infringe Cadent and/or National Grid's legal rights (i.e. easements or wayleaves). If the works are in the road or footpath the relevant local authority should be contacted.
- Ensure that all persons, including direct labour and contractors, working for you on or near Cadent and/or National Grid's apparatus follow the requirements of the HSE Guidance Notes HSG47 - 'Avoiding Danger from Underground Services' and GS6 – 'Avoidance of danger from overhead electric power lines'. This guidance can be downloaded free of charge at <http://www.hse.gov.uk>
- In line with the above guidance, verify and establish the actual position of mains, pipes, cables, services and other apparatus on site before any activities are undertaken.

4.2 Public/Neighbour Consultation

4.2.1 Neighbours consulted: 41

4.2.2 Responses received: 60 objections received.

4.2.3 Site Notice: Expired 16 August 2024

4.2.4 Press Notice: Not required.

4.2.5 Summary of objections:

Previous applications have been refused due to adverse impact on character and appearance of area due to loss of open space that provides a community space;

Development will diminish an space that provides a cherished recreational area that is used for communal activities – especially important during COVID and provides a safe haven for many for social gatherings; Nothing has changed since previous applications and appeal decisions dismissing applications for development of the site; Impact on local wildlife habitat including bats, badgers, foxes and deer; Development would impact on surface runoff and increase flood risk; The open space is integral to community, is a cherished recreational area that has been around since 1963; The pitched roof design would conflict with the flat roofed aesthetic; Increase noise from additional traffic; Would remove secure boundaries affecting residents security; Would add more pressure on area already affected by parking pressures; Would involve removing land under lease which would affect emergency access; Land is maintained and funded by residents of flats; Site is integral to the community feel of Sycamore Road and Valley Walk; Development would result in the loss of Neighbourhood Green Space that provides spatial relief; Would erode the verdant space and spacious character of the site and corridor with the canal; Loss of privacy to existing residents; Will add to noise and congestion; Development would conflict with Policies within Local Plan and Neighbourhood Plan; Development would be within root protection areas of existing trees; Open space is good for mental health and should be preserved and not built on; Building on the green space will make existing residential properties feel hemmed in; Building on the land will be contrary to a condition requiring open space as part of the original permission; No affordable housing proposed to be delivered; This is not grey belt land; Would result in loss of 6 parking spaces that would end up with displaced cars parked in the road where there are already too many cars parked; Flooding concerns; Impact on house prices; Development would hinder progress in already struggling economy; Canal and towpath have Green Belt protection; Sunlight infringement; Parking would annexe the existing green space from residents.

5 Reason for Delay

5.1 Committee Cycle.

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, S70 of Town and Country Planning Act 1990) and The Town and Country Planning (Permission in Principle) (Amendment) Order 2017

6.2 National Planning Policy Framework and National Planning Practice Guidance

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

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

6.3 The Three Rivers Local Plan

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

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies PSP2, CP1, CP2, CP3, CP4, CP8, CP9, CP10 and CP12.

The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM1, DM4, DM6, DM8, DM9, DM10, DM11, DM13, Appendix 2 and Appendix 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. Policies SA1 is relevant.

The Croxley Green Neighbourhood Plan Referendum Version was adopted in December 2018. Relevant policies include: CA1, HO1, HO2 and HO3 and Appendix B

6.4 Other

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

Affordable Housing Supplementary Planning Document (adopted June 2011).

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.

The Environment Act 2021.

7 **Planning Analysis**

7.1. Permission in Principle Nature of Development

7.1.1 This application is made pursuant to the Town and Country Planning (Permission in Principle) Order 2017 (as amended) (PIP Order) that provides opportunity for an applicant to apply as to whether permission in principle is acceptable for a site, having regard to specific legislative requirements and, in accordance with ref. Paragraph 012 Reference: 58-012-20180615 of the NPPG, as to whether **the location, land use and amount of development** proposed is acceptable.

7.1.2 The permission in principle (PIP) consent route is an alternative way of obtaining planning permission for housing-led development which separates the consideration of matters of principle for proposed development from the technical detail of the development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. The current application is only at permission in principle stage.

7.1.3 In relation to the type of development that can be considered under permission in principle the PPG (paragraph 049; reference 58-049-20180615) advises that 'Non-residential development may also be given permission in principle providing housing occupies the majority of the floorspace of the overall scheme. Non-housing development should be compatible with the proposed residential development, and may include, for example, a small proportion of retail, office space or community uses'.

