

7. 18/2418/RSP – Retrospective: Conversion of a dwellinghouse into two self-contained flats at 19 LYNWOOD HEIGHTS, RICKMANSWORTH, WD3 4ED.
(DCES)

Parish: Chorleywood Parish Council
Expiry of Statutory Period: 20.03.2019

Ward: Chorleywood North & South
Case Officer: Scott Volker

Recommendation: That Planning Permission be Refused.

Reason for consideration by the Committee: This application is brought before the Committee as it has been called-in by three Members of the Planning Committee.

1 Relevant Planning & Enforcement History

- 1.1 8/598/93 - Part two and first floor side extension – Permitted 06.12.93, implemented.
- 1.2 15/2072/FUL - Two storey front extension; first floor front extension, extension to roof including increase in ridge height; alterations to fenestration; demolition of existing detached garage and alterations to access and to landscaping to provide additional hardstanding – Permitted 24.11.15.
- 1.3 15/2528/FUL - Variation of Condition 2 (plan numbers) of planning permission 15/2072/FUL (Two storey front extension; first floor front extension, extension to roof including increase in ridge height; alterations to fenestration; demolition of existing detached garage and alterations to access and to landscaping to provide additional hardstanding) to include rooflights to rear and front porch – Permitted 16.02.16.
- 1.4 16/0841/RSP - Part Retrospective: Two storey front extension; first floor front extension, extension to roof including increase in ridge height; rear dormers; alterations to fenestration; demolition of existing detached garage and alterations to access and to landscaping to provide additional hardstanding – Permitted 09.06.16; not implemented.
- 1.5 16/1184/RSP - Part Retrospective: Two storey front extension; first floor front extension, extension to roof including increase in ridge height; rear dormers; alterations to fenestration; demolition of existing detached garage and alterations to access and to landscaping to provide additional hardstanding – Refused 27.07.16 for the following reason:

R1: The proposed development would, by reason of the cumulative impact of its design, height, depth, bulk and massing, result in a cramped and prominent development which would be dominant and out of character to the detriment of the visual amenity of the application dwelling and streetscene. As such the proposal 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).
- 1.6 16/2614/FUL - Variation of Condition 2 (plan numbers) of planning permission 16/0841/RSP (Part Retrospective: Two storey front extension; first floor front extension, extension to roof including increase in ridge height; rear dormers; alterations to fenestration; demolition of existing detached garage and alterations to access and to landscaping to provide additional hardstanding) to include alterations to fenestration – Permitted 24.02.17; implemented.
- 1.7 18/0085/COMP - Unauthorised subdivision of dwelling to create new residential unit – Pending Consideration.

2 Description of Application Site

- 2.1 The application site is on the north side of Lynwood Heights, Rickmansworth. Lynwood Heights is a residential street characterised by detached dwellings of varying architectural

designs. The site accommodates a detached two-storey dwelling finished in brick and has a hipped tiled roof.

- 2.2 The dwelling is set back approximately 15 metres from the highway and is at a higher land level. To the frontage of the site is an area of soft landscaping and block paved hardstanding which provides parking for at least four vehicles in addition to an integral garage which provides a fifth parking space. The dwelling has undergone a number of extensions including a two storey front extension; first floor front extension, extension to roof including increase in ridge height and insertion of rear dormers.
- 2.3 To the rear of the dwelling is a garden of approximately 450sqm. There is a small patio adjacent to the rear of the dwelling and a large area laid as lawn. The boundary treatment to the neighbouring dwellings consists of close boarded fencing and vegetation.
- 2.4 The neighbour at 17 Lynwood Heights to the north-west is set forward of the application dwelling and is at a higher land level. The neighbour at 21 Lynwood Heights to the south east has a similar rear building line to the application dwelling and projects forward of the main part of the application dwelling with a single storey section to the front closest to the common boundary which provides a terrace to the first floor level.

3 Description of Proposed Development

- 3.1 Retrospective planning permission is sought for the conversion of a single dwellinghouse into two self-contained flats.
- 3.2 The works have already been undertaken to create a one-bedroom unit at ground floor level (although this unit contains a study room which could be used as a second bedroom) and a four-bedroom unit at first floor level which also has habitable loft space that could be used as fifth bedroom. Both units would be accessed through the same entrance within the principal elevation but an internal lobby has been created providing a separate access to each unit.
- 3.3 Two new high level windows have been inserted at first floor level within the south east elevation serving the lounge/dining room of the first floor flat. These windows are fitted with obscured glazing and are positioned 1.7 metres above the internal floor level.
- 3.4 The amenity space to the rear of the dwelling would be unaltered and would be accessible to both units. The existing driveway would be retained to provide off-street parking for the two units in addition to the retained integral garage.

