**14. 16/1169/OUT – Outline Application: Construction of three detached dwellings to include reuse of existing access from Old Chorleywood Road with alterations to access (appearance, landscaping and scale reserved) at LAND REAR OF OLD CHORLEYWOOD ROAD, RICKMANSWORTH for Millen Homes Ltd**

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| --- | --- |
| Parish: Non-Parished | Ward: Rickmansworth Town |
|  |  |
| Expiry Statutory Period: 10 October 2016 | Officer: Rob Morgan |
|  | |
| Recommendation: That planning permission be granted | |
|  | |
| Reason for consideration by the Committee: Called in by three committee members | |

1 **Relevant Planning History**

1.1 Application Site

1.1.1 16/0976/PREAPP - Demolition of existing dwellings and the erection of 4 residential blocks comprising approximately 42 apartments and 3 townhouses with associated parking and landscaped gardens. Summary of response dated 21.06.2016:

*‘Whilst no objection is raised to the principle of the demolition of the three existing detached dwellings on Old Chorleywood Road, it is considered that the proposed development would introduce a form of development that would be at odds with and would fail to maintain the character and appearance of the area. Additional concerns are raised regarding the impact of the development on the residential amenity of existing neighbouring occupiers and proposed future occupiers of the development and in relation to the level of car parking proposed to serve the development.’*

1.1.2 08/0775/FUL - Removal of unofficial Builders Yard and erection of three detached dwellings with basement level, using existing access off Old Chorleywood Road and associated tree works and alterations to access. Refused 23.05.2008 for the following reasons:

R1 The proposed development by reason of its siting, bulk, height, inclusion of balconies and proposed fenestration would result in an overbearing form of development. This would result in actual and perceived overlooking of both the existing and the adjacent proposed dwellings and their residential curtilages to an unacceptable degree detrimental to the residential amenities of the occupiers of those dwellings, contrary to Policies H14, GEN3 and Appendix 2 of the Three Rivers Local Plan 1996 – 2011.

R2 The proposed development fails to make adequate provision for the manoeuvring of refuse vehicles within the layout of the site contrary to the provisions of Policy N10 of the Three Rivers Local Plan 1996 - 2011.

1.2 Rear of 137A The Drive

1.2.1 16/1668/FUL - Construction of detached dwelling to include reuse of existing access from Old Chorleywood Road with alterations to access. Pending consideration.

1.2.2 15/1603/FUL - Construction of detached dwelling to include reuse of existing access from Old Chorleywood Road with alterations to access. Refused 02.11.2015 for the following reason:

R1 In the absence of an agreement under the provisions of Section 106 of Town and Country Planning Act 1990, the development would not contribute to the provision of affordable housing. The proposed development therefore fails to meet the requirements of Policy CP4 of the Core Strategy (adopted October 2011) and the Affordable Housing Supplementary Planning Document (approved June 2011).

This application was allowed at appeal on 03.06.2016.

1.2.3 15/0769/OUT - Outline Application: Construction of detached dwelling to include reuse of existing access off of Old Chorleywood Road and woodland management (appearance, landscaping and scale reserved). Refused 16.06.2015 for the following reasons:

R1 The proposed development would constitute an excessively prominent, overbearing and overly dominant form of development in relation to 137 and 137a The Drive and would result disturbance to Woodlands from use of the access. It would therefore be detrimental to the residential amenities of the occupiers of neighbouring dwellings and would be contrary to Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies document (adopted July 2013).

R2 The proposed garage would encroach into the Root Protection Area of a protected Oak tree (T34), it has not been demonstrated that the access road would not detrimentally affect protected trees and the development would lead to pressure for future works to protected trees as a consequence of the proximity of the trees to the development leading to overshadowing and perceived danger to the application dwelling and garage. The development would therefore adversely affect the future health and longevity of these trees which are protected by Tree Preservation Orders TPO063 and TPO149 to the detriment of the character and visual amenities of the area. The need for and benefits of the development would not outweigh the harm to the protected trees and the development would therefore be contrary to 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).

