

## PLANNING COMMITTEE – 21 May 2020

### PART I – DELEGATED

**9. 20/0556/OUT - Outline application: Demolition of existing dwelling and outbuildings and construction of five detached dwellings (all matters reserved) at 19 TOMS LANE, ABBOTS LANGLEY, WD4 8NA (DCES)**

Parish: Abbots Langley Parish Council  
Expiry of Statutory Period: 19.05.2020

Ward: Gade Valley  
Case Officer: Lauren Edwards

Recommendation: That Planning Permission be Refused.

Reason for consideration by the Committee: The architect for this application is a local Councillor.

#### **1 Relevant Planning History**

1.1 No relevant planning history.

#### **2 Description of Application Site**

2.1 The application site has an area of 0.35Ha and is located on the north western side of Toms Lane. The site currently comprises a two storey detached dwelling which fronts Toms Lane and is set within a substantial plot.

2.2 No.17a to the west is a two storey detached dwelling sited on a lower land level to the application site.

2.3 No.21 is a two storey detached dwelling sited on a higher land level to the application dwelling.

2.4 No.15a to the north of the application site is a detached bungalow.

#### **3 Description of Proposed Development**

3.1 This application seeks outline planning permission for the demolition of the existing dwelling and outbuildings and the construction of five detached dwellings. All matters are reserved for this application.

3.2 The block plan submitted shows the existing dwelling (No.19) would be demolished and the site subdivided to accommodate five detached dwellings.

3.3 Plot 1 would be sited further west than the existing dwelling and would be sited adjacent to an internal road to the east which would provide access to Plots 2-5 located to the north of the site.

3.4 The submitted block plan shows that each property would have its own frontage for parking and private rear amenity gardens.

#### **4 Consultation**

##### **4.1 Statutory Consultation**

4.1.1 Abbots Langley Parish Council: No response received

4.1.2 Hertfordshire County Council – Highway Authority: [Further details required]

Officer comment: Following receipt of their initial comments amended plans were received which have been reviewed by the Highways Officer who makes the following comments:

*“No specific objections to the proposed waste collection arrangements and general width of the proposed access of approximately 5.5m (which would be acceptable for a shared use access for four dwellings). A swept path analysis plan for a TRDC waste collection vehicle would ultimately need to also be provided to illustrate that a vehicle could safely turn around on site and egress to the highway in forward gear. TRDC as waste collection authority would also need to be satisfied with the proposed arrangements.*”

*The visibility splay lines would need to be taken to the near kerb line of carriageway in either direction (they are currently offset into the highway and therefore not a true representation on the available visibility to be in accordance with Roads in Hertfordshire: Highway Design Guide and Manual for Streets – they should be referred to these documents rather than DMRB).*

*I would request that the applicant provide a visibility splay plan showing the maximum achievable visibility splays in either direction with a setback of 2.4m and 2m and to the nearside kerb line of the adjacent highway carriageway.”*

4.1.3 Herts and Middlesex Wildlife Trust: [[No comments received. Any comments received will be verbally updated at the Committee meeting]

4.1.4 Herts Ecology: [Further details required]

*“Thank you for contacting Hertfordshire Ecology on the above. I am not aware of any habitat or species data for the application site itself, which is a detached two storey dwelling with very large rear garden, in a residential street in a suburban / semi-rural setting east of Kings Langley itself. There are plenty of mature trees (scattered, clustered, hedgerows, woodlands) and agricultural grassland in close proximity. All these habitats will provide suitable foraging and commuting opportunities for bats and there are records of them roosting in buildings in close proximity.*”

*There are a number of trees both on and adjacent to the site, and these may have potential to support nesting birds and roosting bats. It is unclear to what degree the trees will be affected by the proposals at this stage. I advise a Tree Survey is undertaken at the appropriate stage of the planning process. Ideally, any lost trees should be replaced, and the loss of mature trees should be replaced on a two-for-one basis.*

*If external lighting is proposed, this should be designed to minimise light spill, in particular directing light away from the boundary vegetation to ensure dark corridors remain for use by wildlife as well as directing lighting away from potential roost / nesting sites.*

*Based on the available information, I have no objection to the principle of development at this site. I do not anticipate there to be any significant ecological constraints that would prevent consent being granted, subject to any appropriate surveys, mitigation and enhancement measures being implemented (see below).”*