4 Consultation

4.1 Statutory Consultation

4.1.1 Chorleywood Parish Council: [Objection]

The Committee had Objections with this application on the following grounds and wish to CALL IN, unless Officers are minded to refuse this application.

- The amenity space for the properties
- Lack of parking provision for two properties
- Additional traffic
- Concern over a flatted development in a single dwelling street and surrounding streets
- Request a condition 'All Permitted Development Rights are removed until Officers are confident in what the final outcome is likely to be',

4.1.2 National Grid: [No response]

4.1.3 Highways Officer: [No objection]

Notice is given under article 18 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that the Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission.

Comments/Analysis:

The application is for the retrospective permission for the conversion of the dwelling into two self-contained flats at 19 Lynwood Heights, Rickmansworth. Lynwood Heights is designated as an unclassified local access road, subject to a speed limit of 30mph and is highway maintainable at public expense.

Vehicle Access & Parking:

A new relocated vehicle crossover (VXO) has previously been created to the site and built to a standard that is acceptable and in accordance with HCC as Highway Authority's guidelines and procedures. Furthermore the previous VXO has been closed off and the kerb, footway and verge reinstated.

The level of car parking with a driveway / three on-site car parking spaces is considered to be acceptable when taking into consideration the size of the property. Provision should be made for safe and secure cycle parking to encourage cycling as a sustainable travel alternative.

Emergency Vehicle Access:

The dwellings are within the recommended emergency vehicle access of 45 metres from the highway to all parts of the buildings. This is in accordance with the guidance in *MfS, Roads in Hertfordshire* and *Building Regulations 2010: Fire Safety Approved Document B Vol 1 - Dwellinghouses*.

Conclusion:

HCC has no objections or further comments on highway grounds to the application.

4.2 **Public/Neighbour Consultation**

4.2.1 Number consulted: 8

4.2.2 No of responses received: 29 objections, 0 letters of support

4.2.3 Site Notice: Posted 12.02.2019 Expired 05.03.2019

4.2.4 Summary of Responses:

Impact on character of streetscene

Would not be in keeping with area

Concerns that new dwellings would be used as houses of multiple occupancy

Increase number of cars

Development will set a precedent

Impact on property values

5 **Reason for Delay**

5.1 None.

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

6.1 National Planning Policy Framework and National Planning Practice Guidance

On 19 February 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 2019 NPPF is clear that “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework”.

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

6.2 The Three Rivers Local Development Plan

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

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies PSP2, CP1, CP2, CP3, CP4, CP8, CP9, CP10 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, DM10 and DM13 and Appendices 2 and 5.

The Site Allocations LDD was adopted in November 2014 having been through a full public participation process and Examination in Public. Relevant policies include SA1.

6.3 Other

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

Affordable Housing Supplementary Planning Document – Approved June 2011.

7 Planning Analysis

7.1 Overview

7.1.1 Following a complaint to the Council an enforcement investigation was opened in relation to the unauthorised subdivision of the dwellinghouse referenced 18/0085/COMP. Following a site visit and assessment of the previous planning history, it was ascertained that the application dwelling had been unlawfully subdivided to create a one-bed unit at ground floor

level and a four-bed unit at first floor level. The development had therefore not been constructed in accordance with planning permission 16/2614/FUL.

- 7.1.2 At the time of the initial site inspection and investigation the property did not benefit from a lawful access from Lynwood Heights. In addition, insufficient refuse and recycling provision was provided and it was not clear if the amenity space to the rear was to be subdivided. As a result the Local Planning Authority sent a letter to the owner dated 13 June 2018 informing them of the breach of planning control and required the owner to undertake the following actions:

Ensure that the building known as 19 Lynwood Heights is returned to a single residential dwellinghouse in accordance with the approved floor plans as detailed on drawing number 15/2908/5H of planning permission 16/2614/FUL.

Timescale for Compliance: within 2 months of the date of this letter - 13 August 2018.

- 7.1.3 On receipt of the letter, the owner is utilising Section 73A of the Town and Country Planning Act (1990) seeking to formalise the subdivision of the dwelling retrospectively. Excluding the subdivision, the extensions permitted under application 16/2614/FUL were constructed in accordance with the plans.