7.1.4 This scheme proposes a building consisting of 100% residential use. The Site Plan does indicate that the site outlined in red on the location plan would include public open space. As set out within the PPG the Local Planning Authority can only assess the principle of housing on the site as outlined in red on the location plan. The provision of community uses such as publicly accessible open space is not a material planning consideration under the assessment of this stage of the permission in principle process. As such, the inclusion of part of the site as publicly accessible open space as shown on the Site Plan will not form part of the assessment of this application.

7.2 Principle of Residential Development

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

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

7.2.2 Due to the nature of the application type, the following analysis assesses whether the location, land use and amount of development proposed is acceptable.

7.3 Location

7.3.1 With regards to the assessment of location this relates solely to whether the site is in a suitable location for housing based on the principles set out in the place shaping policy PSP2 and Core Strategy Policy CP2, as set out above. The application site is within Croxley Green which is identified as a Key Centre in the Core Strategy. The Spatial Strategy of the Core Strategy advises that new development will be directed towards previously developed land and appropriate infilling opportunities within the urban areas of Key Centres. Policy PSP2 advises that Key Centres will provide approximately 60% of the District's housing requirements over the plan period. PSP2 outlines that development should predominately be on sites within the urban area on previously developed land.

7.3.2 The application site is not previously developed land however given the location of the site within the Key Centre of Croxley Green and its setting within an existing residential area, there is no in principle objection to residential development on the site from a sustainability perspective in relation to the provisions of Policy CP2 and PSP2 of the Core Strategy. In assessing the application for development not identified as part of the District's housing supply, the Council will have regard to the location and sustainability of the development. Although the development would not be on previously developed land, given the infill nature of the proposal within an urban location, there are no in principle objections to residential development of the application site in relation to Policy CP2 of the Core Strategy.

7.4 Impact of Land Use and Amount on Character and appearance

- 7.4.1 Policy CP3 of the Core Strategy stipulates that housing development should make the most efficient use of land, without compromising the quality of the environment and existing residential uses.
- 7.4.2 Policy CP1 of the Core Strategy requires development to take into account the need to 'protect and enhance our natural, built and historic environments from inappropriate development' and to 'promote buildings and public spaces of a high enduring design quality that respect local distinctiveness'.
- 7.4.3 Policy CP12 of the Core Strategy states that development should, '...have regard to the local context and conserve or enhance the character, amenities and quality of an area and should make efficient use of land whilst respecting the distinctiveness of the surrounding area.' In terms of new residential development, Policy DM1 of the Development Management Policies LDD (DMP LDD) (adopted July 2013) advises that the Council will protect the character and residential amenity of existing areas of housing from forms of new residential development which are inappropriate for the area.
- 7.4.4 Policy CA1 of the Croxley Green Neighbourhood Plan (2018) relates to new developments and advises that;
- 'New development should seek to conserve and, wherever possible, enhance the key elements of the character and appearance of the Character Areas described in Appendix B through careful design and massing of new buildings and the protection and enhancement of private gardens and open space without inhibiting innovative design'
- 7.4.5 The application site is located within Character Area 5 of Appendix B of the Neighbourhood Plan. Appendix B references the landscaped nature of Sycamore Road stating: 'At the eastern end of Sycamore Road and Valley Walk is an estate of 1960s flat roofed terraced houses and flats with a landscaped green at the eastern end'.
- 7.4.6 The planning history for this site proposing residential development on the site is extensive dating back to 1993 with four refused planning applications and two dismissed appeals. In 2005 planning refusal 05/1055/OUT was dismissed; the Planning Inspector identified harm in two respects. Firstly the impact on the character and setting of the area contrary to the planning policies at the time and secondly the loss of the parcel of land which was said to fulfil a 'recreational and social function.
- 7.4.7 An application for the construction of six apartments and a terrace of three residential dwellings was submitted in 2020 (20/2737/FUL). The application was refused on the grounds that the design and layout would be detrimental to the visual amenities, spacing, setting and general open character of the area, harming the 1960's character of the area and locality.
- 7.4.8 Refusal 20/2737/FUL was dismissed on appeal. The Planning Inspector set out in detail within their decision (attached as **Appendix A**) the contribution the application site makes to the amenities and character of the street scene and residents stating:
- '5. The appeal site is a mainly grassed area within a residential area. The neighbourhood has a postwar twentieth century character, given its angular, flat-roofed dwellings in typically two storey terraces and three to four storey blocks, set within a fairly spacious and verdant framework of green areas in the neighbourhood. These include verges, the appeal site, gardens and pockets of green, including an approximately triangular-shaped space with trees to the south-west. These elements contribute to the characterisation of the neighbourhood in Appendix B of the Croxley Green Neighbourhood Plan (NP) as 1960s housing of unusual style, similar to Span housing in a landscaped setting, including a 'green' that includes the appeal site.