Reserved Matters – ecological survey, biodiversity enhancements and net gain

*“The development proposals involve construction of five residential dwellings and associated gardens and parking. As part of a Reserve Matters application, I would expect the site to be assessed by a suitably qualified and experienced Ecologist to determine the extent of impacts on habitats or species of conservation significance. If the ecologist recommends any further survey work on European Protected Species (e.g. bats), the results of that should also be completed prior to determination of the Reserves Matters application and submitted to the LPA for written approval.*”

*The planning system should aim to deliver overall net gains for biodiversity where possible as laid out in the National Planning Policy Framework and other planning policy documents. Consequently, the proposals should also incorporate enhancement measures of relevance to the local landscape. Options could include semi-natural landscaping or the improved management of remaining habitats (e.g. native trees and bordering trees/hedgerows), fruit tree planting; the integration of bird nest and bat roost opportunities within the fabric of the new buildings; and/or on suitable retained trees, and hedgehog boxes and holes in fencing. All mitigation, compensation and enhancement measures should be reflected in relevant documents and plans (e.g. Ecology report, Landscape plans, Biodiversity Enhancement Plan) at the Reserve Matters stage. Herts Ecology would be happy to review any submitted ecology / landscape reports in due course.”*

4.1.5 National Grid: [No comments received. Any comments received will be verbally updated at the Committee meeting].

4.1.6 Landscape Officer: [Further surveys required]

*“There are a number of trees both on and adjacent to site, the majority of which are located along the boundaries. These trees provide valuable screening both to the site and adjacent properties, so it will be important that they are considered early within the design process, and suitable protection afforded to them within a final layout and throughout the duration of any approved development.*

*Any full or outline application will therefore need to be accompanied by an arboricultural impact assessment (AIA), prepared in accordance with BS5837 (2012), ‘Trees in relation to design, demolition and construction – recommendations’. It is recommended that a tree survey, in accordance with BS5837, is carried out directly to inform of ownership, quality, above/below ground constraints etc., to ensure that a suitable layout can be achieved.”*

4.1.7 Herts Fire and Rescue: [Advice provided]

*“Provision and design of access routes and hardstanding's*

*For dwelling houses, access for a pumping appliance should be provided to within 45m of all points inside the dwelling house.*

*Turning facilities should be provided in any dead end access route that is more than 20 m long. This can be a hammerhead or turning circle designed on the basis of the diagram below and should ensure that the maximum number of movements is a 3 point turn.*

*The access road should be capable of dealing with a vehicle of 19 tonnes.*

*Where sprinklers in accordance with BS 9251:2014 or BS EN 12845 are fitted throughout a house or block of flats: the distance between the fire appliance and any point within the house (houses having no floor more than 4.5 m above ground level) may be up to 90 m;”*

## **4.2 Public/Neighbour Consultation**

4.2.1 Number consulted: 8

4.2.2 No of responses received: 4

4.2.3 Site Notice: Expired 25.04.2020                      Press notice: Not required

4.2.4 Summary of Responses:

- Development on Green Belt land could set a precedent
- Unlikely to be of a size for first time buyers

- Overbearing and not in keeping with other properties
- Too close to boundary
- Overshadowing
- Overlooking
- Increased noise
- Wildlife impacts
- Increased traffic
- Overstretch local services
- No refuse details shown
- Drainage concerns
- Concerns with damage to property
- New neighbourhood plan will restrict development like this
- Abbots Langley have already taken a lot of new dwellings
- Site is not within a village
- Contrary to Paragraph 145 of the NPPF

## **5 Reason for Delay**

5.1 Not applicable.

## **6 Relevant Planning Policy, Guidance and Legislation**

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

In 2019 the new National Planning Policy Framework was published. This is read alongside the National Planning Practice Guidance (NPPG). The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another. The NPPF is clear that “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework”.

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

### **6.2 The Three Rivers Local Development Plan**

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

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies 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, DM13 and Appendices 2 and 5.

## 6.3 Other

Open Space, Amenity and Children's Playspace Supplementary Planning Document (December 2007).

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 the Planning Statement specifying that all matters are reserved. Therefore if 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.

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 approval were to be approved. However, in line with guidance set out within the Planning Practice Guidance (PPG), where an applicant has not indicated that the details submitted (i.e. proposed elevations) are not "for illustrative purposes only" the Local Planning Authority must treat them as part of the development in respect of which the application is being made and thus is unable to reserve that matter by condition for subsequent approval.

### 7.2 Principle of residential development

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

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

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

7.2.3 The application site is located outside of the main settlement boundaries and is not located within any of the Settlement Hierarchies as set out within the Core Strategy. The application

site is not allocated nor is it a sustainable location for transport or local services and is not previously developed land.

