

## PLANNING COMMITTEE – 12 AUGUST 2021

### PART I - DELEGATED

**6. 21/1186/FUL – Demolition of existing bungalow and construction of 2 two storey semi-detached dwellings with associated access and landscaping at HAZLEMERE, 42 QUICKLEY LANE, CHORLEYWOOD, WD3 5AF.**

Parish: Chorleywood Parish Council

Ward: Chorleywood South and Maple Cross

Expiry of Statutory Period: 13.07.2021 (EOT 20.08.2021)

Case Officer: Freya Clewley

Recommendation: That Planning Permission be Granted.

Reason for consideration by the Committee: Called in unless Officers were minded to refuse by Chorleywood Parish Council.

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

- 1.1 21/0002/FUL – Demolition of existing bungalow and construction of two detached dwellings including subdivision of site, alterations to access and associated landscaping – Withdrawn 24.02.2021.

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

- 2.1 The application site is rectangular in shape and includes a detached bungalow located on the north western side of Quickley Lane, Chorleywood. Quickley Lane borders the eastern boundary of the Chorleywood Station Estate Conservation Area, characterised by good examples of Victorian and Edwardian properties with attractive architectural details, and open spaces and gaps, with a rural feel of a small lane bounded by a steep bank.
- 2.2 The host dwelling is a detached bungalow, situated towards the centre of its plot. The dwelling has a white rendered exterior with mixed red brickwork detailing, and a tiled pitched roof form with two chimneys and a front projecting gable feature with bay window. To the rear, there are three separate gable features, with a patio area abutting the rear elevation of the dwelling, leading to an area of lawn and soft landscaping. Hedgerows enclose the application site to both flank boundaries and the front and rear. There is an existing gated vehicular access and hardstanding to the frontage with space for two vehicles.
- 2.3 The neighbour to the south west, number 44 Quickley Lane, is a two storey semi-detached dwelling, sited close to the shared boundary with the application site. This neighbour is located on a slightly higher land level than the host dwelling, and is set forward of the host dwelling.
- 2.4 The neighbour to the north east, number 40 Quickley Lane, is a detached bungalow with an existing two storey rear extension. This neighbour is significantly set in from the shared boundary with the application site, located on approximately the same land level and building line.

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

- 3.1 Full planning permission is sought for the demolition of the existing bungalow, and the construction of a pair of two storey semi-detached dwellings with associated access and landscaping. Each dwelling would contain four bedrooms at first floor level.

- 3.2 Both proposed dwellings would be orientated such that they would face Quickley Lane, and both dwellings would have a largely square shaped footprint, with stepped front and rear elevations. Each dwelling would have a maximum depth at ground floor level of 15.5m, including a 3m deep single storey rear projection. Each dwelling would have a width of 8.3m. At first floor level, each dwelling would have a maximum depth of 13.1m. Both dwellings would have a pitched roof form, with a two storey front gable feature set down from the maximum ridge. The dwelling to the north east would be sited at a lower land level, with a maximum height of 8.5m and the dwelling to the south west would have a maximum height of 8.8m. The dwellings would be finished in render at first floor level, and brickwork at ground floor level with a slate tiled roof.
- 3.3 Each dwelling would be served by a new vehicular access, with hardstanding to the front of each dwelling with space for three vehicles. In terms of plot sizes, the plot serving the dwelling to the south west (House 1) would have a maximum width of 11.8m and a depth of 36.4m, including a rear garden with a minimum depth of 15.1m (measured from the two storey rear elevation). This dwelling would be set in 3.2m from the south western boundary. The dwelling to the north east (House 2) would be set in 3.5m from the north eastern boundary. House 2 would have a plot width of 11.6m and a minimum garden depth of 15m.
- 3.4 A bin store is proposed to serve each dwelling, to the south western flank of House 1 and to the north eastern flank of House 2.
- 3.5 Amended plans were sought and received during the course of this application to amend the materials and fenestration detail of the dwellings.

## **4 Consultation**

### **4.1 Statutory Consultation**

#### **4.1.1 Chorleywood Parish Council: [Objection]**

*The Committee had Objections to this application on the following grounds and wish to CALL IN, unless the Officer are minded to refuse planning permission.*

*Should the plans or supporting information be amended by the Applicant, please advise the Parish Council so the comments can be updated to reflect the amended.*

- The proposed development is out of keeping with the character and appearance of the Chorleywood Estate Conservation Area and the proposal fails to preserve or enhance the character of the area;*
- The proposed scale, bulk and massing is considered to have an overbearing impact on the streetscene, particularly when viewed in the context of its immediate neighbouring properties is considered to be inappropriate;*
- The Applicant has failed to provide sufficient information within the biodiversity checklist; and*
- There are significant concerns that the proposed access is inappropriate and the proposal would result in harm to the free flow of traffic and harm the safety of other road users.*
- Loss of Housing Suitable for Older and Disabled People. The property is sited in one of the named areas characterised by bungalows. The changes to the property will result in this bungalow, which is suitable for older or disabled residents, being converted into two sizeable two storey properties which are to be suitable for this group. In recent years, no new bungalows and very few suitable flats have been built in the area with that number being far exceeded by the number of single level dwellings being converted to multi-level dwellings. As such, loss of this bungalow through conversion to a multi-level dwelling will reduce the stock of properties suitable for older and disabled residents. (Policy 4 ' Housing to meet the needs of local people ' Chorleywood Neighbourhood Plan).*

The Parish Council have been notified of the amended plans and revised comments received from the Conservation Officer and have made the following additional comments:

*The Committee still wish to Call In this application as per our previous comments.*

*On the grounds of breach of NDP Policy 4.1 and the proposed scale, bulk and massing being considered to have an overbearing impact on the streetscene, particularly when viewed in the context of its immediate neighbouring properties.*

*The comments from the Conservation Officer were noted and the suggestion that the existing bungalow is unsuitable for wheelchair access. However, this is still the loss of a bungalow and replacing it with two houses. Why can't it be two bungalows or chalet bungalows. This is against the Neighbourhood Plan.*

#### 4.1.2 Conservation Officer: [No Objection]

*The property is located within the Chorleywood Station Estate Conservation Area. Quickley Lane forms sub area six of the Conservation Area, the character of the lane is defined by the mature hedges lining the road as well as the good examples of Victorian and Edwardian properties with attractive architectural details.*

*A previous application for two detached dwellings was submitted under 21/0002/FUL which was subsequently withdrawn. Previous heritage advice stated the proposal would cause harm to the significance of the Conservation Area due to the inappropriate and unsympathetic scale, form and appearance of the detached dwellings.*

*This application proposes a pair of semi-detached dwellings, which are modest in their scale. It was previously recommended to create a shallow L-shape plan form with a main ridge parallel to the street and a front projecting gable. This recommendation has been adhered to and the proposal now reflects this form. The proposed new dwellings work with the topography of the land, following the stepped down ridge heights of the properties along Quickley Lane. They also make appropriate reference to local and traditional materials that prevail throughout the streetscene. The proposal would, in my opinion, preserve the character and appearance of the Conservation Area in accordance with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.*

*Therefore, I would raise no objection to the proposal. Were permission granted, I request the following conditions are imposed:*

- *A schedule of the types and colours of all external materials shall be submitted to and approved in writing by the Local Planning Authority.*
- *All new brickwork shall be constructed in Flemish bond.*
- *The roof shall be clad in natural slate.*
- *Prior to first use on site, additional drawings that show details of proposed new windows, doors, eaves, verges and cills to be used by section and elevation at scales between 1:20 and 1:1 as appropriate have been submitted to and approved in writing by the Local Planning Authority.*
- *All rainwater goods shall be of cast black metal*
- *The rooflights shall be of low profile, the specification to be approved by the Local Planning Authority before works start*
- *No electricity, gas or water meter boxes shall be fixed to the front elevation of the building*
- *Details of all hard and soft landscaping and boundary treatments*

#### 4.1.3 Hertfordshire County Council – Highway Authority: [No Objection]

#### **Decision**

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 subject to the following conditions:

- 1) Prior to the first use of the development hereby permitted the vehicular access shall be provided and thereafter retained at the position shown on the approved plan drawing number 3-1-1 to a maximum of 5.4 metres each (4 dropped kerbs and 2 risers) in accordance with HCC Highways Dropped Kerbs: Terms and Conditions. Prior to first use of the development hereby permitted arrangement shall be made for surface water to be intercepted and disposed of separately so that it does not discharge onto the highway carriageway.

