

6. 19/0040/FUL – Erection of six 3-bed dwellings with associated parking, access and landscaping at LAND AT THE REAR OF CLOVERS COURT, CHORLEYWOOD, HERTFORDSHIRE.
(DCES)

Parish: Chorleywood

Ward: Chorleywood South and Maple Cross

Expiry of Statutory Period: 29.03.2019

Case Officer: Matthew Roberts

Extension of time agreed: 30.04.2019

Recommendation: That Planning Permission be Refused.

Reason for consideration by the Committee: This application is brought before the Committee as it has been called-in by three of Members of the Planning Committee, Chorleywood Parish Council and at the request of the Head of Regulatory Services.

1.1 Relevant Planning History (including Nos. 79 & 81 Quickley Lane)

1.1.1 The application site partially encompasses land that relates to two planning permissions (14/0641/FUL & 12/0972/RSP). The combination of both permissions has resulted in six terrace dwellings now known as 1 to 6 Clovers Court, all of which are served by a single central access road from Quickley Lane.

1.1.2 Following the demolition of both former bungalows, a number of planning applications and appeal decisions have been submitted at the land which has contributed to the intermittent nature of construction work which first commenced in 2010. The following paragraphs outline the planning history for both 79 and 81 Quickley Lane and the land in general as they are intrinsic to this application.

1.2 Planning History at No.79 Quickley Lane (now demolished)

1.2.1 10/1251/FUL - Erection of 3 x 2 bed houses with off street parking and bin storage area. Refused for the following reasons:

R1: The development fails to comprehensively address the characteristics, opportunities and constraints of the wider site and adjacent site as a whole which would result in piecemeal development. Such piecemeal development would fail to protect the existing character of the area, be detrimental to the street scene and appearance of the area and fail to allow a full and proper consideration of the impacts of the cumulative developments to be properly considered contrary to Policies H14 and GEN1 and Appendix 1 of the Three Rivers Local Plan 1996 2011.

R2: The proposal fails to provide satisfactory evidence as to the lack of adverse impact arising from the proposed land level changes necessary to accommodate the development. Insufficient evidence has been submitted to demonstrate that the proposed land level changes would not have a detrimental impact on the character of the street scene or the residential amenities of neighbouring properties. As such the application is contrary to Policies GEN1 and GEN3 and Appendices 1 and 2 of the Three Rivers Local Plan 1996 - 2011.

The appeal was dismissed in April 2011.

1.2.2 11/1652/FUL - Demolition of existing bungalow at No.79 Quickley Lane and the erection of 3 town houses with associated access, parking, bin storage, landscaping and amenity areas – Permitted.

1.2.3 12/2072/FUL - Minor amendments to planning permission 11/1652/FUL (erection of 3 town houses with associated access, parking, bin storage, landscaping and amenity areas) to

reduce the width of the proposed terrace of three houses, marginally increase their depth and to realign the access road – Permitted.

1.2.4 13/1631/FUL - Variation of condition 2 of planning permission 12/2072/FUL: to create a staggered ridge height between the dwellings, accommodation within the roofspace including the insertion of rooflights to front and rear associated with second floor accommodation and the realignment of the flank boundaries – Permitted, not implemented.

1.2.5 14/0641/FUL - Variation of condition 2 of planning permission 13/1631/FUL: to include first floor front clear glazed window, bricked exterior to north eastern elevation, re-siting of rooflights, alteration and increase to parking area and re-grading of rear landscape amenity area – Permitted and implemented.

1.3 **Planning History at No.81 Quickley Lane (now demolished)**

1.3.1 10/0065/FUL – Erection of 3 x 2 bed dwellings with associated access, off street parking, bin store provision and landscaping (Forward part of the site) – Permitted March 2010 - Not Implemented.

1.3.2 10/0703/FUL - Erection of 3 houses to the rear of 81 Quickley Lane - Refused July 2010 for the following reasons;

R1: The development fails to provide adequate provision for the access, turning and manoeuvring of waste recovery and recycling vehicles as well as emergency vehicles within the site. This would result in inadequate arrangements for the storage and collection of waste and a sub-standard development contrary to Policies H14, N10, GEN1 and Appendix 1 of the Three Rivers Local Plan 1996-2011.

R2: The development fails to comprehensively address the characteristics, opportunities and constraints of the wider site as a whole which would result in piecemeal development of the site. Such piecemeal development would fail to protect the existing character of the area and be detrimental to the street scene and appearance of the area contrary to Policies H14 and GEN1 and Appendix 1 of the Three Rivers Local Plan 1996 2011.

R3: The proposed development results in a form of backland development that fails to protect and maintain the character of the area in terms of layout, plot size, building footprint and gaps between buildings and would result in the inappropriate loss of long and extensive gardens. It would have a detrimental impact on the character of the area and fails to meet the requirements of Policies H14, GEN1, GEN3 and Appendices 1 and 2 of the Three Rivers Local Plan 1996 – 2011.

The appeals (APP/P1940/A/11/2144323 & APP/P1940/A/10/2140364) were dismissed in April 2011.

1.3.3 10/2209/FUL - Demolition of No. 79 & 81 Quickley Lane and erection of 12 town houses split into 4 blocks, two blocks of 3 x 2 bedroom town houses to the front of the site and two blocks of 3 x 3 bedroom town houses including bin storage area and associated access road and parking – Withdrawn November 2010.

1.3.4 12/0972/RSP - Part Retrospective: Erection of three dwellings and associated parking - amended development following planning permission 10/0065/FUL- Refused August 2012 for the following reason:

R1: The development, by reason of its width and height in relation to the adjacent highway (Quickley Lane) results in an excessively prominent appearance detrimental to the amenities of the street scene, contrary to Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Saved Policy GEN3 and Appendix 2 of the Three Rivers Local Plan 1996-2011.

This application was allowed at Appeal (APP/P1940/A/12/2182187) in February 2013.

1.4 **Planning History at Land to rear / adjacent to Clovers Court**

- 1.4.1 14/1936/FUL - Erection of two detached bungalows with associated parking, bin stores, cycle stores, landscaping and alterations to land levels on land to rear of Clovers Court – Refused for the following reasons:

R1: The proposed development by virtue of the limitations of the application site fails to provide a comprehensive planning scheme for the whole site, failing to take into account already approved adjoining developments. The proposal would therefore result in a poor form of development that fails to address sufficiently the characteristics and opportunities of the wider site. The proposal is therefore not 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).

R2: The proposed development fails to provide satisfactory evidence as to the lack of adverse impact arising from the proposed land level changes necessary to accommodate the garden amenity areas for the bungalows. Insufficient evidence has been submitted to demonstrate that the proposed land level changes would not have a detrimental impact on the character of the area or the residential amenities of neighbouring properties. As such the application is contrary to Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

R3: The proposed development by virtue of the poor parking layout, oppressive and excessive boundary treatments to the north eastern and south western boundaries and lack of evidence with respect to the land level changes at the rear would cumulatively result in a poor standard of living for future occupiers of the bungalows. As such the application fails to accord to Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

R4: The proposed development fails to provide satisfactory evidence to ensure that adequate access arrangements for waste and recycling areas within the shared parking area can easily be achieved by local authority waste providers. As a result, the application fails to comply with Policy DM10 of the Development Management Policies LDD (adopted July 2013).