1.2.4 8/359/80 - Erection of a cottage. Refused and subsequently dismissed at appeal. The Inspector upheld the following reasons as justifying the refusal of the appeal:

* Inappropriately steep fall in access road
* Dwelling too far from Old Chorleywood Road to properly install domestic infrastructure
* Outlook of majority of habitable rooms inappropriately curtailed by slope of land
* Significant overshadowing of habitable rooms
* Significant loss of trees.

2. **Detailed Description of Application Site**

2.1 The application site consists of land to the rear of three residential dwellings fronting Old Chorleywood Road; Woodlands, Dell House and Banstead Down and an unmade access of approximately 50m in length from a service road off Old Chorleywood Road which runs along the southern flank boundary of Woodlands. The main part of the site is rectangular in shape and measures an area of approximately 2,580sq.m. The site is steeply sloping from Old Chorleywood Road to the east down to the rear gardens of the adjacent properties on The Drive to the west.

2.2 Woodlands, Dell House and Banstead Down to the east are detached dwellings that front Old Chorleywood Road. The west site boundary adjoins the rear boundaries of odd nos. 131 – 135 The Drive; detached dwellings with rear gardens of some 17m - 20m in depth. The north site boundary largely adjoins the rear boundary of no. 4 Goosefields, a detached dwelling with a rear garden depth of around 13m and the flank boundary of no. 5 Bankside Down. The dwellings to the north are set to the rear of the established linear development on Chorleywood Road and The Drive.

2.3 To the south of the site is land to the rear of no. 137A The Drive which is subject to a separate planning consent for the erection of one dwelling served by the same access that forms part of the application site (application ref: 15/1603/FUL). There is also a current planning application for an amended scheme for the erection of one dwelling which is pending consideration (application ref: 16/1668/FUL).

3. **Detailed Description of Proposed Development**

3.1 This application seeks outline consent for the erection of three detached dwellings, to include the reuse of the existing access from Old Chorleywood Road with alterations to the access. The application seeks approval for access and layout with appearance, landscaping and scale to be reserved matters.

3.2 The application seeks to formalise the existing access onto Old Chorleywood Road to provide vehicular access to three detached dwellings to be sited to the rear of the three dwellings on Old Chorleywood Road. The access is to turn to the north to run along the rear boundaries of the existing dwellings on Old Chorleywood Road and is to incorporate a turning head at its northern point.

3.3 The three detached dwellings proposed would front the extended access to the east and would be sited approximately 4m – 6m back from the access. The plots have been labelled as plots 1 – 3 from south to north.

3.4 Plot 1 would measure approximately 10m – 17m in width and 26m in depth with a splayed southern flank boundary. Plot 2 would measure approximately 11m in width and 27m in depth and Plot 3 would measure approximately 13m in width and 25m in depth. A garage is indicated as being sited to the frontage of Plot 3 at the head of the extended access.

4. **Consultation**

4.1 Herts Property Services

4.1.1 Summary: Seek provision of fire hydrants.

4.1.2 *‘I refer to the above mentioned application and am writing in respect of planning obligations sought by the County Council towards fire hydrants to minimise the impact of development on Hertfordshire County Council Services for the local community.*

*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 firefighting 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*](http://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 firefighting 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 firefighting 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 firefighting 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 if minded to grant consent or, in the event of an appeal, information can be submitted in support of the requested provision.’*

4.2 National Grid

4.2.1 No comments received.

4.3 Herts Ecology

4.3.1 No comments received.

4.4 Herts & Middlesex Wildlife Trust

4.4.1 No comments received.

4.5 Thames Water

4.5.1 Summary: No objection.

4.5.2 *‘Waste Comments*

*Surface Water Drainage - With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of groundwater. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0800 009 3921.*

*Reason - to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.*

*Thames Water would advise that with regard to sewerage infrastructure capacity, we would not have any objection to the above planning application.*

*Legal changes under The Water Industry (Scheme for the Adoption of private sewers) Regulations 2011 mean that the sections of pipes you share with your neighbours, or are situated outside of your property boundary which connect to a public sewer are likely to have transferred to Thames Water's ownership. Should your proposed building work fall within 3 metres of these pipes we recommend you email us a scaled ground floor plan of your property showing the proposed work and the complete sewer layout to developer.services@thameswater.co.uk to determine if a building over / near to agreement is required.*