- '6. The appeal site is not designated as a public open space in the local development plan. Nevertheless, it reads 'on the ground' as having an established function and character as a neighbourhood green space given the following combination of factors.
- '7. It is a substantial part of an approximately L-shaped area of grassed space that fronts onto Sycamore Road and flows around a T-shaped block of dwellings to the north-east. Dwellings face towards three sides of the site. In combination with the edge of the adjoining canal corridor to the south-east, the site provides verdant views from the road and various dwellings. As a grassed area with trees and hedging without buildings on it, the site provides visual and spatial relief from built-up elements.
- '8. The presence of a barbecue, picnic table and informal tree swing indicate community use of the appeal site. Residents' descriptions of local people of various ages socialising outdoors and appreciating wildlife on the site further reinforce the impression of a neighbourhood outdoor space enjoyed by local residents. The description of the site as having a recreational and social function in the 2005 appeal dismissal further points to the established nature of this identity.'

7.4.9 The Planning Inspector identified that the application site provides a neighbourhood outdoor space enjoyed by local residents and identified through the dismissal of the application that this space is a feature that should be protected. It is noted that the land is within private ownership and is not allocated open space identified within the Local Plan. The private ownership of the site was identified by the Planning Inspector but the Inspector still confirmed that the site reads 'on the ground' as having an established function and character as a neighbourhood green space. The character, use and contribution of the site has not materially changed since the determination of the appeal in 2022. The characteristics of the site are therefore considered to be material in the assessment as to whether the proposed use of the site for residential development and amount of development would be acceptable.

7.4.10 In relation to impact on the character of the area the Planning Inspector for the appeal identified:

'11. However, that said, the proposed substantial three storey apartment block towards the front of the site, together with the terraced row of houses towards the canal, and associated external works and domestic paraphernalia, would noticeably erode the verdant and spacious character of the site and the green of which it is part. It would reduce the amount of 'doorstep' outdoor space visible from the street, that is seen as established, community outdoor space by residents. This would reduce opportunity for community interaction and the family character of the area. Furthermore, the proposal would substantially sever the visual connection across the verdant space to the leafy edge of the canal corridor. This would lessen the sense of green infrastructure in the locality.

'12. Consequently, the proposal would erode the distinctive characteristic of verdant communal space between dwellings, and the postwar style landscape identity of the neighbourhood.

'13. I therefore conclude that the proposal would harm the character and appearance of the area. As such, it would conflict with Policies CP1 and CP12 of the Three Rivers Core Strategy (CS), Appendix 2 and Policy DM1 of the Three Rivers Development Management Policies Local Development Document, and Policy CA1 of the Croxley Green Neighbourhood Plan, which together seek, among other things, to ensure that development complements and where appropriate enhances local character.'

7.4.11 The current application is supported by a Site Plan which indicates that the frontage of the site would remain undeveloped and be provided as public open space. This plan is indicative only and any public open space could not be secured at Stage 1 of the permission

in principle process. This application seeks to identify whether the site as a whole, as outlined in red on the Location Plan, is suitable for residential development. As identified within the previous refusals and subsequent appeal decisions the existing use as green amenity space provides a verdant postwar style landscape that, in conjunction with its relationship with the surrounding existing development, makes a material positive contribution to the character and appearance of the street scene and area.