7.2 Principle of Development

- 7.2.1 The proposed development would result in a net gain of one dwelling. The site is not identified as a housing site in the adopted Site Allocations document. 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
- iv. Monitoring information relating to housing supply and the Three Rivers housing targets

- 7.2.3 The application site is within Chorleywood 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 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.

- 7.2.4 Given the location of the site within a Key Centre and making use of previously developed land, there is no in principle objection to residential development of the application site with regard to Policy CP2 of the Core Strategy subject to assessment against all other material considerations.

7.3 Impact on Character and Street Scene

- 7.3.1 Policy CP1 of the Core Strategy seeks to promote buildings of a high enduring design quality that respect local distinctiveness and 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'.

- 7.3.2 In terms of the proposed subdivision of the extended dwelling, Policy DM1 of the Development Management Policies document (adopted July 2013) advises that 'Subject to

other development policies, proposals for the conversion of single dwellings into two or more units will generally be acceptable where:

- i) The building is suitable for conversion by reason of its size, shape and number of rooms. Normally only dwellings with three or more bedrooms will be considered suitable for conversion
- ii) The dwellings created are completely self-contained, with separate front doors either giving direct access to the dwelling, or a secure communal lobby or stairwell which itself has a secure entrance
- iii) Adequate car parking, services and amenity space can be provided for each new unit in compliance with the Council's standards
- iv) The character of the area and the residential amenity of immediate neighbours are protected
- v) If conversion of semi-detached dwellings is proposed, generally this takes place in pairs in order that privacy and the amenities of the occupants of the adjoining dwelling are maintained.

7.3.3 In relation to these criteria, provision of car parking and amenity space and impact on residential amenity are discussed in the relevant analysis sections below.

7.3.4 The application dwelling prior to its subdivision contained six bedrooms, although the loft space could be used as a seventh bedroom. It is considered that the size, shape and layout of the dwelling was suitable for subdivision in accordance with Policy DM1 of the Development Management Policies document.

7.3.5 Lynwood Heights is a residential street characterised by large detached houses of varying architectural designs. Excluding the insertion of two high level windows at first floor level within the south west elevation, no alterations to the external appearance of the dwelling have been undertaken and the two new windows would not suggest that property has been subdivided. Both flats would be accessed via the main front entrance to the property which would open into an internal lobby area where separate access to each flat is located. As such, the subdivision is not readily apparent within the wider the street scene and does not alter the character of the area or result in a prominent form of development that is unduly prominent within the street scene.

7.3.6 Furthermore, the subdivision of the property has not resulted in the creation of individual plots for each flat and the amenity space for the flats remains as open plan and unchanged. To the front, the driveway providing off-street parking is also shared which would also not indicate that the property has been divided into two. Whilst there may be an increase in the number of vehicles parked within the frontage of the site as a result of the subdivision, the original dwelling was a large property which contained six bedrooms where it could be expected to have a high number of vehicles parked within its frontage.

7.3.7 In addition, regard is had to planning application 15/1206/FUL which was allowed on appeal referenced APP/P1940/W/15/3137209. This application proposed extensions and the subdivision of 180 Highfield Way, Rickmansworth from a single detached dwelling into two semi-detached dwellings. In this case, the appeal site had an open frontage, similar to that of the 19 Lynwood Heights. In assessment of the appeal, the Planning Inspector commented that the presence of two sets of bins on the frontage would not cause material harm to the visual appearance of the area and in a similar vein, additional parked vehicles or other residential paraphernalia as a result of the one additional dwelling proposed would not appear noticeably out of character with the surroundings.

7.3.8 In summary, it is not considered that the subdivision to create one one-bedroom flat and one two bedroom flat would appear unduly prominent or that there would be any adverse impact on the character or appearance of the street scene or area. The development would therefore be acceptable in accordance with Policies CP1 and CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies LDD.