*Water Comments*

*With regard to water supply, this comes within the area covered by the Affinity Water Company. For your information the address to write to is - Affinity Water Company The Hub, Tamblin Way, Hatfield, Herts, AL10 9EZ - Tel - 0845 782 3333.’*

4.6 Affinity Water

4.6.1 No comments received.

4.7 Highway Authority

4.7.1 Summary: No objection, subject to conditions.

4.7.2 *‘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. The development shall not begin until the details of the layout, construction of the altered access to Old Chorleywood Road and on-site turning head provision have been submitted to and approved in writing by the Local Planning Authority in conjunction with the Highway Authority. No dwelling shall be occupied until the access has been laid out and constructed in accordance with the approved details.*

*Reason: To minimise danger, obstruction and inconvenience to users of the highway and the access.*

*2. Within one month of the altered access being brought into use, all other existing access points not incorporated into the development hereby permitted shall be stopped up by raising the existing dropped kerb and reinstating the footway, verge and highway boundary to the same line, level and detail as the adjoining footway, verge and highway boundary.*

*Reason: To limit the number of access points along the site boundary for the safety and convenience of highway users.*

*3. The development shall not be occupied until the details of garaging, parking and maneuvering has been submitted to and approved in writing by the Local Planning Authority in conjunction with the Highway Authority and that area shall not thereafter be used for any other purpose.*

*Reason: To enable vehicles to draw off, park and turn clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway.*

*4. Prior to the commencement of the site works details of on-site parking for all contractors, sub-contractors, visitors and delivery vehicles shall be approved in writing by the Local Planning Authority in conjunction with the Highway Authority and that area shall be maintained available for use at all times during the period of site works.*

*Reason: To minimise danger, obstruction and inconvenience to users of the highway.*

*Informative:*

*I1 The applicant is advised that a license must be obtained from the Highway Authority before any works are carried out on any land forming part of the highway. Prior to commencement of any works the applicant is advised to contact the County Council Highways via either the website http://www.hertsdirect.org/services/transtreets/highways/ or telephone 0300 1234047 to enter into the necessary agreement with the highway authority to enable works in the highway to proceed.*

*Comments:*

*This is an outline application for the construction of three detached dwellings to include reuse of existing access from Old Chorleywood Road. Section 6 of the application indicates the development does not involve a new access or alteration of an existing access to the highway.*

*The submitted Drawing OCWR001 indicates the new dwellings to be served by a private drive from Old Chorleywood Road, which is a service road adjacent to Chorleywood Road (A404). The submitted design and access statement confirms that the existing accessway will be resurfaced to provide 4.1m wide carriageway and a passing place to serve the development site. There is sufficient width at the initial 10m of the drive to allow vehicles to pass each other. Levels on the drive fall away from the adjacent highway thus minimising the possibility of surface water draining onto the adjacent highway.*

*The construction of the private drive will however necessitate the removal of a considerable length of hedgerow and trees. Therefore, detailed plans are required to be approved. Accordingly, a planning condition has been recommended to cover this issue.*

*The proposal also includes a turning head to adoptable standard for service and emergency vehicles. Please note that the previous application (Ref: 08/0775/FUL) for the site concerned was partly refused on the basis of inadequate provision of refuse vehicles within the site layout. This lack of provision has been taken into account as part of this planning application.*

*Under these circumstances I do not consider I could substantiate an objection to the proposal and recommend the above planning conditions.’*

4.8 Landscape Officer

4.8.1 Summary: Tree Survey required.

4.8.2 *‘I refer to my colleagues remarks made on the 16/0976/PREAPP. Dwellings are now proposed rather than blocks. This makes the character of the surrounding area being affected less significant.*

*The application for the rear of 137A The Drive has allowed for a no dig design for the access and egress route on site including a turnaround area.*

*However, the large Oak and Ash tree, as mentioned in the 16/0976/PREAPP advice will have their root protection area (RPA) affected and as such we will require a Tree Survey for the site with the proposed three new dwellings. This is to ensure that these trees’ RPA are not compromised.’*

4.8.3 The Landscape Officer’s comments in relation to 16/0976/PREAPP are provided below for information:

*‘I would like to make an objection to this application on tree and landscape character grounds.*