### 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 Paragraph 145 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 NPPF identifies that limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan may not be inappropriate. Given the siting of the application site is outside of the main village centres of Abbots Langley or Bedmond and not within any of the settlement hierarchies as set out within the Core Strategy the proposed development would therefore not constitute limited infilling in villages and would not fall within this exception as set out in the NPPF.

7.3.5 Expanding on the points outlined above when ascertaining whether the proposed development would fall within one of the exceptions to inappropriate development within the Green Belt it is necessary to firstly consider a) whether the application site falls within a village and b) if the extent of housing proposed is considered 'limited'. In *Wood v Secretary of State for Communities and Local Government* (2014) it was held that whether or not a

proposed development constitutes limited infilling in a village is a question of planning judgement, and that this would depend upon their assessment of the position on the ground.

- 7.3.6 Abbots Langley is a Key Centre as defined within PSP3 of the Core Strategy. The application site is 2.4 miles by road and 1.6km as the crow flies from the very outer edge of the defined Key Centre and can be accessed via Toms Lane or public footpath but would be a 37 minute walk. It is possible to walk to some local services along Primrose Hill however these are limited. There is also physical separation between Primrose Hill and Toms Lane with a distinct change in character after the railway bridge, up a steep hill. Whilst it is acknowledged these are different settings, Harthall Lane has a similar physical separation to Primrose Hill. In a recent appeal decision (APP/P1940/W/19/3229189) the Inspector noted a distinct change in the environment to the eastern side of the railway line. A direct walking route to Abbots Langley High Street would be a 2.2 mile walk or 2 miles via unlit public footpath. Walking to Bedmond High Street would take 27 minutes (1.3 miles). As a consequence of its relatively isolated location convenience journeys would be heavily reliant on a car for travel.
- 7.3.7 There is a bus stop immediately adjacent to the application site providing services to Hemel Hempstead. The nearest Public Houses are within the main settlement of Abbots Langley, Bedmond or Kings Langley. The nearest schools and church are also located within Bedmond and Abbots Langley over 1 mile from the application site.
- 7.3.8 The Oxford Dictionary defines a village as a group of houses and associated buildings, larger than a hamlet and smaller than a town, situated in a rural area. It defines a hamlet as a small settlement, generally one smaller than a village, and strictly (in Britain) one without a Church. It is recognised that in the appeal at Land off Tongue Lane, Brown Edge (APP/B3438/W/18/3211000) the Inspector noted that...“While a church may have once existed in Ridgeway, there is no church there now as it has been replaced by a dwelling known as Chapel House. There are also no other associated buildings in Ridgeway that would, in my judgement, mean that Ridgeway is anything more than a hamlet”. Whilst the Inspector’s comments are noted, it is considered that the existence of a church is not a conclusive factor as to whether it falls within a village and thus a greater view is required based on the facts on the ground.
- 7.3.9 Whilst the application site is located within a linear residential street adjacent to a number of other dwellings it is not located within any defined settlement boundaries. When considering the distance to Abbots Langley and Bedmond the application site does not have any close association with the adjacent settlements for it to be considered as falling within the village of Abbots Langley or Bedmond. As a result the application site would not be in a village.
- 7.3.10 Notwithstanding the above, in relation to the second matter of limited infilling, the NPPF does not define what ‘limited infilling’ is. When considered in the context of the ordinary meaning of these words it would imply within an existing gap in existing built form.
- 7.3.11 It is acknowledged that there is a dwelling to the north of the site (No.15a) and other ancillary buildings to the rear of the main linear development along Toms Lane. However the introduction of 5 dwellings to the rear of the main building line between this and one dwelling is not considered to constitute infilling. Notwithstanding this within the context of Toms Lane it is considered that five dwellings (net gain of 4) would be ‘limited’.
- 7.3.12 In light of the above, the development would therefore fail to fall in any of the exceptions within paragraph 145 of the NPPF and thus would constitute inappropriate development in the Green Belt, which by definition, is harmful. The harm is afforded substantial weight.
- 7.3.13 Actual Harm to openness