7.4 Impact on amenity of neighbours

- 7.4.1 Policy CP12 of the Core Strategy states that development should 'protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space'. Policy DM1 and Appendix 2 of the Development Management Policies document set out that development should not result in the loss of light to the windows of neighbouring properties nor allow overlooking, and should not be excessively prominent in relation to adjacent properties.
- 7.4.2 The sub-division of the application dwelling has not resulted in any increase in the bulk and massing of the building over the previously consented extensions. The proposal therefore has not resulted in any harm to the residential amenities of the occupiers of neighbouring properties by virtue of overshadowing or loss of light. The development has resulted in the insertion of two new windows at first floor level facing 17 Lynwood Heights. However, these windows are high level positioned 1.7 metres above internal floor level and fitted with obscured glazing preventing any direct overlooking towards the adjoining neighbour. In addition, whilst the property would be occupied by two families as opposed to a single family unit, it is not considered that the level of activity would be increased significantly such that would result in demonstrable harm to neighbouring properties. In addition, given the communal use of the private garden to the rear by both flats, its communal use would not be materially more harmful than when the site served a large, single dwellinghouse. Therefore it is not considered that the subdivision results in any unacceptable levels of harm towards surrounding neighbouring amenity.
- 7.4.3 The proposal is therefore acceptable in this regard in accordance with Policy CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

7.5 Parking & Access

- 7.5.1 Core Strategy Policy CP10 requires development to make adequate provision for all users, including car parking. Policy DM13 of the Development Management Policies document (adopted July 2013) states that development should make provision for parking in accordance with the Parking Standards set out at Appendix 5 of said document.
- 7.5.2 As pre-existing, the dwelling contained a minimum of six bedrooms and potentially seven if the loft space was used as a bedroom. Nevertheless, the Parking Standards state that a dwelling containing four or more bedrooms should provide three off-street parking spaces.
- 7.5.3 The subdivision of the property has resulted in the creation of a one-bed unit (potentially two-bed if the study is used as a bedroom) and a four-bed unit (potentially five-bed) should the loft space be used as a bedroom.
- 7.5.4 Based on the potential maximum number of bedrooms contained within each unit, there would be a total requirement of 5 parking spaces (4 assigned spaces) within the curtilage of the property. 2 spaces (1 assigned) for the ground floor unit and 3 spaces (3 assigned) for the first floor unit.
- 7.5.5 A bricked driveway and an integral garage have been retained which would provide at least five off-street parking spaces within the site which would meet the need for the two units and is considered acceptable. Notwithstanding this, should planning permission be granted, a condition is suggested requiring the submission of a parking management plan to demonstrate the suitable allocation of parking within the site for each flat.
- 7.5.6 The Highways Officer was consulted on the application and held no objection to the development.

7.5.7 As such, subject to conditions, the development is considered acceptable in accordance with Policy CP10 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies document (adopted July 2013).

7.6 Wildlife and Biodiversity

7.6.1 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.

7.6.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of this application in accordance with Policy CP9 of the Core Strategy and Policy DM6 of the Development Management Policies document. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications where biodiversity may be affected prior to the determination of a planning application. A Biodiversity Checklist was submitted with the application and states that no protected species or biodiversity interests will be affected as a result of the application. The site is not in or located adjacent to a designated wildlife site. The Local Planning Authority is not aware of any records of protected species within the immediate area that would necessitate further surveying work being undertaken and given the nature of the proposed development there would not be any adverse impacts on biodiversity.

7.7 Amenity of Future Occupiers

7.7.1 Amenity space standards for residential development are set out in Appendix 2 of the Development Management Policies LDD where it is stated that depending on the character of the development, the space may be provided in the form of private gardens or in part, may contribute to formal spaces/settings for groups of buildings. Communal space for flats should be well screened from highways and casual passers-by. In terms of size, one-bedroom flats should be served by 21sq.m amenity space with an additional 10sq.m per additional bedroom. In this case, based on the maximum number of bedrooms the Guidelines set out that a two bedroom flat should provide 31sq. metres of amenity space and a five-bedroom flat should provide 51sq. metres of amenity space.

7.7.2 The submitted plans indicate that there would be an area of approximately 450sq. metres to the rear of the building which is considered sufficient in size for communal amenity space and would exceed standards.

7.8 Refuse & Recycling

7.8.1 Core Strategy Policy CP1 states that development should provide opportunities for recycling wherever possible. Policy DM10 of the Development Management Policies document sets out that adequate provision for the storage and recycling of waste should be incorporated into proposals and that new development will only be supported where the siting or design of waste/recycling areas would not result in any adverse impact to residential or workplace amenities, where waste/recycling areas can be easily accessed (and moved) by occupiers and waste operatives and where there would be no obstruction to pedestrian, cyclist or driver sight lines.