*The site is covered by a two Tree Preservation Orders:*

1. *Three Rivers (Chorleywood Road) TPO 1972/75 [ref: TPO063]*
2. *Three Rivers (Chorleywood Road No. 4) TPO 1980 [ref: TPO149]*

*It would appear that the plans show the existing trees incorrectly. Compared to previous detailed tree surveys carried out on the site of 137A The Drive, significant trees have been omitted; of particular concern is the previously identified T34 a very significant (veteran) Oak tree and the Ash T9 sited on the bank of the access drive (reference to appeal APP/P1940/W/16/3144167).*

*The recent appeal decision has permitted the construction of one dwelling within this part of the site. This dwelling requires the removal of only three small Sycamore trees. The siting of this dwelling and the associated garage and the impact that it would have on the protected woodland was a significant consideration when determining the previous application and subsequent appeal. The garage was moved during the design process so as to reduce any detrimental impact on the rooting system of this significant tree.*

*The introduction of a block of three dwellings is wholly inappropriate to the site. It would mean that a significant number of protected trees would need to be removed from within the woodland (W1 of TPO149). This would have a significant and detrimental impact on the character and visual appearance of the area including views from the lower lying residential area to the west and also views into the site from Chorleywood Road and the neighbouring Chorleywood Road Cemetery. Any trees remaining on the site following any development of this nature would then be at further risk due to the fact that most of what remains of the site would be under woodland canopy, and as a result there would be significant pressure to carry out works to fell additional trees in order to provide usable garden/amenity space. There may also be a concern from future occupiers of the properties that the trees may pose a risk to their property.*

*While the remainder of the site seems to have a few trees already protected by a TPO, I am concerned that they are not all shown as retained on the proposed site layout plan. There are a significant number of trees on the site positioned around the periphery of the site and others within the site are generally of more limited amenity value. While individually these trees may not be considered significant, they play a significant part in defining the plot size and thus the character of properties in the surrounding area. The character is very much one of large spacious well wooded plots. The proposals seem to have no respect for this character and have created one huge space in which it is proposed to bulldoze through an access road which will open up views into the site from Chorleywood Road and will as a result impact significantly on the character and appearance of the area.*

*The site is in an elevated position and slopes significantly east to west, which means that any substantial development of this site will be visually intrusive to properties to the west and likely to be overlooking and overbearing to these residential properties.*

*Access to the site is proposed along a similar route to the proposed access to the appeal site (i.e. along the unmade lane) however it will need to be upgraded significantly to accommodate the increased number of dwellings proposed on the site. The proposed new levels of the access driveway will require a significant change in land levels within the Root Protection Area of protected trees, likely to impact on the long-term health of these trees. This will also result in a significant opening up of the site visually from Chorleywood Road, which will be detrimental to the character and visual appearance of the area. The three large residential blocks within the main site are likely to be clearly visible from Chorleywood Road and from established residential land on lower ground to the west. Remaining trees (both protected and unprotected) are likely to be at risk from a number of activities on the site.’*

4.9 Hertfordshire Ecology

4.9.1 No comments received.

4.10 Herts & Middlesex Wildlife Trust

4.10.1 No comments received.

5. **Neighbour Consultation**

5.1 No. consulted: 7 No. responses: 8

5.2 Site Notice: Posted 26 August 2016 and expires 16 September 2016.

Press Notice: Not required.

5.3 Summary of Responses:

5.3.1 Character

* Overdevelopment
* Backland development
* Dwellings would be sited close to the plot boundaries which is out of keeping with the spacious quality of the area.
* The three dwellings appear of a similar design which is out of keeping with the diverse character of dwellings in the area.
* Increased vehicular movements in a woodland environment.

5.3.2 Residential Amenity

* Loss of privacy to residents of dwellings fronting The Drive due to significant land level change. The trees which provide some screening are deciduous and overlooking would be even greater in winter
* Loss of privacy from bedrooms of Plot 3 to no. 4 Goosefields which is on lower land level
* Loss of light.

5.3.3 Highway Safety

* Old Chorleywood Road is used as a ‘turnaround’ for visitors of the Royal Masonic School
* Levels of traffic are high in the area particularly at school pick-up and drop-off times
* Construction vehicles during any works would find it difficult to enter and exit Old Chorleywood Road causing congestion on the A404
* Intensification of the use of the access would harm wildlife and trees and cause disturbance to neighbours.