- 7.4.12 The proposed use of the site for residential development with residential paraphernalia, irrespective of where the built form would be positioned within the site, would erode the existing verdant green space. The proposed use for residential development would irreversibly change the character and appearance of the site to the detriment of the visual amenities of the street scene and character of Sycamore Road and community who enjoy this visual amenities of this space. Any reduction in the verdant character of this space would serve to diminish its value and contribution as a neighbourhood community outdoor space.
- 7.4.13 In terms of the amount of development and impact on character and appearance the proposed development would result in a net gain of six dwellings on the site.
- 7.4.14 The precise layout and scale of the proposed development would be a matter for technical details consent. At this stage, few details are available on the exact nature of the housing that is being proposed (apart from an illustrative plan which indicates a block of flats to the southern part of the site and public open space). Based on the limited information submitted under Part 1 of the Permission in Principle application process an assessment of the visual effect of the design and layout of the proposal on the character and appearance of the area cannot be determined. Nevertheless, while the submitted layout is indicative, it demonstrates that there would be a loss of open character of the site and incursion of built form and residential paraphernalia that would be detrimental to the open verdant character of the site. Further the indicative siting of the block of flats to the south of the site would substantially sever the visual connection across the verdant space to the leafy edge of the canal corridor.
- 7.4.15 As such, it is considered that the proposed residential use and amount of development including the associated residential paraphernalia including access, parking, turning facilities etc. would result in significant demonstrable harm to the visual amenities of the street scene and character of the area. The proposed use and amount of development would therefore be contrary to Policies CP3 and CP12 of the Core Strategy, Policy DM1 and Appendix 2 Development Management Policies LDD and Policy CA1 of the Croxley Green Neighbourhood Plan.

7.5 Other Matters

- 7.5.1 Matters pertaining to design, appearance, layout, scale, impact on residential amenities, flooding, parking, biodiversity and affordable housing, would be considered at technical details stage.

7.6 CIL

- 7.6.1 A CIL Additional Questions form must be submitted with any future formal planning application. For further details, including of the process to claim exemptions and relief (which must be submitted prior to works taking place on site), please see <https://www.threerivers.gov.uk/services/planning/community-infrastructure-levy>

7.7 Planning Balance / tilted balance

- 7.7.1 The NPPF at paragraph 47 says that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. This development proposal is in conflict with Policies

CP3 and CP12 of the Core Strategy, Policy DM1 and Appendix 2 Development Management Policies LDD and Policy CA1 of the Croxley Green Neighbourhood Plan and should therefore be refused planning permission unless there are material planning considerations that outweigh the presumption in favour of the development plan in section 38 (6) of the Planning and Compulsory Purchase Act 2004.

7.7.2 The NPPF makes it clear at paragraph 11 that plans and decisions should apply a presumption in favour of sustainable development. For decision making, this means:

- approving development proposals that accord with an up to date development plan without delay, or
- 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:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. 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.

7.7.3 In respect of 'out of date' above, Footnote 8 of the NPPF sets out that this includes, for applications involving housing, situations where (a) the local planning authority cannot demonstrate a five year supply (or a four year supply, if applicable, as set out in paragraph 226) of deliverable housing sites (with a buffer, if applicable, as set out in paragraph 77) and does not benefit from the provisions of paragraph 76; or (b) where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years. In this respect, it is important to note that TRDC cannot deliver a five year supply and can only demonstrate a 1.9 year supply at this time. Furthermore, TRDC's housing delivery test indicates that the delivery of housing was below 75%. Therefore, for applications involving housing the policies that are most important for determining the application (Core Strategy CP2, CP3 and CP4) are out of date.

7.7.4 In respect of 'areas or assets of particular importance', Footnote 7 of the NPPF sets out that these are relating to habitats sites (and those sites listed in paragraph 187) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 72); and areas at risk of flooding or coastal change.

7.7.5 In assessing this application there are no identified conflicts with policies protecting areas/assets. As such, it is necessary to assess whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole (paragraph 11(b)(ii)). While it is accepted that the NPPF guidance is a 'material consideration' relevant to the determination of this application, it is submitted that, on all the evidence, it is not of sufficient weight to override the presumption (S.38(6)) in favour of a determination of the application in accordance with development plan including Policy CP3 of the Core Strategy.

7.7.6 As identified in the preceding paragraphs the proposed use and amount of development would result in demonstrable harm to the visual amenities of the street scene and character of the area.

7.7.7 Although there is a pressing need for housing in the District, Officers are of the view that the provision of only six residential units would not materially contribute to the overall housing need within the District. As such, only moderate weight can be given to the uplift of six dwellings towards the councils housing supply including the minor economic benefits

which would arise from construction and future occupiers integrating into the local economies. As the securing of affordable housing contributions are not a material consideration at this stage of the assessment process no weight can be attributed to contributions towards affordable housing. Further as the provision of public open space is not to be secured at this stage of the application, no weight can be attributed to this the open space as shown on the indicative site plan.

7.7.8 Significant weight is attached to the identified harm that would result from the proposed use and amount of development on the application site. Given the totality of harm identified, it is considered that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefit, when assessed against the policies in the Framework taken as a whole.