R5: The proposed development fails to enhance the landscape opportunities for the application site thereby resulting in a heavily urbanised form of development that is at odds with the immediate surrounding suburban environment. The submitted landscaping plan is insufficient and fails mitigate the harm identified and is contrary to Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

R6: The proposed development by virtue of the bungalows construction and lack of on-site renewable energy systems fails to demonstrate that sustainable development principles are satisfied. The proposal therefore fails to comply with Policy CP1 of the Core Strategy (adopted October 2011) and Policy DM4 of the Development Management Policies LDD (adopted July 2013).

R7: The proposed development would result in an increase in demand for education, libraries, childcare facilities, youth facilities, open space/children's play space and sustainable transport provision in the area. The proposed development in the absence of an agreement under the provisions of Section 106 of Town and Country Planning Act 1990 would fail to recognise the impact of the development upon these services. The proposal would also attract a requirement for fire hydrant provision. The application would therefore

fail to meet the requirements of Policies PSP2, CP1, CP8 and CP10 of the Core Strategy (adopted October 2011), Policy DM11 of the Development Management Policies LDD (adopted July 2013) and Open Space, Amenity and Children's Playspace SPD (adopted December 2007).

R8: The scheme is for two market dwellings and in the absence of an agreement under the provisions of Section 106 of Town and Country Planning Act 1990 would fail to contribute to the provision of affordable housing. The proposed development therefore fails to meet the requirements of Policy CP4 of the Core Strategy (adopted October 2011) and the Affordable Housing Supplementary Planning Document (approved June 2011).

- 1.4.2 14/2522/FUL - Erection of two detached bungalows with associated parking, bin stores, cycle stores, landscaping and alterations to land levels on land to rear of Clovers Court – Withdrawn.
- 1.4.3 15/1674/NMA - Non material amendment to planning permission 14/0641/FUL: To slope rear garden to accommodate step features (retrospective) – Refused.
- 1.4.4 15/1717/FUL - Erection of two detached bungalows including alterations to land levels and alterations to existing parking area serving numbers 1, 2, 3, 4, 5 and 6 Clovers Court – Refused, for the following reasons:

R1: The proposed development results in a form of backland development that fails to protect and maintain the character of the area in terms of layout, plot size, building footprint, landscaping and gaps between buildings and would result in unsatisfactory access and parking provision. It would have a detrimental impact on the character of the area and fails to meet the requirements of Policies CP1, CP3, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM3 and Appendices 2 and 5 of the Development Policies LDD (adopted July 2013).

R2: The scheme is for two market dwellings and in the absence of an agreement under the provisions of Section 106 of the Town and Country Planning Act 1990 would fail to contribute to the provisions of affordable housing. The proposed development therefore fails to meet the requirements of Policy CP4 of the Core Strategy (adopted October 2011) and the Affordable Housing Supplementary Planning Document (approved June 2011).

This application was allowed at Appeal (APP/P1940/W/16/3149879) in September 2016 but has not been implemented to date.

- 1.4.5 17/1304/FUL - Erection of two detached chalet bungalows including alterations to land levels and alterations to existing parking area serving numbers 1, 2, 3, 4, 5 and 6 Clovers Court. Withdrawn.
- 1.4.6 17/1787/FUL - Erection of two detached chalet bungalows including alterations to land levels and alterations to existing parking area serving numbers 1, 2, 3, 4, 5 and 6 Clovers Court. Refused, for the following reason:

R1: The proposed development would represent overdevelopment with the proposed dormer windows resulting in an overbearing and un-neighbourly form of development and would outlook neighbouring dwellings to the detriment of their residential amenity. The proposed development would also fail to provide sufficient usable amenity space for future occupiers. The proposal would therefore be contrary to Policies CP1, CP3 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

This decision was not appealed.

2 Enforcement Overview

- 2.1 In January 2012 it became apparent that works on the land (Nos.79 and 81 Quickley Lane) were not only being carried out prior to the discharge of pre-commencement conditions but also that the development was not in accordance with any approved scheme of development.
- 2.2 Enforcement Action was initiated with a Stop Notice and a subsequent Legal Injunction being served on the former owner. An Enforcement Notice was also served requiring that the existing unlawful development on No.81 be removed and the site cleared and returned to its original land levels by September 2012. This Enforcement Notice was appealed to the Planning Inspectorate. This appeal was dismissed in September 2012. At the time of issuing these notices, demolition of the bungalow at No.79 had not commenced.
- 2.3 Following failure to comply with the above Stop Notice, an Injunction was served on 23 February 2012. Failure to comply with this injunction resulted in Three Rivers District Council successfully prosecuting the former owner. An appeal against this prosecution was dismissed in its entirety on 19 December 2012 resulting that the former owner was liable to pay the fine applied by the prosecution.
- 2.4 The former owner submitted a retrospective application to regularise the works at No.81 which was subsequently refused. This was appealed to the Planning Inspectorate, the appeal was allowed and planning permission granted.
- 2.5 It also became apparent that various works at No.79 were not in-accordance with 12/2072/FUL. As a result, the former owner submitted a planning application under reference 13/1631/FUL which was approved in November 2013.
- 2.6 A protected Ash tree, previously located close to the north eastern boundary was removed from the site in 2014.
- 2.7 In more recent times, the former owner undertook engineering operations on land towards the rear of Clovers Court. However, for a number of years the backland area has been left untouched and parts of the site have been left incomplete, especially in relation to site boundaries and the parking area.

3 Detailed Description of Application Site

- 3.1 The application site is situated on the south eastern side of Quickley Lane in Chorleywood and contains a steep access road leading up-to a large expanse of hardstanding and an "L shaped" parcel of undulating land which historically formed garden land as part of Nos.79 and 81 Quickley Lane.
- 3.2 The parcels of land either side of the central access and on land falling outside of the application site comprise three terrace dwellings which are two storeys in height with loft accommodation, some of which have also added rear conservatories. The terrace dwellings are elevated above the height of Quickley Lane and have rear gardens which front Quickly Lane, bounded by standard timber fencing with small mounds of highway verges immediately adjacent which consist of various trees and landscaping. The principal elevations of the terrace dwellings front a large expanse of tarmac which forms the main parking area which is supported further by one completed flat roofed bin store with a Laurel hedge surround. The terrace dwellings, now known as Nos. 1, 2, 3, 4, 5 and 6 Clovers Court are all occupied.
- 3.3 The central part of the application site relates to the large expanse of tarmac which is between the front of the existing terraces and close boarded fencing which encloses the undulating land towards the west. To the north eastern side of the hardstanding area a retaining wall with elevated planting topped with close boarded timber fencing has been erected and extends along the entire depth of the north eastern boundary which is shared with properties on Rendlesham Way. The south western boundary of the land contains a

significant retaining wall which has been left exposed following earth excavations close to this boundary point.

- 3.4 Immediately behind the existing tarmac hardstanding area is a large open parcel of land which has been subject to various spoil movements to facilitate its re-grading/excavation in parts. The south eastern corner has been levelled at a height similar to surrounding residential properties and is laid with turf.