*Reason: To ensure satisfactory access is made into the site and avoid the carriage of extraneous material or surface water onto the highway in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018).*

- 2) Prior to the first use of the development hereby permitted vehicular and pedestrian (and cyclist) access to and egress from the adjoining highway shall be limited to the access(es) shown on drawing number 3-1-1 only. Any other access(es) or egresses shall be permanently closed, and the footway/highway verge shall be reinstated in accordance with a detailed scheme to be agreed with the Local Planning Authority, concurrently with the bringing into use of the new access.

*Reason: To ensure construction of a satisfactory development and in the interests of highway safety and amenity in accordance with Policies 5 and 7 of Hertfordshire's Local Transport Plan (adopted 2018).*

### **Highway Informatives**

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

AN 1) Construction standards for 278 works within the highway: The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> or by telephoning 0300 1234047.

AN 2) Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

*AN 3) Obstruction of public highway land: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before the construction works commence. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.*

*AN 4) Road Deposits: It is an offence under section 148 of the Highways Act 1980 to deposit mud or other debris on the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.*

### **Comments**

*The proposal is for the demolition of the existing bungalow and the construction of 2 two storey semi-detached dwellings with associated access and landscaping at Hazlemere, 42 Quickley Lane, Chorleywood. Quickley Lane is a 30mph unclassified local access route that is highway maintainable at public expense. HCC Highways previously commented on a similar scheme which was subsequently withdrawn (ref: 21/0002/FUL).*

### **Vehicle Access**

*The existing dwelling has a dropped kerb onto the highway network. The proposal is to close the existing crossover and create two new accesses onto Quickley Lane. It appears in the drawings that these accesses will be bellmouths. HCC Highways must insist that the new accesses are dropped kerbs and built to no greater than 5.4 metres each. The closure of the existing access and creation of a new access will need to be done through a section 278 agreement owing to the extensive work required to the highway network – see informative 1 above.*

*Parking is a matter for the Local Planning Authority (LPA). However, HCC Highways would comment that there is 6 off street parking spaces, three for each dwelling.*

### **Drainage**

*The proposed new driveways would need to make adequate provision for drainage on site to ensure that surface water does not dispose onto the highway. Surface water from the new driveway would need to be collected and disposed of on site.*

### **Refuse / Waste Collection**

*Provision would need to be made for an on-site bin-refuse store within 30m of each dwelling and within 25m of the kerbside/bin collection point. The collection method must be confirmed as acceptable by TRDC Waste Management.*

### **Emergency Vehicle Access**

*The proposed dwellings are within the recommended emergency vehicle access of 45 metres from the highway to all parts of the building. This is in accordance with the guidance in 'MfS', Roads in Hertfordshire; A Design Guide' and 'Building Regulations 2010: Fire Safety Approved Document B Vol 1 – Dwellingshouses'.*

## **Conclusion**

*HCC has no objections or further comments on highway grounds to the proposed development, subject to the inclusion of the above highway informative (in relation to entering into a Section 278 Agreement) and conditions.*

4.1.4 Herts and Middlesex Wildlife Trust: No response received.

4.1.5 Herts Ecology: [No Objection]

*The site comprises an unoccupied bungalow, hardstanding, front and rear gardens with lawn, garden planting and boundary trees.*

### Bats

*There are records of bats in the area, consequently I am pleased to see a bat report has been submitted in support of this application – Preliminary Roost Assessment, 2020 prepared by a professional ecologist from Amphibian, Reptile and Mammal Conservation Ltd. A daytime inspection of the property was carried out in 21 December 2020 and no bats or evidence of bats was found. The bungalow was assessed to have negligible potential to support roosting bats and no further surveys are considered necessary. I have no reason to disagree with this finding; however as bats are known to be in the wider area, I advise a precautionary approach **Informative** is added to any consent granted:*

*“In the event of bats or evidence of them being found, work must stop immediately and advice taken on how to proceed lawfully from an appropriately qualified and experienced Ecologist or Natural England to avoid an offence being committed.”*

### Trees

*I understand some of the trees on the site (including Cypress species, a holly and a Goat willow) are proposed for removal. These should be replaced with native species, fruit/nut species and/or those known to be of benefit to wildlife – i.e trees with blossom, berries/fruits, and nectar to attract invertebrates and pollinators.*

### Nesting birds

*The trees and shrubs on site could have the potential to support nesting birds and due diligence will be needed for any significant pruning or felling. I advise the following precautionary approach **Informative** is added to any permission granted:*

*“Any significant tree/shrub work or removal should be undertaken outside the nesting bird season (March to August inclusive) to protect breeding birds, their nests, eggs and young. If this is not practicable, a search of the area should be made no more than two days in advance of clearance by a competent Ecologist and if active nests are found, works should stop until the birds have left the nest.”*

### Hedgehogs

*Due to the urban location, the large mature gardens in the area could support hedgehogs. Hedgehogs are essentially protected from killing or trapping. They are also a UK Priority species and are therefore considered one of the target species to avoid further population decline. I advise the following Informative is added to any permission granted:*

*“Any trenches on site should be covered at night or have mammal ramps to ensure that any animals that enter can safely escape – this is particularly important if holes fill with water. It is also possible to provide enhancements for hedgehogs by making small holes (13cm x 13cm) within any boundary fencing. This allows foraging hedgehogs to be able to pass freely throughout a site but will be too small for most pets.”*

### Biodiversity enhancements and net gain



- Policy 4 of the Chorleywood Neighbourhood Plan requires that the stock of dwellings for older and disabled persons is maintained, and Quickley Lane has been identified to meet this criteria. This property is one of a dwindling number of bungalows in the village and is more usual in having level access that elderly and disabled people require.
- Design and Access statement includes a quote from Sewell & Gardener which states that no elderly buyers expressed interest in viewing or purchasing the property. The applicant's own sales comparators show a buoyant demand for bungalows.
- Within the Chorleywood Station Estate Conservation Area Appraisal Quickley Lane is noted to have many fine open spaces and gaps between houses. This proposal will have a significant negative impact on the Conservation Area and will materially damage that character by removing such features.
- There is a road junction directly opposite the proposed accesses, which is a popular walking route for children accessing Chorleywood Primary School on Stag Lane.
- Development would have a significant negative impact on neighbours quality of life.
- Adverse impact on character of Conservation Area.
- Adverse impact on biodiversity.
- Gross overdevelopment
- Wildlife would have access and habitats severely reduced
- When another neighbour overdeveloped their property, this reduced the number of amphibians in neighbour's pond.
- No Environment Assessment has been requested.
- Chorleywood Parish Council have raised concerns stating that the applicant has failed to provide sufficient information within the biodiversity checklist.
- Developer's current application doesn't seem to differ significantly to the withdrawn application with regards to height and size of the proposed properties.
- Proposed large development would block the view from Berks Hill and substantially infill the plot.
- Development would encroach on neighbouring property and would result in a loss of privacy, especially from the first floor windows that would face the neighbour.
- Development would be overbearing, dominating and oppressive and invade neighbours right to privacy and enjoyment.
- Design, size and height facilitates further planning applications to create a third storey with additional bedrooms.
- Threatens human rights of a peaceful enjoyment of possessions.
- Concerns regarding flooding due to the amount of natural drainage for rainwater being reduced.
- Concerns regarding external lighting and light pollution.
- Application states that construction could take 12-18 months to complete which is a very considerable period of disruption for neighbouring residents.
- No reference to hours of work or days of operation.
- The council should implement and enforce strict conditions on working hours and days of operation.
- Concerns regarding construction vehicles endangering pedestrians.
- Unwelcome precedent.
- Concerns relating to parking on blind corner.
- Concerns regarding overlooking.