- 7.3.14 In accordance with paragraph 144 of the NPPF LPA's should ensure that substantial weight is given to any harm to the Green Belt.
- 7.3.15 The purposes of including land within the Green Belt includes:
- To check the unrestricted sprawl of large built up areas;
  - To prevent neighbouring towns from merging into one another;
  - To assist in safeguarding the countryside from encroachment;
  - To preserve the setting and special character of historic towns; and
  - To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- 7.3.16 Given that the proposal would constitute inappropriate development an assessment of the impact on openness would need to be made. The introduction of four further dwellings would result in significant loss of openness and encroachment of built form into land which is currently very open and undeveloped. The proposed use of the land with the introduction of hardstanding and the paraphernalia associated with the separate residential use would also result in the spread of urbanising harmful development within the Green Belt and the loss and erosion of this existing open piece of land.
- 7.3.17 The proposed development would also result in intensification of use of the land which would serve to further impact on the open and rural character of the Green Belt. Thus, although the appearance of the proposed buildings are not subject to the assessment of this current application the proposed use of the land for residential purposes and erection five new dwellings at the scale indicated would erode the openness of the Green Belt. The erection of five detached dwellings on the site would serve to diminish the openness of the Green Belt which is its most important attribute.
- 7.3.18 The proposal would therefore result in inappropriate development in the Green Belt as it would not fall within any of the exceptions defined within the NPPF. The proposed dwellings would also result in actual harm to openness. No very special circumstances have been demonstrated that would outweigh the harm the development would have on the Green Belt by virtue of its inappropriateness and harm to openness.
- 7.3.19 As such, the proposed development should be refused based on its inappropriateness and also given the additional harm to the openness of the Green Belt that would arise from the proposed use of the site and the erection of four additional units. The proposed development would constitute inappropriate development which, by definition, would be harmful to the Green Belt. No very special circumstances exist to outweigh this harm. The proposal would also result in actual harm to the openness of the Green Belt. The proposed development would therefore fail to preserve the openness of the Green Belt and would be contrary to Policy CP11 of the Core Strategy, Policy DM2 of the DMP LDD and the NPPF.

#### 7.4 Principle of development: Character and Street Scene

- 7.4.1 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'.
- 7.4.2 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.)

7.4.3 Whilst all matters are reserved a site plan has been submitted as part of the application. Toms Lane has a predominantly linear pattern of development on both sides of the road with strong uniformed building lines. Whilst there are examples of dwellings and ancillary buildings to the north and west of the application site these are sporadic and not a characteristic of the area. The proposed development would result in backland development with Plots 1 and 2 comprising tandem development which would be at odds with the prevailing character of the area.

7.4.4 The formation of a new access and 4 additional dwellings facing on to the new driveway would create a small cul-de-sac which is uncharacteristic of the streetscene and would appear as an incongruous form of development within the area. Toms Lane is also generally characterised by street fronting dwellings with generous plot sizes and lengthy rear gardens backing on to open land. The proposed plots would appear significantly smaller than those within the area which further identifies the cramped and contrived nature of the development.

7.4.5 Whilst limited assessment can be made of the appearance and scale of the dwelling, the proposed plots and five dwellings would be considered incongruous and cramped within the context of the low density levels of the surrounding area. The proposal would also result in the introduction of an access track which would need to be demonstrate its ability to be able to accommodate service vehicles, therefore contrary to Policy DM1. Nevertheless the introduction of an additional wide access would increase the visual perception of the unacceptable nature of the backland development from Toms Lane.

7.4.6 In summary, the subdivision of the site and construction of four additional dwellings would result in a cramped and contrived form of development which fails to have regard to the local character of the area. It is therefore contrary to Policies CP1 and CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies LDD.

#### 7.5 Principle of development: Impact on amenity of neighbours

7.5.1 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.

7.5.2 Elevations and floor plans have not been submitted with this application and as such a full assessment of impact would be made at reserved matters scale. It is unlikely that a two storey dwelling in Plot 1 would result in unacceptable harm to 17a however this would require a full assessment at the reserved matters stage. Sufficient separations distances would be retained from the proposed dwellings to the existing neighbours along Toms Lane however a full assessment would be required at reserved matters stage.