4 Detailed Description of Proposed Development

- 4.1 This application seeks planning permission for the erection of six 3 bed dwellings with associated parking, access and landscaping.
- 4.2 The proposed dwellings (Plots 1, 2, 3, 4, 5 & 6) would be located immediately opposite the existing terrace houses and would be of a similar style, comprising pitched roofs and a bricked exterior. The dwellings would face internally within the site and would each have a rear terrace and garden, internal bin storage, a porch canopy and two allocated parking spaces. Internally, each dwelling would provide three bedrooms set over three floors. Due to the land level alterations the rear of the ground floors would appear from the rear as a basement. The basement accommodation (bedroom) would be served by a single large rooflight. The second floor accommodation of each dwelling would also be served by rooflights, one to the front roofslope and three within the rear roofslopes.
- 4.3 Plots 1 to 3 would be located towards the north east of the application site separated by distances of 20-21.5m with the existing terraces (front to front relationship). Plot 1 would be set in from the north eastern boundary by a maximum distance of 1.2m, reducing to 1m towards the rear.
- 4.4 Plots 4 to 6 are to be located towards the south west of the application site and would be separated from the existing terraces by distances of 28-29.5m. These three terrace dwellings would be set back by approximately 9m from plots 1 to 3 with a separation distance of 4.2m between plot 3 and 4 which would contain soft landscaping and elevated gated access to the rear gardens serving the abovementioned plots. Plot 6 would be set in from the south western boundary by a maximum of 1.2m reducing to nearer 1m towards the rear.
- 4.5 The parking area located in between the existing and proposed terraces would serve a total of 27 spaces; 12 spaces for the existing terrace (Nos.1 to 6 Clovers Court); 12 spaces for the proposed terrace (plots 1 to 6) and 3 visitor spaces. As such, all the dwellings on site will be allocated 2 parking spaces each.
- 4.6 Elsewhere within the site, it is proposed to enhance refuse and recycling storage for the existing terraces (Nos.1 to 6 Clovers Court), located along both site boundaries and the inclusion of 6 individual cycle stores to the front. The parking area would be complemented by soft landscaping.
- 4.7 Towards the rear of the proposed dwellings, each would be served by a terrace/patio area which would then step up to a garden area, the levels of which would be lower than what currently exists on site. It would appear that the gardens serving plots 4, 5 & 6 would drop by approximately 3m in certain parts. The existing trees towards the rear of the site boundaries (two of which are protected) are shown to be retained.
- 4.8 During the course of the application the plans have been amended and include the following changes:
- Removal of rear dormer windows to each dwelling and replacement with 3 rooflights
 - Inclusion of privacy wall to plot 1
 - Additional land level heights and boundary to dwelling relationships
 - Enhanced refuse and recycling storage

- Secured side accesses
- Addition of cycle stores
- Updated Planning Statement
- Submission of an Energy Statement

5 Consultation

5.1 Statutory Consultation

5.1.1 Chorleywood Parish Council: [Objection]

"The Committee were pleased to note that this application has already been called in by TRDC District Councillors whom we support.

- *There is no evidence that this application has addressed the appeal objections by the Planning Inspectorate at Bristol.*
- *Overlooking of adjacent properties due to the increase in the number of proposed dwellings*
- *Lack of amenity space for the proposed dwellings - Contrary to Policies CP12 (c)*
- *Over development of the site"*

5.1.2 Highways Authority: [No objection, subject to conditions relating to provision of parking area, cycle parking and Construction Management Plan]

"The application comprises of the construction of six three-bedroom dwellings with associated parking, access, and landscaping at land at the rear of Clovers Court, Chorleywood, WD3 5FD. The site is located off of Quickley Lane, between Juniper Court and Rendlesham Way. Clovers Court is a private road, and Quickley Lane is an unclassified local access road with a speed limit of 30mph and highway maintainable at public expense.

A Planning Statement (PS) prepared for the pre-application stage of this application has been submitted with the planning application, as well as site location plans, layout plans, and drawings. Hertfordshire County Council (HCC) note that the PS is out-of-date, as it refers to seven proposed dwellings, as opposed to the six that are proposed in this application.

Access and Parking Arrangements:

The site is currently accessible via Clovers Court, a private road, which connects six existing dwellings and the proposed site to Quickley Lane. Drawing Number TL-3939-18-10C shows the proposed site layout plan, which shows 16 proposed parking spaces directly in front of the proposed dwellings: two per dwelling, three allocated for visitors, and one for existing dwelling number two. The planning application form, however, identifies that there are 12 existing parking spaces, and 14 new spaces proposed, with a total of 26 parking spaces for the 12 houses in Clovers Court. It is assumed that two of the 16 parking spaces located outside of the proposed dwellings already exist, however it is recommended that this is clarified. The proposed level of parking is in line with Three Rivers District Council's (TRDC) parking standards. Therefore, HCC as Highway Authority has no objection to the proposed parking and access arrangements, subject to the condition mentioned above.

Emergency Vehicle Access:

No details have been provided to HCC regarding emergency vehicle access to the site. The site access at Clovers Court from Quickley Lane would enable emergency vehicle access to be within 45 metres from all dwellings. This adheres to guidelines as recommended in MfS, Roads in Hertfordshire: Highway Design Guide and Building Regulations 2010: Fire Safety Approved Document B Vol 1 - Dwelling houses.

Trip Generation and Distribution:

Information regarding the proposed number of trips generated by the site has not been provided to HCC. HCC recognises that the proposed development is unlikely to produce a

large number of trips and therefore will not have a significant impact on the highway network.

Accessibility and Sustainability:

The proposed site is located in the south of Chorleywood, a village to the west of Watford. The site is approximately 0.8 miles away from Chorleywood railway station, which is a 16-minute walk or a five-minute cycle away from the site. Chorleywood railway station is served by both the Metropolitan London Underground line and Chiltern Railways services. The Metropolitan Line connects Chorleywood to outer and central London, Rickmansworth, Amersham, and Chesham. Chiltern Railways services connect the village to London Marylebone and Aylesbury. Only two bus services serve Chorleywood, the 103 and the R2. The 103 is a strategic route, which only stops in Chorleywood at the railway station. The route runs between Watford and High Wycombe. The R2 is local service that runs in a loop around Chorleywood, and runs to Northwood via Rickmansworth and Harefield. The nearest bus stop to the site is a three-minute walk away and is served by the R2. Whilst the connections to London from the site are good, there are limited public transport options for surrounding areas in Hertfordshire and Buckinghamshire. HCC recommends that cycle storage is provided at the proposed site in order to promote active and sustainable travel, especially due to the site's proximity to Chorleywood railway station.

Conclusion:

HCC as Highway Authority considers that the proposal would not have an unacceptable impact on the safety and operation of the surrounding highway network. Therefore, HCC has no objections on highway grounds to the application, subject to the inclusion of the above planning conditions."

Officer comment: The plans have been updated to include cycle stores for each dwelling and a new Planning Statement was provided.

5.1.3 Hertfordshire Property Services: [No objection]

"Based on the information provided to date we would seek the provision of fire hydrant(s), as set out within HCC's Planning Obligations Toolkit. We reserve the right to seek Community Infrastructure Levy contributions towards the provision of infrastructure as outlined in your R123 List through the appropriate channels.

All developments must be adequately served by fire hydrants in the event of fire. The County Council as the Statutory Fire Authority has a duty to ensure fire fighting facilities are provided on new developments. HCC therefore seek the provision of hydrants required to serve the proposed buildings by the developer through standard clauses set out in a Section 106 legal agreement or unilateral undertaking.

Buildings fitted with fire mains must have a suitable hydrant provided and sited within 18m of the hard-standing facility provided for the fire service pumping appliance.

The requirements for fire hydrant provision are set out with the Toolkit at Paragraph 12.33 and 12.34 (page 22). In practice, the number and location of hydrants is determined at the time the water services for the development are planned in detail and the layout of the development is known, which is usually after planning permission is granted. If, at the water scheme design stage, adequate hydrants are already available no extra hydrants will be needed.

Section 106 planning obligation clauses can be provided on request.