Officer comment: *'All material planning considerations are outlined within the relevant analysis section below.'*

## **5 Reason for Delay**

### 5.1 Committee Cycle.

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

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



In 2021 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 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, DM3 DM4, DM6, DM8, DM10, DM11, DM13 and Appendices 2 and 5.

The Site Allocations Local Development Document (SALDD) was adopted on 25 November 2014 having been through a full public participation process and Examination in Public. Policy SA1 is relevant.

The Chorleywood Neighbourhood Development Plan (Referendum Version, August 2020): Policies 1, 2, 3, 4 and 5 are relevant.

## 6.3 Other

Affordable Housing Supplementary Planning Document (adopted June 2011).

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

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

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

The Chorleywood Station Estate Conservation Area Appraisal (adopted November 2005).

## 7 Planning Analysis

### 7.1 Principle of Development

- 7.1.1 The proposed development would result in a net gain of one dwelling. The site is not identified as a housing site in the Site Allocations LDD. However, as advised in this document, where a site is not identified for development, it may still come forward through the planning application process where it will be tested in accordance with relevant national and local policies.
- 7.1.2 Core Strategy Policy CP2 advises that in assessing applications for development not identified as part of the District's housing land supply including windfall sites, applications will be considered on a case by case basis having regard to:
- i. The location of the proposed development, taking into account the Spatial Strategy*
  - ii. The sustainability of the development and its contribution to meeting local housing needs*
  - iii. Infrastructure requirements and the impact on the delivery of allocated housing sites*
  - iv. Monitoring information relating to housing supply and the Three Rivers housing targets.*
- 7.1.3 The application site is within Chorleywood which is identified as a Key Centre in the Core Strategy. The Spatial Strategy of the Core Strategy advises that future development will be focused predominantly on sites within the urban area and on previously developed land. Key Centres are targeted to supply approximately 60% of the District's housing requirements over the Plan period.
- 7.1.4 The application site lies within a Conservation Area. The existing dwelling is not a Listed or Locally Important Building. Policy DM3 of the Development Management Policies document outlines that, within Conservation Areas, permission for development involving demolition or substantial demolition will only be granted if it can be demonstrated that:
- i) The structure to be demolished makes no material contribution to the special character or appearance of the area; or*
  - ii) It can be demonstrated that the structure is wholly beyond repair or incapable of beneficial use; or*
  - iii) It can be demonstrated that the removal of the structure and its subsequent replacement with a new building and/or open space would lead to an enhancement of the Conservation Area.*
- 7.1.5 Whilst the existing dwelling is located within the Chorleywood Station Estate Conservation Area, it is considered that the architectural merits of the dwelling would be such that it makes a neutral contribution at best to the special character or appearance of the area. Therefore, it is not considered that the demolition of the existing dwelling would result in any harm to the character or appearance of the Conservation Area.
- 7.1.6 Given the location of the site within the Key Centre of Chorleywood and within a residential area, there is no in principle objection to residential development of the application site in the context of Policy CP2, subject to consideration against all other material considerations as discussed below.

### 7.2 Housing Mix

- 7.2.1 Policy CP3 sets out that the Council will require housing proposals to take into account the range of housing needs as identified by the Strategic Housing Market Assessment (SHMA) and subsequent updates. The need set out in the Core Strategy is 30% one-bedroom units, 35% two-bedroom units, 34% three-bedroom units and 1% four bedroom and larger units. However, the most recent SHMA (South West Hertfordshire Strategic Housing Market

Assessment 2016) advises that in terms of the size of accommodation need to 2036 in Three Rivers, the overall requirement is for approximately 19% 1-bedroom units, 28% 2-bedroom units, 37% 3-bedroom units and 16% 4+ bedroom units.

7.2.2 The supporting text to Policy 4 of the Chorleywood Neighbourhood Plan outlines that, to protect the retention of bungalows, the policy will both maintain the character of these areas and ensure that the stock of dwellings for older and disabled persons is maintained. Quickley Lane is identified as one of the roads to meet this criteria. Policy 4 states that 'in areas characterised by groups of bungalows those developments which require the submission of a planning application will be carefully assessed to ensure that the supply of housing suitable for older and disabled people is not diminished. In the case of the current application, whilst the existing bungalow would be replaced by a pair of two-storey dwellings, it should be noted that the existing bungalow sits in a row of only two bungalows, with the majority of the houses in this particular part of Quickley Lane being two storey. Furthermore, the existing bungalow does not have a level threshold entrance and does not benefit from wheelchair-accessible circulation space. In contrast, the proposed dwellings would be built to meet current building regulations, would have greater circulation space and be more efficient structures.

7.2.3 The proposal includes the provision of 2 x 4 bedroom houses. As such the development would not strictly accord with the unit mix recommended in the SHMA. Nevertheless the scheme would provide 2 x 4 bed units and owing to the limited overall scale of the development it is not considered that the failure to fully accord with the SHMA would prejudice the overall delivery across the district.

### 7.3 Affordable Housing and Infrastructure Contributions

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

7.3.2 The proposed development would result in the net gain of one unit and as such, the proposed development would be liable for a commuted sum payment towards affordable housing. The site lies within 'Highest Value Three Rivers' market area where the figure is £1,250 per square metre. The Council have calculated the average net gain in habitable floorspace to be 134.4sqm. The affordable housing payment required is therefore £1,250 x 134.4sqm = £168,000.

7.3.3 The applicant's viability assessment states that this development cannot viably afford to make any affordable housing contributions. The independent review carried out for the LPA, which includes a benchmark land value of £736,000 shows a deficit of £15,702. As such it is has been demonstrated that the scheme would not be viable if any affordable housing contribution was sought.

7.3.4 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 £180.00.

### 7.4 Impact on the character and appearance of the street scene and conservation area

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 Policy DM1 and Appendix 2 of the Development Management Policies document set out that new residential development should not be excessively prominent in relation to the general street scene and should respect the character of the street scene, particularly with regard to the spacing of properties, roof form, positioning and style of windows and doors and materials. Policy DM3 of the Development Management Policies document outlines that within Conservation Areas, development will only be permitted if the proposal is of a design and scale that preserves or enhances the character or appearance of the area.
- 7.4.4 Policy 2 of the Chorleywood Neighbourhood Plan sets out that all developments must demonstrate how they are in keeping with, and where possible enhance, the Special Characteristics of Chorleywood, based on a proportionate site and contextual analysis which includes details of the sustainability of the site and its location for the development.
- 7.4.5 The application site is situated within a residential area, with both of the new dwellings facing Quickley Lane. Quickley Lane is characterised by two storey developments and bungalows which are predominately located within spacious plots. Quickley Lane has a vegetated and verdant appearance, with mature trees located within residential sites and gardens, many of which contribute to the visual amenities of the streetscene.
- 7.4.6 The new dwellings would replace the existing dwelling on site. It is noted that similar developments to replace one dwelling with two have occurred in the locality, for example the dwelling to the rear of the application site, 37 Berks Hill, was demolished and two dwellings were constructed. The proposed semi-detached dwellings would be of a similar size and scale to those to the south west of the application site and the architectural design, proportion and appearance of the dwellings would respect the character and appearance of the streetscene and wider area, such that the dwellings would not appear cramped within their plots and sufficient spacing would be maintained in keeping with the character of the area.
- 7.4.7 In terms of design, the proposed dwellings would have the same architectural features externally. The neighbouring properties to the south west are a pair of two storey semi-detached properties of identical appearance to each other. Given the existing variation within the streetscene of Quickley Lane and the existence of identical pairs of semi-detached dwellings, it is considered that the design, appearance, size and proportions of the proposed dwellings would reflect the character and appearance of the streetscene and would preserve the character and appearance of the conservation area.