5.3.4 Other Matters

* The existing garden land provides permeable land and protects dwellings fronting The Drive and Goosefields from increased flood risk
* Loss of habitat
* Loss of trees
* Does not overcome previous refusal of 08/0775/FUL
* Noise disturbance during construction
* Insufficient turning space for service / emergency vehicles
* Development does not contribute to the housing crisis.

6. **Reason for Delay**

6.1 Not applicable.

7. **Relevant Local Planning Policies:**

7.1 National Planning Policy Framework (NPPF)

7.1.1 On 27 March 2012, the framework of government guidance in the form of Planning Policy Statements and Planning Policy Guidance Notes was replaced by the National Planning Policy Framework (NPPF). The adopted policies of Three Rivers District Council reflect the content of the NPPF.

7.2 The Three Rivers Local Plan Core Strategy:

7.2.1 The Core Strategy was adopted by the Council on 17 October 2011. Relevant Policies include: PSP1, CP1, CP2, CP3, CP4, CP8, CP9, CP10 and CP12.

7.3 Development Management Policies LDD:

7.3.1 The Development Management Policies LDD was adopted on 26 July 2013 having been through a full public participation process and Examination in Public. Relevant policies include: DM1, DM4, DM6, DM9, DM10, DM13 and Appendices 2 and 5.

7.4 Other

7.4.1 The following Acts and legislation are also relevant: The Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, the Natural Environment and Rural Communities Act 2006 Habitat Regulations 1994, the Localism Act 2011 and the Growth and Infrastructure Act 2013.

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

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

8. **Analysis**

8.1 Outline Nature of Application

8.1.1 The application has been submitted in outline and consequently only those matters which are not reserved may be given significant weight. This application is seeking approval for access and layout; appearance, landscaping and scale are reserved matters.

8.1.2 The application may acknowledge the design, massing and height of the dwelling, together with consideration of landscaping and parking but may not give these matters significant weight as they would be assessed and agreed at a subsequent stage should outline approval be granted.

8.2 Principle of Development

8.2.1 The proposed development would result in a net gain of three dwellings on the site. The application site is not identified as a housing site in the Site Allocations LDD (SALDD) (adopted November 2014) and would therefore be considered as a windfall site. As advised in the SALDD, 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.

8.2.2 Policy CP2 of the Core Strategy (adopted October 2011) 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:

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

8.2.3 The application site is within Rickmansworth which is identified as the Principal Town in the Core Strategy. The Spatial Strategy of the Core Strategy identifies that new development will take place on previously developed land and appropriate infilling opportunities within the Principal Town and Core Strategy Policy PSP1 advises that approximately 15% of the District's housing supply is expected to come from within the Principal Town.

8.2.4 Three Rivers does currently have a five year supply of identified land for housing and the proposed dwelling would not be on previously developed land. However, given the location of the site within the Principal Town and that the development would be within a residential area, there is no in principle objection to residential development of the application site subject to assessment against all other relevant policies and material planning considerations.

8.3 Impact on Character and Street Scene

8.3.1 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.’*

8.3.2 In terms of new residential development, Policy DM1 of the Development Management Policies LDD (adopted July 2013) advises that the Council will protect the character and residential amenity of existing areas of housing from forms of new residential development which are inappropriate for the area. Development will only be supported where it can be demonstrated that the proposal will not result in:

1. Tandem development
2. Servicing by an awkward access drive which cannot easily be used by service vehicles
3. Loss of residential amenity
4. Layouts unable to maintain the particular character of the area in the vicinity of the application site in terms of plot size, building footprint, plot frontage width, frontage building line, height, gaps between buildings and streetscape features (e.g. hedges, walls, grass verges etc.).

8.3.3 Policy DM1 and Appendix 2 of the Development Management Policies LDD also 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.

8.3.4 The application clearly proposes backland development with all three proposed dwellings to be sited on a parcel of land to the rear of existing residential development on three sides and with the existing wooded area to the south having been recently granted planning permission for one dwelling, albeit works are yet to commence.