7.8.2 The submitted details indicate that the bin storage area for the ground floor flat would be contained within the integral garage and the associated area for the first floor flat would be located behind a gated access along the south west flank of the building. Both areas are considered acceptable, the garage storage area does not prevent the use of the garage for vehicle parking, and the development therefore accords with Policy CP1 of the Core Strategy and Policy DM10 of the Development Management Policies document.

7.9 Affordable Housing

7.9.1 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.

7.9.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications to be determined in accordance with the adopted development plan subject to material considerations otherwise. The Courts are clear that:

- (a) the weight to be given to such considerations is a matter for the decision maker.
- (b) policy (however absolutely it is stated) cannot displace that – the decision must always be taken with regard: *“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”*.¹
- (c) The Framework *“is no more than ‘guidance’ and as such a ‘material consideration’ for these purposes. “It cannot, and does not purport to, displace the primacy given by the statute and policy to the statutory development plan.”*²

7.9.3 Officers consider that the correct approach is to:

- (1) Consider the starting point under the development plan policies
- (2) Give significant weight to the Framework policies
- (3) Have regard to current evidence of local housing need as a material consideration in deciding whether Framework policy should outweigh the breach of the adopted development plan policy.
- (4) Consider whether there is evidence of viability justification for failing to provide affordable housing, which would satisfy Policy CP4.

Policies should not be applied rigidly or exclusively when material considerations may indicate that it would not be in the interests of good planning to do so.

7.9.4 Following the issue of a WMS in Nov 2014 which stated that financial contributions towards affordable housing should no longer be sought on sites of 10 units or less and the amendment of the PPG In May 2016 to reflect this, the Council undertook an analysis of up to date evidence of housing needs in the Council's area (The Needs Analysis). The Council considers that the local evidence of housing need in the Needs Analysis:

- (a) confirms that housing stress has increased since the Core Strategy was adopted;
- (b) underlines the continuing relevance and importance of Policy CP4 (and the weight to be given to such local housing need for the purposes of Section 38(6)).

7.9.5 The Council resolved on 1st September 2017 to treat the Needs Analysis as a consideration of significant weight when considering the relationship between Policy CP4 and the WMS

¹ Source: Court of Appeal in *West Berkshire Council v SSCLG* [2016] 1 W.L.R. 3923 – citing statements made to the High Court on behalf of the Secretary of State at paragraph 26 and confirming them at paragraph 29

² Source: *Supreme Court in Hopkins Homes Ltd v SSCLG and Anor and Cheshire East Borough Council v SSCLG and Anor* [2017] 1 W.L.R. 1865 at paragraph 21 per Carnwarth LJ

and PPG 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.

7.9.6 Following the publication of the 2018 NPPF the Council undertook a further Needs Analysis in July 2018 titled: *“Evidence for Re-Instating the Affordable Housing Threshold in Core Strategy Policy CP4: Affordable Housing.”* (Appendix A) This document concluded that whilst the Framework is a material consideration, breaches of Policy CP4 should not, in light of ongoing evidence of housing need be treated as outweighed by the Framework. This conclusion was reached having had regard to the following relevant factors:

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

General House Price Affordability in Three Rivers

7.9.7 As set out in more detail in the Council's document: *Evidence for Re-Instating the Affordable Housing Threshold in Core Strategy Policy CP4: Affordable Housing*, data published by the Office for National Statistics (ONS) demonstrated that in 2016 Three Rivers was 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. The lowest quartile house price in Three Rivers was £325,000.00. This represents a worsening of the position since 2011. The general house price affordability position has grown worse since 2016. According to ONS data for the third quarter of 2017, the lowest quartile house price in Three Rivers as of September 2017 was £355,000, making it now the sixth most expensive local authority area in England and Wales (excluding London).

7.9.8 Lowest quartile earnings in Three Rivers in 2016 were £24,518.00, 13.3 times [less than] the lowest quartile house prices (ratio of lower quartile house prices to lower quartile gross annual, residence based earnings). That worsened to £24,657.00 in 2017 (14.4 times [less]). It is clear from this data 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. The position is even more serious when the median affordability ratio for Three Rivers compared to the rest of England and Wales is considered: the median quartile income to median quartile house price affordability ratio is 13.82, the fifth worst affordability ratio in England and Wales.