- 7.4.8 Appendix 2 of the Development Management Policies document states that in order to prevent a terracing effect, and maintain an appropriate spacing between properties in character with the locality, two storey developments may be positioned on the flank boundary provided that the first floor element is set in by a minimum of 1.2m. This distance must be increased in low density areas or where the development would have an adverse effect on an adjoining property.
- 7.4.9 The proposed dwellings would be set in a minimum of 3.2m from the flank boundaries of each plot, thus the development would comply with the guidance spacing. The spacing around the dwellings would be reduced to the flank boundaries when compared with the existing site circumstances, however, the spacing surrounding the dwellings currently proposed reflects the spacious character of the area such that the dwellings would not appear cramped within their plots and not result in a terracing effect.
- 7.4.10 The proposed development would include a new accesses and additional hardstanding to the front of the proposed dwellings, accessed via Quickley Lane. Given the scale of the proposed hardstanding and the retention of the hedging and additional planting proposed, it is not considered that the proposed access or hardstanding would result in harm to the character or appearance of the host dwelling, streetscene or wider area.
- 7.4.11 In summary, given the amendments made since the previously withdrawn application reference 21/0002/FUL, including the reduction in width and height of the proposed dwellings, the increase in spacing to the flank boundaries and the alterations to the architectural design and appearance of the dwellings, it is not considered that the proposal would have an adverse effect on the character and appearance of the Conservation Area and thus the proposal would accord with Policies CP1 and CP12 of the Core Strategy (adopted October 2011), Policy DM1, DM3 and Appendix 2 of the Development Management Policies LDD (adopted July 2013), the Chorleywood Station Estate Conservation Area Appraisal, Policy 2 of the Chorleywood Neighbourhood Development Plan (Referendum Version, August 2020) and the NPPF.

## 7.5 Impact on Amenity of Neighbours

- 7.5.1 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 LDD also set out that development should not result in loss of light to the windows of neighbouring properties nor allow overlooking, and should not be excessively prominent in relation to adjacent properties.
- 7.5.2 To ensure that loss of light would not occur to the habitable rooms of neighbouring dwellings as a result of new development, the Design Criteria at Appendix 2 of the Development Management Policies document advise that two storey development should not intrude a 45 degree splay line across the rear garden from a point on the joint boundary, level with the rear wall of the adjacent property. This principle is dependent on the spacing and relative positions of properties and consideration will be given to the juxtaposition of properties, land levels and the position of windows and development on neighbouring properties.
- 7.5.3 The proposed dwellings would not intrude a 45 degree splay line when taken from a point on the shared boundary level with the rear elevations of either immediate neighbouring property. In addition, the dwellings would be set in a minimum of 3.2m from the shared boundaries with these neighbouring properties, and given the spacing between the habitable accommodation of the immediate neighbouring properties, the spacing around the proposed dwellings, and that the dwellings would not intrude a 45 degree line, it is not considered that the proposed development would appear overbearing or result in loss of light to either immediate neighbouring property.

7.5.4 In terms of overlooking, given the spacing between the proposed dwellings and neighbouring properties opposite the application site, that they are separated from the application site by the highway, and that the outlook of the fenestration would be onto the public application site frontage, it is not considered that the proposed front fenestration would result in any overlooking. The ground floor rear fenestration would have an outlook onto the amenity space serving each dwelling, and would not result in unacceptable overlooking. Some views of neighbouring gardens may be available from the first floor fenestration to the rear, however given the spacing between the proposed dwellings and neighbouring properties, the views would be limited, and would not result in significant harm so as to justify the refusal of planning permission in this regard. The neighbouring properties to the rear are separated from the first floor level of the proposed dwellings by 38m, and therefore it is not considered that unacceptable overlooking would occur to these neighbouring properties. At ground floor level, one window is proposed in the south western flank elevation and north eastern flank elevation of the dwellings, however given that this window would be set in a minimum of 3.2m from the flank boundary, and a condition would be attached to any granted consent to require details of boundary treatments, it is not considered that the ground floor flank fenestration would result in unacceptable overlooking. Two windows are proposed within the flank elevations at first floor level. All of these windows would serve bathrooms, and a condition would be attached to any granted consent to require these windows to be obscurely glazed and top level opening in the interests of preventing unacceptable overlooking from occurring.

7.5.5 In summary, subject to conditions, given the spacing maintained between the proposed dwellings and flank boundaries and the relationship between the proposed dwellings and neighbouring properties, it is not considered that the proposal would result in demonstrable harm to neighbouring properties so as to justify the refusal of planning permission in this regard. The proposal would therefore comply with Policies CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies document.

## 7.6 Quality of Accommodation for Future Occupants

7.6.1 Policy CP12 of the Core Strategy states that development should take into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space. Section 3 of Appendix 2 of the Development Management Policies LDD sets out indicative levels of amenity space dependent on the number of bedrooms. The plans submitted indicate that the proposed dwellings would have five bedrooms each which would require 126sqm of amenity space each.

7.6.2 Both dwellings would be served by over 160sqm of amenity space, and as such, would exceed the requirements set out within Appendix 2 of the Development Management Policies document in this regard.

7.6.3 All habitable rooms would be served by multiple windows, and as such, it is considered that the internal configuration of the dwellings would give rise to a high quality family accommodation with good access to natural light.

## 7.7 Wildlife and Biodiversity

7.7.1 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.

7.7.2 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.

- 7.7.3 The application has been submitted with a Biodiversity Checklist and a Preliminary Roost Assessment (PRA) prepared by Clive Herbert, dated 2020. The PRA categorised the existing dwelling as having a 'negligible potential' to support a bat roost due to its structure and good condition of roof coverings. It is noted that neighbour objections have been received in relation to the impact of the proposed development on biodiversity and protected species. Herts Ecology have been consulted on the proposed development and have raised no objection to the proposal, subject to the inclusion of the recommended informatives and condition.

## 7.8 Trees and Landscaping

- 7.8.1 Policy DM6 of the Development Management Policies document sets out that document proposals should seek to retain trees and other landscape and nature conservation features and that proposals should demonstrate that trees will be safeguarded and managed during and after development in accordance with the relevant British Standards.

- 7.8.2 The proposed development would result in the loss of six trees and shrubs within the application site, outlined below;

H1 – Cypress hedge (low grade)

T1 – Cypress (grade C)

T2 – Holly (grade C)

T4 – Monterey cypress (grade C)

G1 – Monterey cypress (low grade, one of the trees in G1 is dead)

T7 – Goat willow mix (low grade)

- 7.8.3 Additional details with regards to landscaping would be a condition to any granted consent. However, the submitted Arboricultural Statement outlines that two Himalayan silver birches and one bird cherry tree will be planted,, the silver birches to the frontage and the cherry tree to the rear. The Arboricultural Statement includes a tree protection plan (Appendix 3) and method of construction. Given the low amenity value of the trees and shrubs to be removed, and that replacement planting is proposed, it is not considered that the proposal would result in any harm in terms of trees and landscape however a condition would be attached to any grant of planning permission to require the proposed development to be carried out in accordance with the submitted details, and additional details would be required of the hard and soft landscaping to ensure the proposal would maintain the landscape character of the area and make any necessary enhancements for biodiversity.

## 7.9 Highways, Access and Parking

- 7.9.1 Core Strategy Policy CP10 requires development to provide a safe and adequate means of access to make adequate provision for all users, including car parking. Appendix 5 of the Development Management Policies document sets out parking standards for developments within the District. The Parking Standards are as follows:

*4 or more bedroom dwellings – 3 spaces per dwelling (3 assigned spaces within curtilage)*

- 7.9.2 Each dwelling would be served by separate accesses, with hardstanding to the front of each plot with space for three vehicles. The proposed dwellings would therefore accord with Appendix 5 of the Development Management Policies document in this regard.

- 7.9.3 It is noted that concerns have been raised in relation to the proximity of the proposed development to the junction opposite the application site. The Highways Officer has been consulted on the proposed new accesses and development, and has raised no objections to the proposal, subject to the inclusion of the recommended informatives and conditions.