Justification

Fire hydrant provision based on the approach set out within the Planning Obligations Guidance - Toolkit for Hertfordshire (Hertfordshire County Council's requirements)

document, which was approved by Hertfordshire County Council's Cabinet Panel on 21 January 2008 and is available via the following link: www.hertsdirect.org/planningobligationstoolkit

The County Council seeks fire hydrant provisions for public adoptable fire hydrants and not private fire hydrants. Such hydrants are generally not within the building site and are not covered by Part B5 of the Building Regulations 2010 as supported by Secretary of State Guidance "Approved Document B".

In respect of Regulation 122 of the CIL Regulations 2010 the planning obligations sought from this proposal are:

(i) Necessary to make the development acceptable in planning terms.

Recognition that contributions should be made to mitigate the impact of development are set out in planning related policy documents. The NPPF states "Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Conditions cannot be used cover the payment of financial contributions to mitigate the impact of a development (Circular 11/95: Use of conditions in planning permission, paragraph 83).

All developments must be adequately served by fire hydrants in the event of fire. The County Council as the Statutory Fire Authority has a duty to ensure fire fighting facilities are provided on new developments. The requirements for fire hydrant provision are set out with the Toolkit at paragraph 12.33 and 12.34 (page 22).

(ii) Directly related to the development;

Only those fire hydrants required to provide the necessary water supplies for fire fighting purposes to serve the proposed development are sought to be provided by the developer. The location and number of fire hydrants sought will be directly linked to the water scheme designed for this proposal.

(iii) Fairly and reasonable related in scale and kind to the development.

Only those fire hydrants required to provide the necessary water supplies for fire fighting purposes to serve the proposed development are sought to be provided by the developer. The location and number of fire hydrants sought will be directly linked to the water scheme designed for this proposal.

I would be grateful if you would keep me informed about the progress of this application so that either instructions for a planning obligation can be given promptly if your authority is minded to grant consent or, in the event of an appeal, information can be submitted in support of the requested provision."

Officer comment: In the event of an approval further information would need to be sought from HCC regarding the provision of fire hydrants.

5.1.4 Landscape Officer: [No objection, subject to conditions]

"There are no significant trees located on site which will be impacted by the proposed plan. Although I have no Arboricultural objections in principle, there are a number of trees on and adjacent to site, which will need to be considered and protected. The applicant will need to provide an Arboricultural Impact Assessment in accordance with BS 5837 (2012), to demonstrate, as a minimum, which trees are to be retained/removed, and how the retained trees will be protected during a development, should it be granted permission.

In the event that planning permission is granted, I would request that a tree protection scheme (CR098) and an Arboricultural Method Statement (CR100A) conditions are attached."

5.1.5 Environmental Protection: [No objection]

"I have spoken to the crews and they reverse up the road to Clover Court to the top of the hill so it won't be a problem."

5.1.6 National Grid: [No response]

5.2 **Public/Neighbour Consultation**

5.2.1 Number consulted: 86

5.2.2 No of responses received: 19 objections

5.2.3 On receipt of amended plans a further 14 day re-consultation occurred. At the time of writing this report 3 further objections have been received from previous objectors.

5.2.4 Site Notice: Expired 07.03.2019.

5.2.5 Press Notice: Not applicable.

5.2.6 Summary of Responses:

- Previous appeal allowed with restrictions to control further buildings
- Previous application refused
- Overbearing and a form of piecemeal development
- Overdevelopment and cramped housing
- Greater noise
- Increased parking pressure on local roads
- Not enough parking provided
- Noise and light pollution
- Additional traffic
- Narrow lane will not be able to take larger vehicles taking earth from site
- Overlooking issues
- Site has not been well maintained and left in quite a state
- Worry over existing and proposed requirement for more retaining walls
- Difficulties with refuse collection
- Frustrating to see yet another scheme come forward which take heed of local resident or previous judgements
- Development will create a visual barrier
- Slope of rear gardens would make them unusable

Officer comment: The above material planning considerations will be discussed within the following planning analysis sections.

6 **Reason for Delay**

6.1 Committee cycle.

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

7.1 National Planning Policy Framework and National Planning Practice Guidance

On 19 February 2019 the new National Planning Policy Framework was published. This is read alongside the National Planning Practice Guidance (NPPG). The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another. The 2019 NPPF is clear that "existing policies should not be

considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework”.

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

7.2 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 PSP3, CP1, CP2, CP3, CP4, CP8, CP9, CP10 and CP12.

The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM1, DM4, DM6, DM8, DM9, DM10, DM11 and DM13 and Appendices 2 and 5.

7.3 Other

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

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

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

Affordable Housing Supplementary Planning Document - Approved June 2011.

The South West Hertfordshire Strategic Housing Market Assessment (2016).

8 Planning Analysis

8.1 Overview

8.1.1 The application site and land adjacent to Quickley Lane (known as Clovers Court) which previously incorporated two detached bungalows have been subject of numerous planning applications and formal enforcement action. The long running planning issues and length of construction work has led to this particular site attracting a significant degree of local interest.

8.1.2 In respect of previous planning history, planning application 10/0703/FUL for three houses to the rear of No.81 Quickley Lane was refused by the Local Planning Authority (LPA) and dismissed on 3 May 2011 by the Planning Inspectorate (APP/P1940/A/10/2144323). The houses subject of this appeal were sited towards the very rear of the site and included a long access road in excess of 40m from Quickley Lane with an extensive area of hardstanding covering the majority of the curtilage. The appeal was dismissed on grounds

that the scheme would be harmful to the character and appearance of the area and there would have been unacceptable provision for utility and emergency vehicles by virtue of the long access road. This appeal decision is a material planning consideration.

- 8.1.3 In more recent times planning permission was granted at appeal (APP/P1940/W/16/3149879) in September 2016 for the erection of two bungalows opposite the existing terraces (Nos.1 to 6 Clovers Court). This appeal decision followed the Council's decision to refuse the application on grounds of character and affordable housing, although the latter reason was withdrawn at the appeal stage due to change in national policy (although the Council has since reversed its stance on affordable housing, see section 8.4). Nevertheless, in terms of impact on character, the Inspector disagreed that the erection of two bungalows would have a harmful impact on the area's character as set out below:

"Whilst I accept that, prior to the redevelopment of the site of the former Nos 79 and 81, the area around the corner of Quickley Lane and Rendlesham Way might have very much been characterised by detached bungalows within generous or large garden plots, I find that to be less so now."

"Both the developments at Juniper Court and the six terraced properties to the front of the appeal site have led to the evolution of the character of the area. Unlike other properties along Quickley Lane, they present their rear face, behind substantial timber fences, towards Quickley Lane. They look inwards, into shared parking and turning courtyards. As the character and appearance of places evolve over time, these developments are as much constituent parts of the character and appearance of the surrounding area as the bungalows elsewhere on Rendlesham Way are, or the semi-detached properties opposite the appeal site or further up Quickley Way are. Put simply, the character of the area, through house types, scale, layout and age is mixed."

"In this context, I find that the proposed form of development; two bungalows located just beyond the shared parking and turning area facing towards the front elevations of the existing terrace of six dwellings, would not be inappropriate, in terms of character, for the area. The development would follow the pattern and general layout established by Juniper Court with a type of dwelling that would reflect the character, appearance and form of neighbouring bungalows along Rendlesham Way whilst the garden plots around the dwellings would also be broadly comparable with those surroundings."

- 8.1.4 The grant of permission by the Planning Inspector is therefore a material consideration however a subsequent planning application for alterations to the two permitted bungalows was refused by the Council in November 2017. The alterations sought to increase the size of the dwellings and incorporate a second floor served by dormer windows. This was refused on the basis that the enlarged bungalows would result in overdevelopment with the dormer windows resulting in an overbearing and un-neighbourly form of development, overlooking neighbouring dwellings. The development also failed to provide sufficient amenity space for future occupiers.