Affordable Housing Requirements in Three Rivers

7.9.9 The Council's Strategic Housing Market Assessment (2010) which assessed current and future housing markets and needs found that:

- (1) The requirement for affordable housing in and around the Three Rivers area remained exceptionally high. This is largely as a result of very high house prices and rents, a constricted supply of suitable sites for all housing types and losses from the existing affordable stock through 'Right To Buy' sales,
- (2) **All** future housing supply in the district to 2021 would need to be affordable to satisfy affordable housing requirements. This represented the highest requirement amongst the

six authorities within the London Commuter Belt.

- (3) The South West Hertfordshire Strategic Housing Market Assessment (January 2016) SHMA 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. With these figures in mind, the SHMA calculated the net affordable housing need within Three Rivers as being 617 units per annum or 14,191 units over the same 23 year period.

Affordable Housing Provision in Three Rivers

- 7.9.10 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. Since the start of the plan period from 1 April 2001 to 31st March 2017 (the latest date where the most recent completion figures are available), 3,736 gross dwellings were completed. From this, 843 were secured as affordable housing, a total of 22.6%. This percentage is significantly below the Core Strategy target of 45% which means there was a shortfall of 836 affordable housing units or 22.4% in order to fulfil the 45% affordable housing requirement up to 31 March 2017. This existing shortfall only exacerbates the already pressing need for small sites to contribute towards the provision of affordable housing and as such there is a high importance that small sites deliver to affordable housing contributions.

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

- 7.9.11 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. This demonstrates the importance of small sites to the overall delivery of housing in the district. Having a large number of small sites is an inevitable consequence of the District being contained within the Metropolitan Green Belt.
- 7.9.12 During the latest 2016/2017 monitoring period, there were a total of 164 gross dwelling completions within the District, of which 0% were affordable. All of those completions related to planning permissions granted for 10 or less dwellings with a combined floorspace of less than 1000 sq. metres. The above data emphasises the importance of small sites to the delivery of housing within Three Rivers and contradicts Appellants' case as stated at paragraph 3.23.

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

- 7.9.13 Since the adoption of its Core Strategy in 2011, Three Rivers has received small site affordable housing contributions amounting to over £2.1million. Utilising those monies, development is currently underway which will deliver 21 units of affordable housing, with the remaining monies to be utilised as a contribution towards the delivery of a further 17 affordable dwellings. It is clear that, its policy has delivered a significant contribution towards the delivery of much needed affordable housing in the district, without disrupting supply.

Relevant Appeal Decisions

- 7.9.14 On any view of the local housing need position, there is a serious planning issue. The Council's position is that it deserves significant weight, consistent with the decisions in similar situations where the 'exception' is a function of weight. Whilst some decisions pre-date the NPPF, paragraph 63 of the NPPF is fundamentally the same as the WMS and

PPG. It is also noted that there have been more recent appeal decisions that post-date the NPPF which also support the Council's approach.

The fact that the adopted plan policy does not impose burdens where they would render schemes unviable

- 7.9.15 Policy CP4 states "in assessing affordable housing requirements including the amount, type and tenure mix, the Council will treat each case on its merits, taking into account site circumstances **and financial viability**." It is clear that the operation of CP4 does not act as any form of brake on small scale development.
- 7.9.16 The proposed development would result in a requirement for a commuted sum of £338,750 towards affordable housing based on a habitable floorspace of 271sq. metres multiplied by £1250 per sq. metres which is the required amount in the 'Highest Value Three Rivers' market area. No viability assessment was submitted with the application.
- 7.9.17 A S106 Agreement has not been completed to secure the required contribution. 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).
- 7.10 Infrastructure Contributions
- 7.10.1 Policy CP8 of the Core Strategy requires development to make adequate contribution to infrastructure and services. The Three Rivers Community Infrastructure Levy (CIL) was adopted in February 2015 and came into force on 1 April 2015. CIL is therefore applicable to this scheme. The Charging Schedule sets out that the application site is within 'Area A' within which the charge per sq.m of residential development is £180.
- 7.11 Sustainability
- 7.11.1 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.
- 7.11.2 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.
- 7.11.3 The application is supported by an Energy Statement dated January 2019 prepared by Envirassist which details that the dwelling would result in a 21% saving (Ground Floor Unit) and 17% (First Floor Unit) in CO2 emissions and meet the current Building Control requirements.

8 Recommendation

- 8.1 That the decision to be delegated to the Head of Regulatory Services to consider any further representations received and that PLANNING PERMISSION BE REFUSED for the following reason:

- R1 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).

8.2 **Informatives:**

- I1 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 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.