8.3.5 Despite proposing development directly to the rear of existing dwellings, the proposal does not fall into the category of tandem development. Tandem development is defined in the Development Management Policies LDD as, *‘two or more houses directly behind one another on the same plot and sharing the same access.’* In this instance, the proposal would utilise the existing and altered access onto Old Chorleywood Road without connecting to the plots or accesses of the existing dwellings. The Highway Authority also considers that an appropriate access would be provided to serve the development which will be discussed in detail in the relevant section below.

8.3.6 With regard to the proposed layout, the plot shapes and sizes and siting of dwellings to the rear of existing residential development would be similar to previous developments within the area including the adjacent residential developments of Goosefields and Bankside Down. While it is recognised that Bankside Down predates many surrounding properties, it nevertheless has the visual appearance of backland development when seen from Chorleywood Road, Old Chorleywood Road and The Drive. Furthermore, residential development at the land immediately to the south of the application site and sharing the same access road from Old Chorleywood Road was recently granted planning permission at appeal for the erection of one detached dwelling which would have a similar backland relationship to surrounding built form as that currently proposed.

8.3.7 As a result of the development the rear gardens of the three dwellings fronting Old Chorleywood Road would be reduced in depth. However, these plots would remain longer in length than any of the surrounding properties and it cannot be considered that the subdivision of these plots would have a detrimental impact on the character of the area where spacious plots often abutting development to the rear is a significant part of the area’s visual appearance and character.

8.3.8 Consequently, while the development constitutes backland development, it is not considered to be detrimental to the character of the area. It is also noted that under application 08/0775/FUL for four dwellings across the application site and land immediately to the south, given the nearby developments in the area and the nature of the proposed development, an objection on character grounds was not considered justified given that the plots would have been comparable to others in the area.

8.3.9 While appearance and scale are reserved matters, the submitted site layout plan indicates that the three dwellings would be detached properties. The construction of detached dwellings would reflect the general character of development in the area on both Chorleywood Road and Old Chorleywood Road to the east and The Drive to the west.

8.3.10 A building, assumedly a garage, would be sited to the frontage of Plot 3. The siting of such a building to the frontage of dwellings would not be uncharacteristic of the existing pattern of development in the area with nos. 1 and 4 Goosefields to the north both containing similar structures within their frontages.

8.3.11 Therefore, the proposed layout and access is considered to have an acceptable impact on the character and appearance of the street scene and wider area in accordance with Policies CP1, CP3 and CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies LDD.

8.4 Impact on Residential Amenity

8.4.1 Policy CP12 of the Core Strategy advises that development will be expected to protect residential amenity.

8.4.2 Policy DM1 and Appendix 2 of the Development Management Policies LDD 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.

8.4.3 In relation to privacy, Appendix 2 comments that windows of habitable rooms at first floor level should not generally be located in flank elevations and flank windows serving other rooms should be non-opening below 1.7m from the internal floor level and obscure glazed. Furthermore, distances between buildings should be sufficient so as to prevent overlooking with an indicative figure of 28m quoted as being required between the faces of single or two storey buildings backing onto each other or in other circumstances where privacy needs to be achieved.

8.4.4 The proposal would see the construction of three dwellings to the rear of dwellings fronting Old Chorleywood Road and The Drive with a separation distance of some 45m between the properties. The dwellings would be sited on a steeply sloping site with dwellings fronting Old Chorleywood Road set at a higher land level than the proposed dwellings and those in turn at a higher land level than dwellings fronting The Drive. The outline nature of the application is such that appearance and scale are reserved matters and cannot be assessed under the current proposal. The determination of the current application therefore depends upon the acceptability of the layout of three dwellings in relation to neighbouring residential amenity, as well as the access.

8.4.5 From the perspective of the properties on Old Chorleywood Road; Woodlands, Dell House and Banstead Down, the fall in land level would be sufficient to ensure that the erection of three dwellings with the layout proposed would not appear unduly prominent or result in a loss of light to the neighbouring properties. The separation distance would also exceed the indicative 28m separation distance and overlooking from any front facing windows of the proposed dwellings would not result in unacceptable overlooking of the neighbours.