#### 7.6 Principle of development: Quality of accommodation for future occupants

- 7.6.1 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.
- 7.6.2 A separation distance of 25m would be achieved between Plots 1 and 2. Whilst it is not clear if the proposed dwellings would be two storey the proposed separation distances would not comply with the guidelines of Appendix 2. However a full assessment would be made at the reserved matters stage.
- 7.7 Principle of development: Amenity Space Provision for future occupants
- 7.7.1 Appendix 2 of the DMP LDD outlines the following standards for amenity space:
- 1 bed dwelling -- 42 square metres
  - 2 bed dwelling -- 63 square metres
  - 3 bed dwelling -- 84 square metres
  - 4 bed dwelling -- 105 square metres
  - additional bedrooms: - 21 square metres each
- 7.7.2 Plot 1-5 would provide 162, 168, 114, 432 and 365 sqm of amenity space respectively. Floor plans have not been provided and as such would be required at reserved matters stage to make an assessment in this respect.
- 7.8 Wildlife and Biodiversity
- 7.8.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive.
- 7.8.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of applications in accordance with Policy CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the DMLDD. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications that may be affected prior to determination of a planning application.
- 7.8.3 Hertfordshire Ecology have reviewed the application who expect the site to be assessed by a suitably qualified and experienced Ecologist to determine the extent of impacts on habitats or species of conservation significance. If the ecologist recommends any further survey work on European Protected Species (e.g. bats), the results of that should also be completed prior to determination of the Reserves Matters application and submitted to the LPA for written approval.
- 7.9 Trees and Landscaping
- 7.9.1 The Landscape Officer has reviewed the proposal and considers that a full Arboricultural Impact assessment should be submitted at reserved matters stage.
- 7.10 Sustainability
- 7.10.1 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.

7.10.2 This application has not been accompanied by an Energy Statement. This would be required at reserved matters stage and should demonstrate that the development is in accordance with the above standards.

#### 7.11 Highways, Access and Parking

7.11.1 Access would be provided to the eastern side of the site. The proposal has been reviewed by the Highways Officer and revisions have been submitted. Whilst the Highways Officers raises no specific objections to the proposed waste collection arrangements and the general width of the access a swept path analysis of a TRDC waste vehicle would be required at reserved matters stage to ensure the vehicle can enter and exit in a forward gear. Visibility splay lines would be required in both directions with a setback of 2.4m and 2m however this could be demonstrated at reserved matters stage.

7.11.2 Details have not been provided in respect of the size of the proposed units and therefore an assessment cannot be made in respect of parking provision against the standards set out within Appendix 5 of the DMP LDD. However the block plan submitted indicates that each plot would provide 3 on-site parking spaces which would be the maximum number required.

#### 7.12 Affordable Housing

7.12.1 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. 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 one dwelling as such a monetary contribution would be required to be sought unless viability demonstrates otherwise.

7.12.2 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.

7.12.3 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.

- 7.12.4 The National Planning Policy Framework (the Framework) was published with immediate effect for development management purposes. Paragraph 63 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.”
- 7.12.5 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.”
- 7.12.6 The supporting text to Policy CP4 summarises the justification for it:
- Average house prices in Three Rivers are some of the highest in the country outside of London. As a result, many local people have difficulty accessing housing on the open market.
  - A Housing Needs Study estimated that 429 affordable dwellings would be needed each year to satisfy need. Such provision would exceed the total number of all housing types provided in the District in any year.
  - The 2010 Strategic Market Housing Assessment (SMHA) found that the requirement for affordable housing in and around the Three Rivers area remains exceptionally high.
  - In order to completely satisfy affordable housing requirements, all future housing in the district to 2021 would need to be affordable.
- 7.12.7 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 63 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 & Projects and Head of Regulatory Services on the weight that they recommend should be given to NPPF 63 for these purposes in light of the Needs Analysis.
- 7.12.8 Since the adoption of its Core Strategy in 2011, Three Rivers has received small site affordable housing contributions amounting to over £2.1 million. Utilising those monies, development is currently underway which will deliver 21 units of affordable housing, with the remaining monies utilised as a contribution towards the delivery of a further 17 affordable dwellings. It is clear that Three Rivers' policy has already delivered a significant contribution towards the delivery of much needed affordable housing in the district.
- 7.12.9 In addition to the £2.1 million already received, small scale (1-9 unit) schemes have secured to date a further £1.3+million to £2.9+ million 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.

7.12.10 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 122 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 October 2011 and March 2019 198 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 9% of all such schemes.

7.12.11 Current evidence of housing need in the District is noted below. It confirms that the needs underlying the adopted development plan policy remain pressing.

*Sums payable will be subject to indexation in most cases from June 2011 which will not be calculable until the date of payment. The headline sums will therefore increase. 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.*

#### **7.12.12 Importance of Small Sites to Three Rivers**

7.12.13 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: between 1st May 2016 and 12th April 2017 for instance, seventy nine planning applications for residential development involving a net gain of dwellings were determined by the Council. Of those, forty seven applications (60%) 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 overall identified needs and adopted development plan objectives. This is dealt with in more detail below.