8.2 Principle of development

- 8.2.1 Policy CP3 of the Core Strategy stipulates that the Council will promote high quality residential development that respects the character of the District and caters for a range of housing needs. In addition, Policy CP12 states that development should 'have regard to the local context and conserve or enhance the character, amenities and quality of an area and should make efficient use of land whilst respecting the distinctiveness of the surrounding area.'
- 8.2.2 The NPPF encourages the effective use of land. At the heart of the NPPF is a presumption in favour of sustainable development (paragraph 11) which seeks positive improvements in the quality of the built environment but at the same time balancing social and environmental concerns.

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

8.2.4 The application site is within Chorleywood which is identified as a Key Centre in the Core Strategy. The Spatial Strategy of the Core Strategy advises that new development will be directed towards previously developed land and appropriate infilling opportunities within the urban areas of Key Centres and Core Strategy Policy PSP3 indicates that the Key Centres (including Chorleywood) will provide approximately 60% of the District's housing requirements over the plan period.

8.2.5 The proposal would be on former garden land and as such would not be considered to be development of previously developed land. Nevertheless, development of garden land is not prohibited, subject to consideration against national and local planning policies. Furthermore, the principle of development within the "backland" area of the application site has been accepted following the appeal decision in September 2016.

8.3 Housing Mix:

8.3.1 Policy CP3 of the Core Strategy states that the Council requires housing proposals to take into account the district's range of housing needs, in terms of the size and type of dwellings as identified by the Strategic Housing Market Assessment (SHMA). The most recent SHMA was published in January 2016 and has identified the indicative targets for market sector dwelling size within the Three Rivers District as being:

- 1 bedroom 7.7% of dwellings
- 2 bedrooms 27.8% of dwellings
- 3 bedrooms 41.5% of dwellings
- 4+ bedrooms 23.0% of dwellings

8.3.2 The application proposes 100% of its housing provision to be 3 bedroom dwellings (6 units). Therefore, the proposal does not take into account the range of housing needs required by the SHMA. However, it is recognised that the proportions of housing mix may be adjusted for specific schemes to take account of market information, housing needs and preferences and specific site factors. No justification for the proposed mix has been provided, however, it is recognised that there is greater demand for 3 bedroom dwellings and thus it is not considered that the lack of variety in the housing mix would weigh against the proposal such that it would form a reason for refusal.

8.4 Affordable Housing

8.4.1 In view of the identified pressing need for affordable housing in the District, Policy CP4 of the Core Strategy seeks provision of around 45% of all new housing as affordable housing and requires development resulting in a net gain of one or more dwellings to contribute to the provision of affordable housing. Developments resulting in a net gain of between one and nine dwellings may meet the requirement to provide affordable housing through a financial contribution. Details of the calculation of financial contributions in lieu of on-site provision of affordable housing are set out in the Affordable Housing Supplementary Planning Document.

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

- (a) the weight to be given to such considerations is a matter for the decision maker.

- (b) policy (however absolutely it is stated) cannot displace that – the decision must always be taken with regard: “As a matter of law the new national policy is only one of the matters which has to be considered under sec 70(2) and sec 38(6) when determining planning applications... in the determination of planning applications the effect of the new national policy is that although it would normally be inappropriate to require any affordable housing or social infrastructure contributions on sites below the threshold stated, local circumstances may justify lower (or no) thresholds as an exception to the national policy”.
- (c) The Framework "is no more than 'guidance' and as such a 'material consideration'" for these purposes. "It cannot, and does not purport to, displace the primacy given by the statute and policy to the statutory development plan."

8.4.3 Officers consider that the correct approach is to:

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

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

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

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

8.4.6 The Council resolved on 1 September 2017 to treat the Needs Analysis as a consideration of significant weight when considering the relationship between Policy CP4 and the WMS and PPG for the purposes of Section 70(2) Town and Country Planning Act 1990 and Section 38(6) Planning and Compulsory Purchase Act 2004 in respect of development proposals of 10 dwellings or less.

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

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

General House Price Affordability in Three Rivers

- 8.4.8 As set out in more detail in the Council's document: Evidence for Re-Instating the Affordable Housing Threshold in Core Strategy Policy CP4: Affordable Housing, data published by the Office for National Statistics (ONS) demonstrated that in 2016 Three Rivers was the seventh most expensive local authority area in England and Wales (excluding London) out of a total of three hundred and fifty local authority areas. The lowest quartile house price in Three Rivers was £325,000.00. This represents a worsening of the position since 2011. The general house price affordability position has grown worse since 2016. According ONS data for the third quarter of 2017, the lowest quartile house price in Three Rivers as of September 2017 was £355,000, making it now the sixth most expensive local authority area in England and Wales (excluding London).
- 8.4.9 Lowest quartile earnings in Three Rivers in 2016 were £24,518.001, 13.3 times [less than] the lowest quartile house prices (ratio of lower quartile house prices to lower quartile gross annual, residence based earnings). That worsened to £24,657.00 in 2017 (14.4 times [less]). It is clear from this data that most first time buyers are simply unable to purchase a dwelling in the District. Such a lending ratio would have required a first time buyer in 2016 to have a deposit of £239,694.00, or (without such a deposit) to earn £92,857.00 per annum to get onto the lowest/cheapest rung of the property ladder. An additional £6,250.00 Stamp Duty payment would also have been due. The position is even more serious when the median affordability ratio for Three Rivers compared to the rest of England and Wales is considered: the median quartile income to median quartile house price affordability ratio is 13.82, the fifth worst affordability ratio in England and Wales.

Affordable Housing Requirements in Three Rivers

- 8.4.10 The Council's Strategic Housing Market Assessment (2010) which assessed current and future housing markets and needs found that:
- (1) The requirement for affordable housing in and around the Three Rivers area remained exceptionally high. This is largely as a result of very high house prices and rents, a constricted supply of suitable sites for all housing types and losses from the existing affordable stock through 'Right To Buy' sales,
 - (2) All future housing supply in the district to 2021 would need to be affordable to satisfy affordable housing requirements. This represented the highest requirement amongst the six authorities within the London Commuter Belt.
 - (3) The South West Hertfordshire Strategic Housing Market Assessment (January 2016) SHMA looked into newly-arising (projected future) need within the District, which was accepted as arising from newly forming households and existing households falling into this need. In South West Herts, the SHMA estimated a need totalling 2,760 new households per annum from 2013-2036. 15% of this need falls within Three Rivers, which equates to an estimated level of affordable housing need in the District from newly forming households of 419 per annum. With these figures in mind, the SHMA calculated the net affordable housing need within Three Rivers as being 617 units per annum or 14,191 units over the same 23 year period.

Affordable Housing Provision in Three Rivers

- 8.4.11 Core Strategy CP4 requires around 45% of all new housing in the District to be affordable. As stated previously, prior to the WMS, all new developments that had a net gain of one or more dwellings would, subject to viability, be expected to contribute towards this. Since the start of the plan period from 1 April 2001 to 31 March 2017 (the latest date where the most recent completion figures are available), 3,736 gross dwellings were completed. From this, 843 were secured as affordable housing, a total of 22.6%. This percentage is significantly below the Core Strategy target of 45% which means there was a shortfall of 836 affordable housing units or 22.4% in order to fulfil the 45% affordable housing requirement up to 31 March 2017. This existing shortfall only exacerbates the already pressing need for small

sites to contribute towards the provision of affordable housing and as such there is a high importance that small sites deliver to affordable housing contributions.