7.7.9 The weight attached to the impact on the character of the area was supported by the Planning Inspector in the 2022 appeal decision for the construction of nine units on site where the Inspector stated:

'19. On the evidence before me, I consider that for the purposes of making my decision there is a supply shortfall of deliverable housing sites in the district of in the region of three years.

'20. Therefore, policies which are most important for determining the application are to be considered out of date. The tilted balance, as set out within paragraph 11 of the Framework, thus applies.

'21. The proposal would contribute to local housing supply in the form of six apartments and three terraced dwellings, with associated socio-economic benefits in the area during and after construction. There is potential to deliver biodiversity gain through wildlife-friendly landscaping and management, albeit tempered by loss of the attraction to some wildlife of the unbuilt character of the site. Also, a contribution towards off-site affordable housing is proposed. Together the proposal's benefits carry moderate weight. That said, I have identified harm in relation to the character and appearance of the area and the adequacy of affordable housing provision, which carries significant weight.

'22. I appreciate that the Framework sets out a presumption in favour of sustainable development but even where the tilted balance is engaged, the benefits of additional housing do not necessarily outweigh all other concerns. Moreover, case law has found that even where policies can be considered out of date, this does not mean that they carry no weight. The balancing exercise remains a matter of planning judgement.

'23. Given the totality of harm identified above, I conclude that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefit, when assessed against the policies in the Framework taken as a whole.'

7.7.10 The proposal would be contrary to Policies CP3 and CP12 of the Core Strategy, Policy DM1 and Appendix 2 Development Management Policies LDD and Policy CA1 of the Croxley Green Neighbourhood Plan and there are no other considerations which outweigh this finding. The application for permission in principle should therefore be refused.

8 Recommendation

8.1 It is recommended that permission in principle be REFUSED for the following reason:

R1 The residential use and amount of development proposed would erode and result in the loss of the verdant green character of the site, resulting in demonstrable harm to the 1960s character and appearance of the area and locality, including the canal. The loss of verdant character would diminish the value and positive contribution the existing site provides as a neighbourhood community outdoor space. The proposed use and amount of development would therefore be contrary to Policies CP3 and

CP12 of the Core Strategy (adopted October 2011), Policy DM1 and Appendix 2 Development Management Policies LDD (adopted July 2013), Policy CA1 of the Croxley Green Neighbourhood Plan (Referendum Version December 2018) and NPPF.

8.2 Informatives

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

Attached

Appendix A – Appeal Decision for planning refusal 20/2737/FUL

Appendix A

Appeal Decision for Planning Refusal 20/2737/FUL



Appeal Decision

Site Visit made on 15 February 2022

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 10th March 2022

Appeal Ref: APP/P1940/W/21/3276715

Land Adjacent To 62-84 & 99-121 Sycamore Road, Croxley Green, Rickmansworth

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr Dudley Mills, Kebbell Homes against the decision of Three Rivers District Council.
 - The application Ref: 20/2737/FUL, dated 1 December 2020, was refused by notice dated 30 April 2021.
 - The development proposed is the erection of a block of six apartments and a terrace of three residential dwellings, with the associated access from Sycamore Road, parking and landscaping.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site address in the banner heading above is taken from the appeal form and decision notice, in the absence of one on the application form.
3. A new version of the National Planning Policy Framework (the Framework) was published in July 2021. The parties have had opportunity to comment on the engagement of this new policy document in relation to the appeal, and so will not be disadvantaged by my consideration of it.

Main Issues

4. The main issues in this case are:
 - The effect of the proposed development on the character and appearance of the area; and
 - Whether the proposal would make adequate provision for affordable housing.

Character and appearance

5. The appeal site is a mainly grassed area within a residential area. The neighbourhood has a postwar twentieth century character, given its angular, flat-roofed dwellings in typically two storey terraces and three to four storey blocks, set within a fairly spacious and verdant framework of green areas in the neighbourhood. These include verges, the appeal site, gardens and pockets of green, including an approximately triangular-shaped space with trees to the south-west. These elements contribute to the characterisation of the