7.12.14 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.

7.12.15 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.

7.12.16 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"***

7.12.17 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"***

7.12.18 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.

7.12.19 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.

7.12.20 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**

### 7.12.21 General House Price Affordability in Three Rivers

7.12.22 Due to the District's close proximity to London, Three Rivers has traditionally been situated within a high house price area. According to data published by the Office of National Statistics (ONS) in the third quarter of 2016, the lowest quartile house price in Three Rivers in 2016, representing the cheapest properties in the District was £325,000.00, making it the seventh most expensive local authority area in England and Wales (excluding London), out of a total of three hundred and fifty local authority areas (see table 1 below).

Number	Local Authority Name	Lowest Quartile House Prices
1	Elmbridge	£375,000.00
2	South Bucks	£370,000.00
3	St Albans	£355,000.00
4	Windsor and Maidenhead	£345,000.00
5	Chiltern	£335,000.00
6	Herstmere	£330,000.00
<b>7</b>	<b>Three Rivers</b>	<b>£325,000.00</b>
8	Epsom and Ewell	£324,000.00
9	Cambridge	£320,000.00
10	Mole Valley	£320,000.00

7.12.23 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) in the third quarter of 2017, the lowest quartile house price in Three Rivers as of September 2017 was £355,000.00, making it now the sixth most expensive local authority area in England and Wales (excluding London), out of a total of three hundred and fifty local authority areas (see table 2 below).

Number	Local Authority Name	Lowest Quartile House Prices
1	Elmbridge	£390,000.00
2	South Bucks	£386,000.00
3	St Albans	£355,000.00
4	Chiltern	£375,000.00
5	Windsor and Maidenhead	£373,000.00
<b>6</b>	<b>Three Rivers</b>	<b>£355,000.00</b>
<b>7</b>	<b>Mole Valley</b>	<b>£349,950.00</b>
<b>8</b>	<b>Epsom and Ewell</b>	<b>£340,000.00</b>
9	Cambridge	£338,000.00
10	Epping Forest	£330,000.00

7.12.24 Lowest quartile earnings in Three Rivers in 2016 were £24,518.00 and £24,657.00 in 2017, 13.3 times worsening to 14.4 below the lowest quartile house prices (ratio of lower quartile house prices to lower quartile gross annual, residence based earnings). In a mortgage market where lenders are traditionally willing to lend 3.5 times a person's income, clearly a lending requirement in excess of 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 2016 to have a deposit of £239,694.00, or (without such a deposit) to earn £92,857.00 per annum to get onto the lowest/cheapest rung of the property ladder. An additional £6,250.00 Stamp Duty payment would also have been due.

7.12.25 When one considers the median affordability ratio for Three Rivers compared to the rest of England and Wales, the position is even more serious: the median quartile income to

median quartile house price affordability ratio is 13.82, the fifth worst affordability ratio in England and Wales, as set out in table 3 below, again when compared against 350 local authorities.

Number	Local Authority Name	Median quartile house price affordability ratio <sup>1</sup>
1	South Bucks	14.55
2	Hertsmere	14.16
3	Mole Valley	14.00
4	Chiltern	13.92
<b>5</b>	<b>Three Rivers</b>	<b>13.82</b>
6	Elmbridge	13.82
7	Cambridge	13.45
8	Epsom and Ewell	12.99
9	Oxford	12.58
10	Christchurch	12.47

7.12.26 Looking at the ratio of lower quartile house prices to lower quartile to gross annual, residence based earnings, in 2016 the ratio was 14.30. By September 2017 that had risen to 14.84.

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

#### **7.12.28 Affordable Housing Requirements in Three Rivers**

7.12.29 The South West Hertfordshire Strategic Housing Market Assessment January 2016 (SHMA) found that at that time there were approximately 658 households within Three Rivers that were situated in unsuitable housing. Unsuitability is based on the number of households shown to be overcrowded in the 2011 Census (updated to a 2013 base for the purposes of the SHMA). 59.4% of these households were unable to afford market housing, which meant the revised gross need was reduced to 391 households.

7.12.30 The SHMA also looked into newly-arising (projected future) need within the District, which was accepted as arising from newly forming households and existing households falling into this need. In South West Herts, the SHMA estimated a need totalling 2,760 new households per annum from 2013-2036. 15% of this need falls within Three Rivers, which equates to an estimated level of affordable housing need in the District from newly forming households of 419 per annum.