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

- 8.4.12 Between 1 May 2016 and 12 April 2017, seventy nine planning applications for residential development involving a net gain of dwellings were determined by the Council. Of those, forty seven applications (60%) were for schemes which proposed a net gain of 1-9 units. This demonstrates the importance of small sites to the overall delivery of housing in the district. Having a large number of small sites is an inevitable consequence of the District being contained within the Metropolitan Green Belt.
- 8.4.13 During the latest 2016/2017 monitoring period, there were a total of 164 gross dwelling completions within the District, of which 0% were affordable. All of those completions related to planning permissions granted for 10 or less dwellings with a combined floorspace of less than 1000 sq metres. The above data emphasises the importance of small sites to the delivery of housing within Three Rivers and contradicts Appellants' case as stated at paragraph 3.23.

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

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

Relevant Appeal decisions

- 8.4.15 On any view of the local housing need position, there is a serious planning issue. The Council's position is that it deserves significant weight, consistent with the decisions in similar situations where the 'exception' is a function of weight:
- 17 St Barnabas Road, APP/E0345/W/16/3153661 - paras 10-13, "the Council has submitted a substantial amount of evidence to indicate that specific local circumstances within the Borough justify a lower threshold for affordable housing contributions as an exception to national policy....while the case in hand would be an exception to national policy, I consider there to be local circumstances that indicate the proposal should be determined in line with the development plan."
 - 26 The Avenue, Claygate, Esher, Surrey, KT10 0RY, APP/K3605/W/16/3146699 para 13 "...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."
 - Land South of Kettles Close, Oakington, Cambridgeshire APP/W0530/W/16/3142834 para 18 "Having regard to this material consideration I find that the WMS needs to be addressed alongside local policy. The local evidence of affordable housing need is substantial and therefore I attach significant weight to this consideration."
- 8.4.16 Whilst those decisions pre-date the NPPF, para 63 NPPF is fundamentally the same as the WMS and PPG. In a more recent appeal decision that post-dates the NPPF (104 Tollington Road, APP/V5570/W/18/3204636, decision date 16th November 2018 the Inspector acknowledged this at para 50: "The Framework, being published in July 2018, is a very recent expression of Government policy, but I do not consider that it fundamentally changed national planning policy in this area from that which was in place immediately prior to its publication. The WMS of 28 November 2018 was a policy statement in similar terms (other

than a change in the threshold) and the Courts have confirmed that , even if expressed in absolute terms, such a policy document can only be a material consideration to be assessed in light of development plan policy”

8.4.17 A further decision that also post-dates the NPPF also support the Council’s approach:

- Appeal Ref: 63-67 Rosoman Street, London EC1R 0HY APP/V5570/W/18/3202022

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

8.4.19 Policy CP4 states “in assessing affordable housing requirements including the amount, type and tenure mix, the Council will treat each case on its merits, taking into account site circumstances and financial viability.” It is clear that the operation of CP4 does not act as any form of brake on small scale development. The requirements of CP4 would apply to the current application and the development would need to make a contribution towards affordable housing unless it is demonstrated that this is not viable. A viability assessment has not been submitted.

8.4.20 The proposed development would result in a requirement for a commuted sum of £513,750 towards affordable housing based on a habitable internal floor-space calculated below multiplied by £1,250 per sqm which is the required amount in the ‘Highest Value Three Rivers’ market area.

Habitable floor space:

Plot 1: 70sqm

Plot 2: 70sqm

Plot 3: 70sqm

Plot 4: 67sqm

Plot 5: 67sqm

Plot 6: 67sqm

Total: 411 x £1,250 = £513,750

8.4.21 The applicant has not submitted any viability evidence that would support the contention that the scheme would be unviable if the payment of such a contribution prior to commencement of the development was to be secured by way of Section 106.

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

8.5 Impact on character and appearance of area:

8.5.1 Policy CP1 of the Core Strategy seeks to promote buildings of a high enduring design quality that respect local distinctiveness and Policies CP3 and CP12 of the Core Strategy set out that development should make efficient use of land but should also ‘have regard to the local context and conserve or enhance the character, amenities and quality of an area’.

8.5.2 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. In terms of new residential development, Policy DM1 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.).

8.5.3 In previous decisions it has been accepted that the application site is a backland site, and that former proposals to introduce new dwellings opposite the terraces were a form of tandem development. However, the Planning Inspector in the most recent planning appeal in September 2016 stated that the erection of two bungalows would not constitute development that would be harmful per se, nor would it be precluded by the provisions of Policy DM1 of the Development Management Policies document.

8.5.4 In terms of character, the area in and around the application site is varied and there is no uniformity with respect to plot sizes and general form of dwellings within the vicinity. For example, to the south west there is a mixture of housing, including a detached two storey dwelling (No.83 Quickley Lane), Juniper Court containing townhouses and a flatted scheme and Victorian style dwellings within narrow plots. To the north east, the properties fronting Rendlesham Way (Nos.6 to 14) are bungalows or chalet bungalows on small but wide plots. To the south, there is an assortment of detached housing within relatively deep plots that back onto the application site. Due to the evolution of the application site its once distinctive generous and sylvan character has somewhat been diminished.

8.5.5 The allowed appeal in September 2016 acknowledged that the erection of two bungalows would follow the pattern and general layout established by Juniper Court with a type of dwelling that would reflect the character, appearance and form of neighbouring bungalows along Rendlesham Way with the gardens also broadly comparable with those surrounding the site. In addition, the development sought to retain a significant portion of the land at the rear of the site as garden land and therefore would not 'fundamentally or harmfully erode the sylvan nature of the rears of properties on Stag Lane and Rendlesham Way, or of the glimpsed views of that backdrop between buildings on Quickley Lane, Rendlesham Way or Stag Lane.' It is therefore important to consider whether the introduction of six terrace properties would have a detrimental impact on the character and appearance of the area.

8.5.6 Whilst clearly materially larger than previous schemes and therefore more noticeable from Quickley Lane and neighbouring properties adjoining the site, it is not considered that the principle of two storey buildings would be so unduly prominent as to result in harm to the local character of the area. It is recognised that the scheme would result in a greater spread of development of higher density across the site, however, having regard to its location, positioned within an urban environment, the acceptability of two storey houses would respond to the area's mixed character. In terms of visibility, due to the topography of the area there would be limited public views of the houses, via the access on Quickley Lane and from certain views within Rendlesham Way. However, with regards to the latter, the only visible features of the development would include the gabled elevation and roof form of plot 1, although its visibility and prominence on the area's character is diluted on the approach to Stage Lane given the difference in land levels. It is accepted that from

neighbouring properties, especially from those adjoining the site via Quickley Lane and Rendlesham Way, that the character and appearance of the site would significantly alter from its generous and previously sylvan character. However, whilst the proposed scheme would be visible and alter their views, the latter of which is not a material planning consideration, the introduction of two storey buildings towards the rear would be acceptable, subject to compliance with other considerations. Furthermore, due to the significant drop in land level from Stag Lane, the development would also not be unduly prominent from views via Stag Lane or from private vantage points serving houses fronting Stag Lane.