7.9.4 Therefore, it is not considered that the proposal would result in demonstrable harm to highway safety, and the proposal is considered to be acceptable in this regard, in accordance with Policy CP10 of the Core Strategy and Appendix 5 of the Development Management Policies document.

## 7.10 Sustainability

7.10.1 Paragraph 152 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”.

7.10.2 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.

7.10.3 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.

7.10.4 The application is accompanied by an energy statement prepared by SAPs UK, dated 6 May 2021. The statement outlines that the proposal would result in a saving of 8.6%, over 2013 Building Regulations Part L. A condition would be attached to any planning permission to require the proposed development to be carried out in accordance with this statement. The development would exceed the requirements of Policy DM4.

## 7.11 Refuse and Recycling

7.11.1 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*

7.11.2 Bin stores are proposed to the flank elevations of the host dwelling. The proposed bin stores would be in an appropriate location and of a suitable size and scale to serve the dwellings. Therefore, the proposal is considered to be acceptable in this regard.

## 7.12 Tilted Balance

7.12.1 The LPA cannot currently demonstrate a 5 year housing land supply, and therefore paragraph 11 of the NPPF (2021) is engaged. Paragraph 11 and footnote 8 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."

7.12.2 The NPPF identifies that there are 3 dimensions to sustainable development: social, economic and environmental. In terms of social benefits, the proposal would provide an additional dwelling and there would be no adverse impacts to neighbouring or future occupiers. Whilst limited, the economic benefits of the scheme includes the ability for the future occupiers to support the local economy by using local amenities. In terms of the environmental benefits, the principle of residential development is acceptable in this location.

7.12.3 In this instance, no adverse impacts have been identified by Officers and the proposed development is considered acceptable.

## **8 Recommendation**

8.1 That PLANNING PERMISSION BE GRANTED subject to the following conditions:

C1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 91(1) of the Town and Country Planning Act 1990 and as amended by the Planning and Compulsory Purchase Act 2004.

C2 The development hereby permitted shall be carried out in accordance with the following approved plans: TRDC 001 (Location Plan), 1-0-0, 1-3-0, 2-1-4, 2-1-5, 3-0-0, 3-0-1, 3-1-0, 3-1-1, 3-1-2 Rev B, 3-2-0 and 3-3-0.

Reason: For the avoidance of doubt, in the proper interests of planning, in accordance with Policies PSP2, CP1, CP2, CP3, CP4, CP8, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011), Policies DM1, DM3, DM4, DM6, DM8, DM10, DM11 and DM13 of the Development Management Policies LDD (adopted July 2013), Policies 1, 2, 3, 4 and 5 of the Chorleywood Neighbourhood Development Plan (Referendum Version, August 2020), the Chorleywood Station Estate Conservation Area Appraisal (adopted November 2005) and the NPPF (2021).

C3 The development hereby permitted shall only be implemented in accordance with the Phase II Arboricultural Impact Assessment Ref 101562 dated 14/12/2020, including the method statement at appendix 3.

The protective measures as outlined within the submitted Arboricultural Method Statement and Tree Protection Plan (Appendix 3), including fencing, shall be undertaken in full accordance with the approved scheme before any equipment, machinery or materials are brought on to the site for the purposes of development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made. No fires shall be lit or liquids disposed of within 10.0m of an area designated as being fenced off or otherwise protected in the approved scheme.

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

- C4 Before any building operations above ground level hereby permitted are commenced, samples and details of the proposed external materials, including the brickwork and bond, natural slate roof tiles, rainwater goods, rooflights and render shall be submitted to and approved in writing by the Local Planning Authority and no external materials shall be used other than those approved.

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

- C5 Prior to their installation on site, details of all proposed windows, doors, eaves, verges and cills to be used, by section and elevation at scales between 1:20 and 1:1 as appropriate, shall be submitted to and approved in writing by the Local Planning authority and no materials shall be used other than those approved.

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

- C6 Prior to the first occupation of the development hereby permitted, a scheme of hard and soft landscaping, which shall include the planting size, species and location of all new soft landscaping, any new bat/bird boxes, along with details of how these are selected for the benefit of local wildlife.

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

All soft landscaping works required by the approved scheme, including the recommended planting set out within the submitted Arboricultural Report, shall be carried out before the end of the first planting and seeding season following first occupation of any part of the buildings or completion of the development, whichever is sooner.

If any existing tree shown to be retained, or the proposed soft landscaping, are removed, die, become severely damaged or diseased within five years of the completion of development they shall be replaced with trees or shrubs of appropriate size and species in the next planting season (ie November to March inclusive).

Reason: This condition is required to ensure the completed scheme has a satisfactory visual impact on the character and appearance of the area, in the interests of the visual amenity of the area in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

- C7 Prior to occupation of the development hereby permitted, a plan indicating the positions, design, materials and type of boundary treatment to be erected on the site shall be submitted to and approved in writing by the Local Planning Authority. The

boundary treatment shall be erected prior to occupation in accordance with the approved details and shall be permanently maintained as such thereafter.

Reason: To ensure that appropriate boundary treatments are proposed to safeguard the amenities of neighbouring properties and the character of the locality in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C8 The development shall not be occupied until the scheme for the separate storage and collection of domestic waste has been erected on site in accordance with the submitted drawings. The development hereby permitted shall not be occupied until the approved scheme has been implemented and these facilities should be retained permanently thereafter.

Reason: To ensure that satisfactory provision is made, in the interests of amenity and to ensure that the visual appearance of such provision is satisfactory in compliance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM10 and Appendix 2 of the Development Management Policies document (adopted July 2013).

- C9 The development shall not be occupied until the energy saving and renewable energy measures detailed within the Energy Statement submitted as part of the application are incorporated into the approved development.

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

- C10 Before the first occupation of the building/extension hereby permitted the windows at first floor level in the flank elevations of both dwellings shall be fitted with purpose made obscured glazing and shall be top level opening only at 1.7m above the floor level of the room in which the window is installed. The windows shall be permanently retained in that condition thereafter.

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

- C11 Prior to the first use of the development hereby permitted the vehicular access shall be provided and thereafter retained at the position shown on the approved plan drawing number 3-1-1 to a maximum of 5.4 metres each (4 dropped kerbs and 2 risers) in accordance with HCC Highways Dropped Kerbs: Terms and Conditions. Prior to first use of the development hereby permitted arrangement shall be made for surface water to be intercepted and disposed of separately so that it does not discharge onto the highway carriageway.

Reason: To ensure that adequate off-street parking is provided within the development so as not to prejudice the free flow of traffic and in the interests of highway safety on neighbouring highways in accordance with Policies CP1, CP10 and

CP12 of the Core Strategy (adopted October 2011) and Policies DM8 and DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

- C12 Prior to the first use of the development hereby permitted vehicular and pedestrian (and cyclist) access to and egress from the adjoining highway shall be limited to the access(es) shown on drawing number 3-1-1 only. Any other access(es) or egresses shall be permanently closed, and the footway/highway verge shall be reinstated in accordance with a detailed scheme to be agreed with the Local Planning Authority, concurrently with the bringing into use of the new access.

Reason: To minimise danger, obstruction and inconvenience to highway users in the interests of safety in accordance with Policies CP1, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

- C13 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any other revoking and re-enacting that order with or without modification), no windows/dormer windows or similar openings [other than those expressly authorised by this permission] shall be constructed in the first floor flank elevations or roof slopes of the extension/development hereby approved.

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

## 8.2 **Informatives:**

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

All relevant planning conditions must be discharged prior to the commencement of work. Requests to discharge conditions must be made by formal application. Fees are £116 per request (or £34 where the related permission is for extending or altering a dwellinghouse or other development in the curtilage of a dwellinghouse). Please note that requests made without the appropriate fee will be returned unanswered.