7.12.31 With these figures in mind, the SHMA calculated the net affordable housing need within the five local authority areas of the South West Herts area as being 54,997 units over the 23 year period from 2013 to 2036. This is 2,391 units per annum. The net need within Three Rivers was calculated as being 357 units per annum or 8,211 units over the same 23 year period. The SMHA identified the district's OAN for the next plan period as being 514 dwellings a year; thus affordable housing need equates to 69% of total housing need.

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

7.12.33 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.

7.12.34 Since the start of the plan period from 1 April 2001 to 31st March 2018 (the latest date where the most recent completion figures are available), 4,047 gross dwellings were completed. From this, 933 were secured as affordable housing, a total of 24.5%. This



percentage is significantly below the Core Strategy target of 45% which means there was a shortfall of 888 affordable housing units or 21.5% in order to fulfil the 45% affordable housing requirement up to 31 March 2018. This shortfall only exacerbates the already pressing need for small sites to contribute towards the provision of affordable housing

- 7.12.35 The latest available Annual Monitoring Report, published in March 2018 states: "the low percentage recorded in the 2017/18 year can partly be attributed to the Governments Written Ministerial Statement (WMS) in November 2014 which led to an amendment to National Planning Practice Guidance. This meant that from May 2016, the Council was only able to require affordable housing on sites of 10 or more dwellings, or where development had a combined gross floor area of 1000sqm. The Council was therefore unable to fully implement Core Strategy CP4, in line with government guidance. Out of a total of 23 sites where overall development would result in a net gain of one or more dwellings, and where CP4 would have been applied, only seven contributed towards the provision of affordable housing during the 2017/18 monitoring period. Given the implications of the WMS outlined above, only 10 of the 23 sites contributing a net gain of one or more dwellings were required to contribute towards affordable housing provision, with seven sites making contributions as required. A further two sites which were replacement dwellings and contributed no net gain, provided a total of three gross dwellings which are included in the gross dwelling completion figures."

*Table 33: Estimated Current Need, South West Hertfordshire Housing Market Assessment (January 2016).*

*Table 38: South West Hertfordshire Housing Market Assessment (January 2016). Net need = Current Need + Need from Newly-Forming Households + Existing Households falling into Need – Supply of Affordable Housing.*

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

- 7.12.37 Between 1st May 2016 and 12th April 2017, seventy nine planning applications for residential development involving a net gain of dwellings were determined by the Council. Of those, forty seven applications (60%) were for schemes which proposed a net gain of 1-9 units. In 2017-2018 there were 67 planning applications for net gain residential schemes, of which 57 were small site schemes (85%). From 1st January 2018- December 2019 there were 50 planning applications for net gain residential schemes, of which 46 were small site schemes (92%).

- 7.12.38 In terms of numbers of completed dwellings proposed by those small site schemes, between 2011-19 some 313 dwellings were completed which equates to 39 dwellings per annum. 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 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."*

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

- 7.12.40 As set out above, the commuted payments (£2.1 million) to be 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

21 units with some of the monies being utilised to assist in the delivery of a further 17 units (38 in total). Furthermore, small scale (1-9 unit) schemes have (as at December 2019) secured a further £1.3+million - £2.6+ million (see footnote 1) in respect of unimplemented but current planning permissions. 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. 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.

#### **7.12.41 Adopted development plan policy does not impose burdens where they would render schemes unviable.**

7.12.42 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 122 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 October 2011 and March 2019 there were 198 planning permissions granted for minor (net gain) residential developments in the District. Of those only 18 have lapsed (9%). This demonstrates that the application of CP4 has not acted as a brake on small scale residential developments.

#### **7.12.43 Relevant Appeal Decisions**

7.12.44 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. The Council considers these appeal decisions to be of continuing relevance post the new Framework.

7.12.45 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.

7.12.46 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.

7.12.47 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.

7.12.48 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:

“...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.”

7.12.49 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.

7.12.50 The Council’s stance has been tested on appeal on numerous occasions and the Planning Inspectorate have repeatedly concluded (13 decisions as at the date of this document) that whilst the NPPF carries considerable weight, it does not outweigh CP4 of the Councils development plan given the acute and substantial need for affordable housing in the District and the important contribution small sites make towards addressing this shortfall. Below are extracts from a few of those decisions:

**APP/P1940/W/19/3222318, Eastbury Corner, 13 Eastbury Avenue, Northwood, Decision date: 21 June 2019:**

“The Council has however provided robust evidence to demonstrate high affordable housing need locally and that affordability in the District continues to deteriorate. Indeed, needs analysis carried out by the Council highlights the importance of small sites in addressing shortfall and the lack of affordability that exists in the District. I apply substantial weight to this local evidence due to its recentness and the clear conclusions that can be drawn from it. Policy CP4 makes it clear that site circumstances and financial viability will be taken into account when seeking affordable housing provision.”