- neighbourhood in Appendix B of the Croxley Green Neighbourhood Plan (NP) as 1960s housing of unusual style, similar to Span housing in a landscaped setting, including a 'green' that includes the appeal site.
6. The appeal site is not designated as a public open space in the local development plan. Nevertheless, it reads 'on the ground' as having an established function and character as a neighbourhood green space given the following combination of factors.
 7. It is a substantial part of an approximately L-shaped area of grassed space that fronts onto Sycamore Road and flows around a T-shaped block of dwellings to the north-east. Dwellings face towards three sides of the site. In combination with the edge of the adjoining canal corridor to the south-east, the site provides verdant views from the road and various dwellings. As a grassed area with trees and hedging without buildings on it, the site provides visual and spatial relief from built-up elements.
 8. The presence of a barbecue, picnic table and informal tree swing indicate community use of the appeal site. Residents' descriptions of local people of various ages socialising outdoors and appreciating wildlife on the site further reinforce the impression of a neighbourhood outdoor space enjoyed by local residents. The description of the site as having a recreational and social function in the 2005 appeal dismissal¹ further points to the established nature of this identity.
 9. Within this context, the setback of the appeal site from the street and its location towards the end of a cul-de-sac to some extent contains its prominence to a localised area within the housing estate.
 10. Also, some outdoor space including the north-eastern leg of the approximately L-shaped area of grassed space would remain. Together with this, the retained street tree row in front of the site and perimeter trees along the canal corridor, the incorporation of large sycamore tree T3² as a focal point within the proposed development, and new tree planting would help preserve some verdancy.
 11. However, that said, the proposed substantial three storey apartment block towards the front of the site, together with the terraced row of houses towards the canal, and associated external works and domestic paraphernalia, would noticeably erode the verdant and spacious character of the site and the green of which it is part. It would reduce the amount of 'doorstep' outdoor space visible from the street, that is seen as established, community outdoor space by residents. This would reduce opportunity for community interaction and the family character of the area. Furthermore, the proposal would substantially sever the visual connection across the verdant space to the leafy edge of the canal corridor. This would lessen the sense of green infrastructure in the locality.
 12. Consequently, the proposal would erode the distinctive characteristic of verdant communal space between dwellings, and the postwar style landscape identity of the neighbourhood.

¹ Appeal Ref: APP/P1940/A/05/1193800.

² As numbered on the tree survey within the appellant's Arboricultural Advice Note.

13. I therefore conclude that the proposal would harm the character and appearance of the area. As such, it would conflict with Policies CP1 and CP12 of the Three Rivers Core Strategy (CS), Appendix 2 and Policy DM1 of the Three Rivers Development Management Policies Local Development Document, and Policy CA1 of the Croxley Green Neighbourhood Plan, which together seek, among other things, to ensure that development complements and where appropriate enhances local character.

Affordable housing provision

14. Small housing sites have an important role³ 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 cases⁴, 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.

15. 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.

16. 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.

Other Matters

17. I appreciate that the Planning Officer's Report to Planning Committee found insufficient harm to recommend refusal, but this does not alter my reasoning. In any case, Members reached a different conclusion.

18. Concerns have been raised by some local residents regarding flood risk, parking and highway safety. As I am dismissing the appeal on other grounds, it is not necessary for me to consider these matters further in this instance.

Planning Balance and Conclusion

19. On the evidence before me, I consider that for the purposes of making my decision there is a supply shortfall of deliverable housing sites in the district of in the region of three years.

³ As set out in paragraphs 1.7, 1.8 and 1.11 of the Council's Appeal Statement.

⁴ As per Footnote 2 of Appendix A of the Planning Officer's Report to Planning Committee 22 April 2021.

⁵ Paragraph 1.1.

20. Therefore, policies which are most important for determining the application are to be considered out of date. The tilted balance, as set out within paragraph 11 of the Framework, thus applies.
21. The proposal would contribute to local housing supply in the form of six apartments and three terraced dwellings, with associated socio-economic benefits in the area during and after construction. There is potential to deliver biodiversity gain through wildlife-friendly landscaping and management, albeit tempered by loss of the attraction to some wildlife of the unbuilt character of the site. Also, a contribution towards off-site affordable housing is proposed. Together the proposal's benefits carry moderate weight. That said, I have identified harm in relation to the character and appearance of the area and the adequacy of affordable housing provision, which carries significant weight.
22. I appreciate that the Framework sets out a presumption in favour of sustainable development but even where the tilted balance is engaged, the benefits of additional housing do not necessarily outweigh all other concerns. Moreover, case law has found that even where policies can be considered out of date, this does not mean that they carry no weight. The balancing exercise remains a matter of planning judgement.
23. Given the totality of harm identified above, I conclude that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefit, when assessed against the policies in the Framework taken as a whole.
24. The proposal would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal is dismissed.

William Cooper

INSPECTOR