There may be a requirement for the approved development to comply with the Building Regulations. Please contact Hertfordshire Building Control (HBC) on 0208 207 7456 or at [buildingcontrol@hertfordshirebc.co.uk](mailto:buildingcontrol@hertfordshirebc.co.uk) who will be happy to advise you on building control matters and will protect your interests throughout your build project by leading the compliance process. Further information is available at [www.hertfordshirebc.co.uk](http://www.hertfordshirebc.co.uk).

Community Infrastructure Levy (CIL) - Your development may be liable for CIL payments and you are advised to contact the CIL Officer for clarification with regard to this. If your development is CIL liable, even if you have been granted exemption from the levy, please be advised that before commencement of any works it is a requirement under Regulation 67 of The Community Infrastructure Levy Regulations 2010 (As Amended) that CIL form 6 (Commencement Notice) must be completed, returned and acknowledged by Three Rivers District Council before building works start. Failure to do so will mean you lose the right to payment by instalments (where applicable), and a surcharge will be imposed. However, please note that a Commencement Notice is not required for residential extensions IF relief has been granted.

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

Where possible, energy saving and water harvesting measures should be incorporated. Any external changes to the building which may be subsequently required should be discussed with the Council's Development Management Section prior to the commencement of work.

- 12 The applicant is reminded that the Control of Pollution Act 1974 allows local authorities to restrict construction activity (where work is audible at the site boundary). In Three Rivers such work audible at the site boundary, including deliveries to the site and running of equipment such as generators, should be restricted to 0800 to 1800 Monday to Friday, 0900 to 1300 on Saturdays and not at all on Sundays and Bank Holidays.
- 13 Bats are protected under domestic and European legislation where, in summary, it is an offence to deliberately capture, injure or kill a bat, intentionally or recklessly disturb a bat in a roost or deliberately disturb a bat in a way that would impair its ability to survive, breed or rear young, hibernate or migrate, or significantly affect its local distribution or abundance; damage or destroy a bat roost; possess or advertise/sell/exchange a bat; and intentionally or recklessly obstruct access to a bat roost.

If bats are found all works must stop immediately and advice sought as to how to proceed from either of the following organisations:

The UK Bat Helpline: 0845 1300 228

Natural England: 0300 060 3900

Herts & Middlesex Bat Group: [www.hmbg.org.uk](http://www.hmbg.org.uk)

or an appropriately qualified and experienced ecologist.

(As an alternative to proceeding with caution, the applicant may wish to commission an ecological consultant before works start to determine whether or not bats are present).

- 14 Any significant tree/shrub work or removal should be undertaken outside the nesting bird season (March to August inclusive) to protect breeding birds, their nests, eggs and young. If this is not practicable, a search of the area should be made no more than two days in advance of clearance by a competent Ecologist and if active nests are found, works should stop until the birds have left the nest.
- 15 Any trenches on site should be covered at night or have mammal ramps to ensure that any animals that enter can safely escape – this is particularly important if holes fill with water. It is also possible to provide enhancements for hedgehogs by making small holes (13cm x 13cm) within any boundary fencing. This allows foraging hedgehogs to be able to pass freely throughout a site but will be too small for most pets.
- 16 The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is

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

- 17 The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.
- 18 It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before the construction works commence. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.
- 19 It is an offence under section 148 of the Highways Act 1980 to deposit mud or other debris on the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.
- 110 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority suggested modifications to the development during the course of the application and the applicant and/or their agent submitted amendments which result in a form of development that maintains/improves the economic, social and environmental conditions of the District.
- 111 The applicant is hereby advised to remove all site notices on or near the site that were displayed pursuant to the application.

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

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

### Background

- 1.1 In November 2014, the Minister of State for Housing and Planning issued a Written Ministerial Statement (WMS) setting out changes to national planning policy. The WMS stated that financial contributions towards affordable housing should no longer be sought on sites of 10 units or less and which have a maximum combined gross floor area of 1,000sqm. National Planning Practice Guidance (NPPG) was amended to reflect this. However on 31<sup>st</sup> 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 11<sup>th</sup> May 2016 the Court of Appeal reversed the High Court decision. The NPPG was subsequently amended to reflect the WMS on 19<sup>th</sup> May 2016.
- 1.2 In light of the above developments, between November 2014 and August 2015 and May 2016 and 1<sup>st</sup> 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 1<sup>st</sup> September 2017 the Council resolved to have regard to the Needs Analysis as a consideration of significant weight when considering the relationship between Policy CP4 and the WMS for the purposes of Section 70(2) Town and Country Planning Act 1990 and Section 38(6) Planning and Compulsory Purchase Act 2004 in respect of development proposals of 10 dwellings or less.
- 1.3 On 24<sup>th</sup> July 2018 a new version of the National Planning Policy Framework<sup>1</sup> (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.”*
- 1.4 The Council's current affordable housing policy is set out in Policy CP4 of the Core Strategy (adopted in October 2011) and establishes that :
  - a) *“...All new development resulting in a net gain of one or more dwellings will be expected to contribute to the provision of affordable housing.”*
  - e) *“In most cases require affordable housing provision to be made on site, but in relation to small sites delivering between one and nine dwellings, consider the use of commuted payments towards provision off site. Such payments will be broadly equivalent in value to on-site provision but may vary depending on site circumstances and viability.”*
- 1.5 The supporting text to Policy CP4 summarises the justification for it:

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<sup>1</sup> The revised National Planning Policy Framework was updated in February 2019 and retains the policies as stated in Paragraph 1.3 of this document.



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

1.6 This policy remains the legal starting point for the consideration of planning applications under Section 38(6) PCPA 2004, which requires that the Council determines applications in accordance with the adopted development plan unless material considerations indicate otherwise. Revised NPPF 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.

1.7 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.

1.8 In addition to the £2.1 million already received, small scale (1-9 unit) schemes have secured to date a further **£2.5million to £3.8million**<sup>2</sup> of affordable housing contributions in respect of unimplemented but current planning permissions. All of those schemes were agreed to be viable with those sums secured. The Council has several large scale future residential developments planned which will aim to deliver substantial quantities of further affordable housing in the District in the medium term future, utilising those additional affordable housing contributions as and when they are received.

1.9 Policy CP4 makes it clear that a requirement for a scheme to contribute towards the provision of affordable housing is subject to viability considerations and is therefore consistent with paragraph 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 1 October 2011 and 31 March 2020 226 planning permissions were granted for minor residential developments which contribute a net dwelling gain. Of those only 21 have been permitted to lapse which is only 9% of all such schemes.

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

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

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

- 1.11 It is important to acknowledge the percentage of residential development schemes which tend to come forward in the District which propose the delivery of less than 10 dwellings: from 1 April 2017 to 31 March 2020, 177 planning applications for residential development involving a net gain of dwellings were determined<sup>3</sup> by the Council. Of these, 158 applications (89%) were for schemes which proposed a net gain of 1-9 units. Having a large number of small sites is an inevitable consequence of the District being contained within the Metropolitan Green Belt. The contribution to both market housing supply and affordable housing supply are therefore both material to overall identified needs and adopted development plan objectives. This is dealt with in more detail below.
- 1.12 If the weight to be given to the Framework is greater than the adopted development plan, this large proportion of Three Rivers' expected new housing delivery will contribute nothing towards affordable housing. This would compromise Three Rivers' ability to deliver its objectively assessed need for affordable housing.

## **2 Development Plan Policies and the WMS**

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

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

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

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

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<sup>3</sup> Includes refused and approved applications. Excludes prior approval developments.

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

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

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

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

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

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

### **General House Price Affordability in Three Rivers**

2.5 Due to the District’s close proximity to London, Three Rivers has traditionally been situated within a high house price area. According to data published by the Office of National

Statistics (ONS) in the third quarter of 2016<sup>4</sup>, 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 six local authority areas (see table 1 below).