**APP/P1940/W/19/3221363, The Swallows, Shirley Road, Abbots Langley**

Decision date: 27 June 2019:

“The Council has however provided robust evidence to demonstrate high affordable housing need locally and that affordability in the District continues to deteriorate. Indeed, needs analysis carried out by the Council highlights the importance of small sites in addressing shortfall and the lack of affordability that exists in the District. I apply substantial weight to this local evidence due to its recentness and the clear conclusions that can be drawn from it.” **APP/P1940/W/19/3225445, 6 Berkely Close, Abbots Langley**

Decision date 5 August 2019:

“The Council has provided robust evidence of high affordable housing need in the District, and in line with the findings of other appeal decisions cited by the Council, I attribute substantial weight to that need as a consequence and consider that a contribution towards the provision of affordable housing is necessary.”

**APP/P1940/W/19/3230999, 27 Gable Close, Abbots Langley**

Decision Date: 1 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.

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

**APP/P1940/W/19/3230911, 67 & 69 St Georges Drive, Carpenders Park,**

Decision date 22 October 2019:

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

**APP/P1940/W/19/3230458, 19 Lynwood Heights, Rickmansworth,**

Decision date: 11 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/19/3229189, Glenwood, Harthall Lane, Kings Langley**

Decision date: 7 May 2020

“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.”

#### **7.12.51 Affordable Housing Conclusion**

7.12.52 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 and in December 2019 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 2017 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.

#### **7.12.53 This application**

7.12.54 No details have been submitted as part of the application in respect of affordable housing and as such a Section 106 agreement has not been agreed during the application timeframe and therefore the proposal is contrary to Policy CP4 as it fails to make a contribution towards Affordable Housing Provision.

#### **7.13 Sustainability**

7.13.1 Paragraph 93 of the NPPF states that “Planning plays a key role in helping to shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure”.

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

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

7.13.4 This application has not been accompanied by an Energy Statement. This would be required at reserved matters stage and should demonstrate that the development is in accordance with the above standards.

#### 7.14 Refuse and Recycling

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

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

7.14.2 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.

#### 7.15 Tilted Balance

7.15.1 The LPA cannot currently demonstrate a 5 year housing land supply, and therefore paragraph 11 of the NPPF 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 considered to be 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 areas 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."

7.15.2 The NPPF identifies that there are 3 dimensions to sustainable development: social, economic and environmental. In terms of economic benefits, there would be very limited short term benefits as a result of construction activities, and benefits resulting from the expenditure of new residents locally.

7.15.3 However, for the reasons stated, the development would result in inappropriate development within the Green Belt and actual harm to openness which having regard to paragraph 11 of the NPPF means that there is a clear reason for refusing the development. Notwithstanding the above, the proposal would also result in an incongruous form of development to the detriment of the character of the area and would fail to make any contributions towards affordable housing. For these reasons the titled balance is not engaged.

7.15.4 Notwithstanding the titled balance the net gain of four dwellings would only provide a minor uplift in the number of market. This would not warrant very special circumstances nor would such benefit outweigh the adverse impacts identified.

## 8 **Recommendation**

8.1 That PLANNING PERMISSION BE REFUSED for the following reasons:

- R1 The proposed development would not contribute to the provision of affordable housing and it has not been demonstrated that such provision would not be viable.

The 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).

- R2 The proposed development by virtue of its siting falling outside of a village, the intensification of use and the encroachment of urbanising features into the open part of the site would constitute inappropriate development which, by definition, would be harmful to the Green Belt and also result in harm to openness. The proposed development fails to meet any of the exceptions outlined within the NPPF at paragraph 145 and no very special circumstances have been put forward which would outweigh the inappropriateness of the development and harm to openness. The proposed development would therefore be contrary to Policy CP11 of the Core Strategy (adopted October 2011), Policy DM2 of the Development Management Policies LDD document (adopted July 2013) and the NPPF (2019).
- R3 The proposed development as shown on the submitted information supplied with the application would fail to have regard to the local character of the area by virtue of its cramped and contrived nature representing an incongruous form of development which would be significantly detrimental to the visual amenities of the street and character of the area. This would be contrary to Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

## 8.2 **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