8.5.7 In terms of overdevelopment of the site, the size and scale of the proposed houses seek to replicate those found along the Quickley Lane frontage and Juniper Court. Whilst the rear gardens would be smaller than those found immediately adjacent on Stag Lane, they would look to mimic those gardens serving the existing terraces immediately opposite. However, due to the number of units proposed, there is an overly extensive parking area with plots 4, 5 and 6 set back considerably within the site thereby spreading development unnecessarily further rearwards towards the Stag Lane boundaries where the character is more spacious. Whilst it is acknowledged that vantage points from Stag Lane are limited, both plots 1 and 6 are positioned within only 1m of the flank boundaries of the site at certain points. In respect of plot 1 given its siting in relation to the north western boundary it will appear visually prominent from No.6 Rendlesham Way which is explained in more detail at section 8.6 below. Furthermore, a number of units have small gardens which is indicative of the overdeveloped nature of the proposal and this is explained in more detail at section 8.9. As a result based on number of units, overall layout of the terraces and the lack of amenity space provision the proposal would have an unacceptable impact on the area's character, contrary to Policies CP1 and CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies LDD.

8.6 Impact on neighbouring amenity

8.6.1 Policy CP12 of the Core Strategy states that development should 'protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space'. Policy DM1 and Appendix 2 of the Development Management Policies document set out that residential 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. Policy DM1 and Appendix 2 of the Development Management Policies LDD sets out further guidance in relation to residential development and states that development resulting in the loss of residential amenity will not be supported and distances between buildings should be sufficient so as to prevent overlooking, particularly from upper floors.

8.6.2 When considering the relationship between plot 1 and the adjacent neighbouring property at No.6 Rendlesham Way, there is concern that the proposed dwelling would result in an overbearing form of development and given the orientation of the sun would also result in significant overshadowing of its rear garden. The neighbouring property which is a bungalow has a limited garden depth of between 12-16m. Whilst the application site is well enclosed by high retaining walls a large percentage of the gabled elevation of plot 1 and its roof form would be visible above the site's boundary treatments. Whilst the Design Criteria is silent in respect of side to rear relationships, plot 1 would only be set back from the boundary point by 1-1.2m. As a result, given the bulk and massing of the building on plot 1, the limited distances involved between the houses and the orientation of the sun, it is considered that the development would appear unduly prominent to such an extent that it would have a harmful impact on the visual amenity of this neighbour as well as significantly overshadowing their rear garden to the detriment of their enjoyment of their property. The impact on this particular neighbour therefore emphasises the overdeveloped nature of the development.

8.6.3 As highlighted above planning permission 17/1787/FUL was refused by Members of the Planning Committee in November 2017 as the dormer windows would overlook

neighbouring properties. During the course of this current application the proposed rear dormer windows were omitted after concern was raised that they would result in overlooking. Due to their removal, the rear aspect of the dwellings would appear as a bungalow, however, importantly, the proposed dwellings would be on higher land than the scheme granted at appeal. From the details submitted it appears that the top of the boundary fence through plot 1 (TL-3939-18-12D) would be below the first floor window at the front, although it was noted on site that the existing boundary fencing raises in height towards the boundary with No.8 Rendlesham Way. When considering the level of the rear openings and the land levels, the plans were amended to include a privacy screen for plot 1, to ensure that the outlook would not erode the privacy levels of No.6 Rendlesham Way. From the details submitted and the land levels proposed within the rear gardens, it appears that the existing boundary treatments would be acceptable to avoid unacceptable levels of overlooking, although further details of the boundary treatments would be conditioned in the event of an approval as they appear inadequate in parts.

- 8.6.4 In respect of the rooflights to the rear, the cil heights can also be conditioned to ensure that they are above an internal floor height of 1.7m to avoid unacceptable of overlooking given the garden depths of those serving plots 1, 2 & 3 are approximately 8m deep, below the required 14m distance as set out within the Design Criteria.
- 8.6.5 As the front of the dwellings would face in a north easterly direction the first floor windows and rooflights within the roof would have outlook towards the front of the existing terraces and the rear of neighbouring properties, No.2 Rendlesham Way and No.83 Quickley Lane. In relation to distances between buildings the Design Criteria is also silent in respect of front to front relationships and front to back relationships; however, it was noted that a similar distance to the terraces was considered acceptable during the September 2016 appeal. In relation to No.2 Rendlesham Way given the height of the first floor window (serving the hallway) in relation to neighbouring boundary treatments and the distance involved, this window should, in the event of an approval, be conditioned to be obscurely glazed and top opening only. The kitchen/dining window which is also proposed at first floor level is considered to be set in from the site boundary by an acceptable distance to prevent unacceptable overlooking to neighbouring properties. In addition, the distances between plots 4, 5 & 6 and No.83 Quickley Lane at approximately 28-29.5m are more than acceptable to prevent overlooking issues.
- 8.6.6 Policy DM9 of the Development Management Policies LDD states that planning permission will not be granted for development which has an unacceptable adverse impact on the indoor and outdoor acoustic environment of existing or planned development.
- 8.6.7 The development includes a large parking area totalling 27 spaces to serve all existing and proposed dwellings. Whilst there would be a large number of vehicles and therefore greater on-site activity, due to the existing boundary treatments and land levels between neighbouring properties, it is not considered that the development would have a harmful impact on neighbouring amenity through noise and disturbance.
- 8.6.8 Notwithstanding the above, it is noted that in the event of an approval, construction works would be taking place immediately opposite the existing terraces. Consequently, a prior commencement condition would need to be agreed relating to the submission of a Construction Management Plan to minimise disturbance on local residents.
- 8.7 Amenity of Future Occupiers
- 8.7.1 It is also necessary to consider the amenity impact of the development towards the future occupiers of the terraces in accordance with Policy CP12 which seeks to protect residential amenities.
- 8.7.2 Whilst the application proposal does not relate to rear extensions, the guidance produced within the Design Criteria is relevant when considering whether the relationships between

the two rows of terraces are acceptable. The Design Criteria states that rear extensions should not intrude into a 45 degree splay line drawn 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 the dwellings and consideration will also be given to the juxtaposition of properties, land levels and the position of windows.

- 8.7.3 The submitted plans indicate that the row of three terraces serving plots 4, 5 & 6 would be set back in comparison to plots 1, 2 & 3, with the former projecting approximately 9m beyond the rear elevation of plot 3. However, towards the rear the dwellings would appear more akin to a single storey building and given a separation distance of 4.2m, it is not considered that plot 4 would have a detrimental impact on the future occupiers of plot 3 or lead to poor standards of accommodation.
- 8.7.4 In respect of the internal layout of the dwellings, it is recognised that a bedroom within each would have no natural outlook and would only be served by a rooflight. Whilst not an ideal situation, the bedroom would be relatively large and thus it is not considered that this would justify a reason for refusal.

8.8 Parking and Highway Considerations

- 8.8.1 When applying the Parking Standards as set out within Appendix 5 of the Development Management Policies LDD, it states that a three bed dwelling would require 2.25 spaces (2 assigned spaces). As a result, a total number of 15.75 spaces would be required for the proposed development but as the parking area is shared with the existing terraces (Nos. 1 to 6 Clovers Court) a further 12 spaces must be allocated to those occupiers (as per previous planning permissions). Therefore, a total of 27.75 spaces are required.
- 8.8.2 The proposed parking area incorporates a total of 27 spaces which does not strictly accord with the parking requirements. However, it is recognised that each dwelling on site would have 2 assigned spaces with 3 further spaces allocated for visitors. Whilst there is a minor shortfall of 0.75, it is considered that the parking levels are acceptable and the development would not lead to unacceptable parking pressure on adjacent roads.
- 8.8.3 The development is already served by a formal access from Quickly Lane where it adjoins the proposed extended parking area. The parking area is private and does not form part of the public highway. The Highway Authority do not object to the use and intensification of the existing access.
- 8.8.4 During the application process cycle storage has been provided for the proposed dwellings in line with the requirement of 1 long-term space per unit as set out within the Cycle Parking Standards at Appendix 5 of the Development Management Policies LDD.
- 8.8.5 It is acknowledged that a number of objections have highlighted parking on surrounding roads as an issue and raise concerns that the introduction of a further 6 units would add further parking pressure locally. However, when considering the very minor shortfall, the sustainable location of the application site and the introduction of 3 visitor spaces it is considered that parking levels are acceptable. In the event of an approval, the Highway Authority require that all parking spaces are laid out, demarcated, levelled, surfaced and drained and that a Construction Management Plan is submitted.