1.	Number	2.	Local Authority Name	3.	Lowest Quartile House Prices (2016)
4.	1	5.	Elmbridge	6.	£375,000.00
7.	2	8.	South Bucks	9.	£370,000.00
10.	3	11.	St Albans	12.	£355,000.00
13.	4	14.	Windsor and Maidenhead	15.	£345,000.00
16.	5	17.	Chiltern	18.	£335,000.00
19.	6	20.	Herstmere	21.	£330,000.00
22.	7	23.	<b>Three Rivers</b>	24.	<b>£325,000.00</b>

**Table 1.**

Since the publication of the above ONS data in 2016, the general house price affordability position has grown worse. According to data published by the Office of National Statistics (ONS), the lowest quartile house price in Three Rivers in September 2019 was £347,000<sup>5</sup>. The lowest quartile house price of £347,000 continues to place Three Rivers as the **seventh** most expensive local authority area in England and Wales (excluding London), out of a total of three hundred and six local authority areas (see table 2 below). Whilst Three Rivers' position as the seventh most expensive local authority area remains consistent, the lowest quartile house price has risen by £22,000 from 2016 to 2019.

25.	Number	26.	Local Authority Name	27.	Lowest Quartile House Prices (2019)
28.	1	29.	South Bucks	30.	£410,000
31.	2	32.	Elmbridge	33.	£400,500
34.	3	35.	St Albans	36.	£385,000
37.	4	38.	Chiltern	39.	£370,000
40.	5	41.	Epsom and Ewell	42.	£357,000
43.	6	44.	Windsor and Maidenhead	45.	£355,667
46.	7	47.	<b>Three Rivers</b>	48.	<b>£347,000</b>

**Table 2.**

Lowest quartile earnings in Three Rivers in 2016 were £24,518.00 and £24,811.00 in 2019, 13.3 times worsening to 14 below the lowest quartile house prices (ratio of lower quartile house prices to lower quartile gross annual, residence based earnings<sup>6</sup>). In a mortgage market where lenders are traditionally willing to lend 3.5 times a person's income, clearly a lending requirement at 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 2019 to have a deposit of £260,161.00, or (without such a deposit) to earn £99,143.00 per annum to get onto the lowest/cheapest rung of the property ladder. An additional Stamp Duty payment would also have been due (subject to COVID related temporary relaxation).

<sup>4</sup> ONS (2020) *Dataset: House price to residence-based earnings ratio Table 6a*

<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

<sup>5</sup> Office for National Statistics (2020) *Dataset: House price to residence-based earnings ratio Table 6a*

<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

<sup>6</sup> Office for National Statistics (2020) *Dataset: House price to residence-based earnings ratio Table 6b*

<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

When one considers the median affordability ratio<sup>7</sup> for Three Rivers compared to the rest of England and Wales, the position is even more serious: in 2016, the median quartile income to median quartile house price affordability ratio was 13.77, the fifth worst affordability ratio in England and Wales (excluding London), as set out in table 3 below, again when compared against three hundred and six local authorities.

49. Number	50. Local Authority Name	51. Median quartile house price affordability ratio <sup>8</sup> (2016)
52. 1	53. South Bucks	54. 14.49
55. 2	56. Hertsmere	57. 14.23
58. 3	59. Mole Valley	60. 14.18
61. 4	62. Elmbridge / Chiltern	63. 13.87
<b>64. 5</b>	<b>65. Three Rivers</b>	<b>66. 13.77</b>

**Table 3.**

The median quartile house price affordability ratio has worsened since 2016. In 2019, Three Rivers had the third worst affordability ratio in England and Wales (excluding London), with its median quartile house affordability ratio measured at 14.53<sup>8</sup>, as set out in table 4 below. In 2017 and 2018, the median quartile house affordability ratios were 14.31 and 13.75 respectively. Whilst the ratio slightly improved from 2016 to 2018 with a decrease to 13.75, the 14.53 ratio measured in 2019 demonstrates a worsening position over the longer term 2016-2019 period.

67. Number	68. Local Authority Name	69. Median quartile house price affordability ratio <sup>1</sup> (2019)
70. 1	71. Isles of Scilly	72. 17.71
73. 2	74. Mole Valley	75. 14.87
<b>76. 3</b>	<b>77. Three Rivers</b>	<b>78. 14.53</b>

**Table 4.**

Looking at the ratio of lower quartile house prices to lower quartile to gross annual, residence based earnings, in 2016 the ratio was 13.26. By September 2019 that had risen to 13.99, showing a worsening ratio over the period from 2016 to 2019.

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

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

2.6 The 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.<sup>9</sup>

2.7 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

<sup>7</sup> Affordability ratio statistics are revised annually by the ONS to reflect revisions to the house price statistics and earnings data.

<sup>8</sup> Office for National Statistics (2020) *Dataset: House price to residence-based earnings ratio Table 5c*

<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

<sup>9</sup> Table 33: Estimated Current Need, South West Hertfordshire Housing Market Assessment (January 2016).

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.

- 2.8 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.<sup>10</sup> 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.

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

- 2.9 Core Strategy CP4 requires around 45% of all new housing in the District to be affordable. As stated previously, prior to the WMS, all new developments that had a net gain of one or more dwellings would, subject to viability, be expected to contribute towards this.
- 2.10 Since the start of the plan period from 1 April 2001 to 31st March 2020 (the latest date where the most recent completion figures are available), 4,689 gross dwellings were completed. From this, 1,037 were secured as affordable housing, a total of 22.1%. This percentage is significantly below the Core Strategy target of 45% which means there was a shortfall of 1,073 or 23% in order to fulfil the 45% affordable housing requirement up to 31 March 2020. This shortfall only exacerbates the already pressing need for small sites to contribute towards the provision of affordable housing.
- 2.11 In the latest monitoring period of 2019/20 (financial year), 17 sites<sup>11</sup> delivered a net gain of one or more dwellings and would therefore be required to contribute to affordable housing under Policy CP4 (either through an on-site or off-site contribution). These were made up of five major developments (29%) and 12 minor developments (71%). Only five schemes contributed to affordable housing provision:

- Four out of the 17 provided viability justification, in line with CP4 policy, for the absence of affordable housing provision.
- Eight of the applications were determined during the 2014/15 and 2016/17 periods noted at 1.2 above (when the Council was dealing with applications on the basis that the WMS should be given overriding effect regardless of the viability position on specific schemes). Affordable housing provision was forgone on them on this basis, which is now reflected in the low affordable provision as they are built out.
- Of the five sites which contributed to affordable housing delivery in 2019/20 four were major developments and one was a minor development (17/2628/FUL – Thrive Homes (Registered Provider) scheme). This reflects the pattern of on-site delivery from large schemes, with commuted sums from minor developments (see para. 2.12).

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<sup>10</sup> 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.

<sup>11</sup> Sites with completions in 2019/20

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

- 2.12 In 2017/2018 (financial year), there were 67 planning applications determined<sup>12</sup> for net gain residential schemes, of which 57 were small site schemes (85%). In 2018/19 (financial year), there were 50 planning applications determined for net gain residential schemes, of which 46 were small site schemes (92%). In 2019/20 (financial year), there were 60 planning applications for net gain residential schemes determined, of which 55 were small sites schemes (92%). It is therefore clear that a high proportion of small site schemes have been proposed in the District, equating to 89% of applications over the past three years.
- 2.13 In terms of numbers of completed dwellings proposed by those small site schemes, between 2011-2020 (financial years) some 341 net dwellings were completed which equates to 38 net dwellings per annum and to 20.8% over the 2011-2020 period. 20.8% is a significant proportion of the overall supply. Whilst such numbers are significant, it is acknowledged that major developments, whilst far less frequent, provided significantly greater quantities of housing. However CP4(e) does not generally require small site schemes to provide on-site affordable housing (small-scale piecemeal development is unattractive to RP's). Instead commuted sums in lieu of on-site provision are required and thus it is the sums of money secured and the contribution those make towards the provision of additional much needed affordable housing in the District which the policy should be tested against. This has been acknowledged by Planning Inspectors on appeal, as referred to at paragraph 2.21 below:

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

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

- 2.14 As set out at paragraphs 1.7 and 1.8 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, as set out at paragraph 1.8 above, small scale (1-9 unit) schemes have (as at December 2019) secured a further **£2.5million - £3.8million** (see footnote 2) 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.

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

- 2.15 As set out at paragraph 1.9 above, Policy CP4 makes it clear that a requirement for a scheme to contribute towards the provision of affordable housing is subject to viability considerations and is therefore consistent with paragraph 122 of the Framework. The

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<sup>12</sup> Includes refused and approved applications. Excludes prior approval developments.

application of CP4, which includes this in built viability allowance, cannot properly be said to be a barrier to delivery. The Council accepts that if, properly tested, viability cannot be established on current day costs and values then a scheme should not currently be required to provide or contribute to affordable housing delivery. Between 1 October 2011 and 31 March 2020 there were 226 planning permissions granted for minor (net gain) residential developments in the District. Of those only 21 have lapsed (9%). This demonstrates that the application of CP4 has not acted as a brake on small scale residential developments.

### **Relevant Appeal Decisions**

- 2.16 There have been a number of appeal decisions since the WMS was upheld by the High Court in May 2016. As an example, the Planning Inspectorate has dismissed appeals that were submitted against the decisions made by Elmbridge Borough Council (appeal no: 3146699), Reading Borough Council (appeal ref: 315661), South Cambridgeshire District Council (appeal ref: 3142834) and Islington Borough Council (3154751, 3164313, 3174582, 3177927 and 3182729). These were for small scale housing schemes where those Councils had attached greater weight to their affordable housing policy than to the WMS as a consequence of local evidence of substantial affordable housing need. Copies of these three appeals are attached to Appendix 1. The Council considers these appeal decisions to be of continuing relevance post the new Framework.
- 2.17 The Inspectors appointed to determine these appeals stated that the WMS needed to be addressed alongside existing Local Plan policy. Within each case, the Inspectors found that there was substantial evidence of a pressing need for affordable housing within these three local authority areas. On this basis, it was considered that local policy had significant weight and there was strong evidence to suggest that these issues would outweigh the WMS within these three cases.
- 2.18 In March 2017 the Planning Inspectorate issued a response to a letter from Richmond and Wandsworth Councils regarding the perceived inconsistency of approach by the inspectorate in relation to a further five appeal decisions made in 2016, regarding the weight that was made to the WMS. A copy of this letter is attached to Appendix 2.
- 2.19 Out of these five decisions, the Planning Inspectorate considered that three appeal decisions were reasonable, and fairly reflected the Court of Appeal's decision that although great weight should be attached to the WMS as a material circumstance; planning applications must be decided in accordance with the development plan, unless material considerations indicate otherwise.
- 2.20 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.”<sup>13</sup>

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

2.22 The Council’s stance has been tested on appeal on numerous occasions and the Planning Inspectorate have repeatedly concluded (16 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<sup>st</sup> 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<sup>th</sup> 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<sup>th</sup> 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<sup>st</sup> 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*

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<sup>13</sup> Paragraph 7, Planning Inspectorate Letter, March 2017.

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<sup>nd</sup> 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<sup>th</sup> 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 7<sup>th</sup> most expensive local authority area in England and Wales in 2016 and demonstrates that its application of Policy CP4 has delivered a significant contribution of over £2.1 million towards the delivery of affordable housing without disrupting the supply of small residential sites. Decisions should be made in accordance with the development plan unless material considerations indicate otherwise. The robust evidence referred to in footnote 1 and the clear need to deliver affordable housing in the District underpins the Council’s approach in Policy CP4 as an exception to national policy and therefore in this case, the Framework’s threshold would not outweigh the conflict with the development plan. I therefore attach considerable weight to Policy CP4. I am also referred to a number of recent appeal decisions in the District which support this approach and are therefore relevant to the scheme before me and as such carry considerable weight.”

- **APP/P1940/W/18/3213370: No.9 Lapwing Way, Abbots Langley.**

**Decision Date 22<sup>nd</sup> May 2019:**

“In considering whether provision should be made for affordable housing, there are two matters that need to be addressed. Firstly, whether in principle the provisions of Policy CP4 are outweighed by more recent Government policy. Secondly, if not, whether for reasons of financial viability a contribution is not required... There is no evidence before me that the application of Policy CP4 has put a brake on small windfall sites coming forward. Indeed, such sites have contributed over £2m to the affordable housing pot since 2011... Decisions should be made in accordance with the development plan unless material considerations indicate otherwise. There are very important factors in support of the continued application of Policy CP4. These factors are not unique to Three Rivers. Government policy does not suggest that areas where affordability is a particular issue should be treated differently. Nonetheless, although a weighty matter, the national policy threshold is not a material consideration which outweighs the conflict with the development plan in this case. In making this policy judgment I have given considerable but not full weight to Policy CP4. I have also had regard to the other appeal decisions in the south-east referred to by the Council where Inspectors considered development plan policies seeking affordable housing against national policy. My approach is consistent with these decisions.”

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

**Decision Date 5<sup>th</sup> May 2019:**

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

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

#### **Decision Date 16<sup>th</sup> August 2019:**

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

- **APP/P1940/W/19/3238285: Bell Public House, 117 Primrose Hill, Kings Langley  
Decision Date 9<sup>th</sup> March 2020**

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

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

#### **Decision Date 7<sup>th</sup> May 2020**

*“The Council’s evidence sets out the acute need for affordable housing in the area and the importance of small sites in contributing to the provision of such housing. They also highlighted a large number of recent appeal decisions for small residential schemes where it has been considered that the exceptional local need should outweigh government policy, as set out in the Framework... Despite the appellant’s evidence, which included reference to a Local Plan Consultation Document (October 2018) and an analysis undertaken by them based on the Council’s Housing Land Supply Update (December 2018), it was clear to me, in the light of all the evidence before me, that a pressing need for affordable housing in the area remains. It was also clear that small sites play a key role in ensuring this provision. As such, in this case, I am satisfied that although considerable weight should be given to the Framework, it does not outweigh the development plan policy.”*

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

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

#### **Conclusion**

2.23 Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Having regard to the Framework as a material consideration of significant weight, officers' view is that the local evidence of affordable housing need continues to deserve significant weight in deciding whether, for the purposes of Section 38(6), the revised Framework policies weigh sufficiently against the Core Strategy Policy CP4. Having undertaken this assessment in 2017 and further reviewed it post the new NPPF in 2018, in December 2019 and 2020 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 2019 ONS data shows that the affordability of housing in Three Rivers is deteriorating year on year and the need for affordable housing is growing. As such proposals for the residential development of sites of 10 dwellings or less (not “major development”) will currently be expected to contribute towards the provision of affordable housing in accordance with Policy CP4 as a condition of grant. The Council will keep this evidence under review.

**Appendix 1: Appeal Decisions 3146699 (Elmbridge Borough Council), 315661 (Reading Borough Council), 3142834 (South Cambridgeshire District Council) and Islington Borough Council (3154751, 3164313, 3174582, 3177927 and 3182729), Three Rivers District Council (3222318, 3221363, 3225445, 3230999, 3230911, 3230458, 3213370, 3219890, 3229274, 3238285, 3229189, 3249107)**

**Appendix 2: Letter from the Planning Inspectorate to Richmond and Wandsworth Councils, March 2017**

**Sources Used:**

1. Core Strategy (October 2011)

<http://www.threerivers.gov.uk/egcl-page/core-strategy>

2. Annual Monitoring Report 2019/2020 (December 2020)

<http://www.threerivers.gov.uk/egcl-page/annual-monitoring-report>

3. Affordable Housing Supplementary Planning Document (June 2011)

<http://www.threerivers.gov.uk/egcl-page/supplementary-planning-documents>

4. South West Hertfordshire Strategic Housing Market Assessment (January 2016)

<http://www.threerivers.gov.uk/egcl-page/shma-and-economic-study-for-future-review-of-local-plan>

5. Office of National Statistics Housing Data 2002-19

<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

**December 2020**