8.9 Amenity Space

- 8.9.1 Within the Design Criteria as set out within Appendix 2 of the Development Management Policies LDD it states that for a three bed dwelling an indicative amenity space of 84sqm should be attained as either individual gardens or in part, as space forming settings for the buildings.
- 8.9.2 Each dwelling would have a rear terrace and a useable garden area with the approximate levels set out below:

Plot 1: 51sqm
Plot 2: 44sqm
Plot 3: 68sqm
Plot 4: 120sqm
Plot 5: 78sqm
Plot 6: 100sqm

8.9.3 In light of the above levels it is evident that plots 1, 2, 3 and 5 do not comply with the amenity space standards. However, such standards are indicative and regard should also be had to the surrounding area which includes gardens of a similar size at the terraces within Clovers Court and Juniper Court. It is not considered the shortfall would be unacceptable to the residential amenity of future occupiers, however, it is further indicative that the scheme represents overdevelopment of the site.

8.10 Trees

8.10.1 Policy DM6 of the Development Management Policies LDD states that development proposals should seek to retain trees and other important landscape and nature conservation features whilst including new trees and other planting to enhance the landscape of the site and its surroundings as appropriate. It also states that development should be designed in such a way as to allow trees and hedgerows to grow to maturity without causing undue problems of visibility, shading or damage and that development likely to result in future requests for significant topping, lopping or felling will be refused.

8.10.2 The application site contains a number of trees towards the rear of the site, abutting the rear boundaries. The trees adjacent to the boundary with Terre Haute are protected. A number of trees also exist along the boundary with No.8 Rendlesham Way. All trees are shown to be retained.

8.10.3 From the submitted details it is evident that the rear gardens of plots 4, 5 & 6 are to be significantly lowered which will involve relatively substantial excavations. As no Arboricultural Method Statement has been submitted with the application it is unclear as to whether such works would have a harmful impact on the protected trees which are of high amenity value. Whilst the Landscape Officer has requested the submission of a method statement as a condition along with tree protection, there are concerns that if the change in land levels are found to be harmful, the levels of the garden would need to be changed. As such, it is not considered that the imposition of a condition would be able to adequately deal with this issue due to the potential complications this would have on the submitted scheme. The development has therefore failed to demonstrate that the works within the rear gardens would safeguard the protected trees and thus fails to comply with Policy DM6.

8.10.4 All other proposed soft landscaping areas within the parking area and between the two rows of terraces can be conditioned in the event of an approval.

8.11 Wildlife and Biodiversity

8.11.1 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.

8.11.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of this application in accordance with Policy CP9 of the Core Strategy and Policy DM6 of the Development Management Policies document. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications where biodiversity may be affected prior to the determination of a planning application. A Biodiversity Checklist was submitted with the application and states that no

protected species or biodiversity interests will be affected as a result of the application. The site is not in or located adjacent to a designated wildlife site. The Local Planning Authority is not aware of any records of protected species within the immediate area that would necessitate further surveying work being undertaken and given the nature of the proposed development there would not be any adverse impacts on biodiversity.

8.12 Refuse and Recycling

8.12.1 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

8.12.2 The submitted details show limited tracking details however Environmental Protection have confirmed that access is acceptable and achievable.

8.12.3 The proposal also seeks to enhance refuse and recycling storage for existing occupiers of the terraces and internal storage for the new dwellings. In the event of an approval, further details of external refuse and recycling storage would be required.

8.13 Sustainability

8.13.1 Paragraph 148 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”.

8.13.2 Policy CP1 of the Core Strategy sets out that all applications for new residential development of one unit or more will be required to submit an Energy and Sustainability Statement demonstrating the extent to which sustainability principles have been incorporated into the location, design and construction. Policy DM4 of the Development Management Policies Document states that from 2016 applicants will be required to demonstrate that development will meet a zero carbon standard. However, the Government is not currently proceeding with a definition of zero carbon and therefore the requirement remains that development should provide 5% less Carbon Dioxide than Building Regulations Part L (2013) having regard to feasibility and viability.

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

8.13.4 The applicant has submitted an Energy Statement which confirms compliance with Policy DM4 via the use of Air Source Heat Pumps, low energy lights and hot water controls.

8.14 Infrastructure Contributions

8.14.1 Policy CP8 of the Core Strategy requires development to make adequate contribution to infrastructure and services. The Three Rivers Community Infrastructure Levy (CIL) was adopted in February 2015 and came into force on 1 April 2015. CIL is therefore applicable to this scheme. The Charging Schedule sets out that the application site is within 'Area A' within which the charge per sqm of residential development is £180 per sqm.

8.15 Summary

8.15.1 In summary, whilst the principle of new dwellings towards the rear of the application site is not considered unacceptable having regard to the varied character of the area, the current proposal would have a harmful impact upon No.6 Rendlesham Way and represents overdevelopment of the site due to its said impact to the abovementioned property and the lack of amenity space serving a number of the proposed dwellings. It has also not been demonstrated that the protected trees within the site would be not harmed as a result of the development. Furthermore, in the absence of an agreement under the provisions of Section 106 of the TCPA, the development fails to contribute to the provision of affordable housing.

9 **Recommendation**

9.1 That PLANNING PERMISSION BE REFUSED for the following reasons:

R1: The proposed development by virtue of the design, height and siting of Unit 1 (plot 1) would result in an unduly prominent and un-neighbourly form of development towards No.6 Rendlesham Way. In addition, due to the orientation of the sun Unit 1 would also result in significant overshadowing of the rear garden serving No.6 Rendlesham Way, to the detriment of the occupiers' enjoyment of their property. As a result, the development fails to have regard to protecting the visual and residential amenity of No.6 Rendlesham Way and is contrary to Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

R2: The proposed development by virtue of the number of units, layout and lack of amenity space provision when taken cumulatively would result in an overdevelopment of the site to the detriment of the area's character. The development would therefore be contrary to Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

R3: The development fails to demonstrate that the protected trees towards the rear of the site, adjacent to the boundary with Terre Haute, would not be harmed as a consequence of land level alterations serving plots 4, 5 and 6. The development therefore fails to comply with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM6 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

R4: In the absence of an agreement under the provisions of Section 106 of Town and Country Planning Act 1990, the development would not contribute to the provision of affordable housing. The proposed development therefore fails to meet the requirements of Policy CP4 of the Core Strategy (adopted October 2011) and the Affordable Housing Supplementary Planning Document (approved June 2011).

9.2 **Informatives:**

I1 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 has considered, in a positive and proactive manner, whether the planning objections to this proposal could be satisfactorily resolved within the statutory period for determining the application. Whilst the applicant and the Local Planning Authority engaged in pre-application

discussions, the proposed development fails to comply with the requirements of the Development Plan and does not maintain/improve the economic, social and environmental conditions of the District.