8.4.6 Given the steepness of the slope and the separation distance of over 40m between the proposed and existing dwellings on Old Chorleywood Road, occupiers of the higher properties would not have direct visibility of front facing windows of the proposed dwellings and would be unlikely to have views into the private amenity areas to the rear which would be screened by the dwellings themselves. As such, overlooking to the proposed dwellings is not considered to be significant from these existing dwellings.

8.4.7 While a similar separation distance of approximately 45m would be achieved between the rear walls of the dwellings and those properties at odd nos. 131-135 The Drive, the proposed dwellings would be set at a significantly higher land level and the proposed erection of three dwellings would therefore have a greater impact on the residential amenities on these neighbours. However, given that scale and appearance are reserved matters it cannot be justified that any three dwellings set within the proposed layout would have a significant detrimental impact on the residential amenities of neighbouring properties on The Drive.

8.4.8 In this regard it is noted that a recent appeal at the land immediately to the south of the application site, rear of no. 137A The Drive, for the erection of one detached dwelling with a similar relationship to neighbours to the west was considered acceptable (application ref: 15/1603/FUL). In this instance, the dwelling was sited closer to the adjacent neighbour than the dwellings proposed but its catslide roof design resulted in a significant reduction in height, bulk and massing at close proximity to the boundary. The Inspector therefore found that:

*‘No 137 is a one and a half storey property set well below the appeal site. The ground level of the proposed dwelling would therefore be at least 6m above the eaves of no. 137. This can be a factor that could* increase the possibilities *for overlooking or overbearing. However, I note here that the combination of the low eaves height proposed for the appeal property and the removal of directly facing interaction as a result of the proposed dwelling’s repositioning, would counter-act this factor, especially in respect of any loss of privacy to the dwelling at No 137.’*

8.4.9It is therefore not considered that a reason for refusal could be justified with regard to the potential detrimental impact that the dwellings would have on the residential amenities of neighbouring properties fronting The Drive and similarly those lower level dwellings fronting Goosefields and Bankside Down. An acceptable layout is considered to be proposed for the erection of three dwellings with adequate spacing between properties to protect the neighbouring residential amenities with the impact of the scale and appearance of the dwellings being considered under subsequent reserved matters application(s) should outline consent be granted.

8.4.10 It is noted that planning application 08/0775/FUL was refused due to the overbearing impact and unacceptable actual and perceived overlooking that would be caused by the proposal. In this instance the proposal sought permission for four dwellings described by the officer’s report as, *‘of a height suggesting four storey dwellings.’* This is not the case under the current outline application and the previous reason for refusal is not considered to apply in this case but would be a material consideration in the determination of any subsequent reserved matters application(s).

8.4.11 In a similar vein to the impact of the proposed dwellings on those dwellings fronting Old Chorleywood Road, it is not considered that the lower level dwellings fronting The Drive would have a significant overbearing impact or result in unacceptable overshadowing of the proposed dwellings. Furthermore, sufficient back to back separation distances, together with the change in land level, would be achieved to prevent unacceptable overlooking of the proposed rear gardens or any habitable rear windows of the proposed dwellings.

8.4.12 The access to serve the dwelling would be adjacent to the south flank boundary of Woodlands and would be in close proximity to Gravel House. This is an existing access, although it is currently unmade and does not serve built development within the application site. It is noted that planning permission has recently been granted for the use of this access to serve one detached dwelling at land to the rear of 137A The Drive.

8.4.13 The proposed resurfacing and use of the access to serve three dwellings, four if the dwelling to the south were also constructed, would be likely to result in increased vehicle movements in close proximity to the flank boundary of Woodlands which is set within 2m of the access.

8.4.14 It is noted that disturbance to Woodlands from use of this access was included within the reason for refusal of application 15/0794/OUT for the erection of one dwelling at land to the rear of 137A The Drive. However, following this refusal planning permission has been granted at appeal under application 15/1603/FUL for the erection of a dwelling on this site. The Council considered that the use of the access to serve one single residential dwelling would not result in a significant intensification of the use of the access which would lead to demonstrable harm to the neighbour and the Inspector did not comment on this matter.

8.4.15 Furthermore, application 08/0775/FUL for the erection of four dwellings on the application site and the land to the rear of 137A The Drive did not include an objection with regard to the impact of noise disturbance from the access on neighbouring residents.

8.4.16 The current application seeks outline consent for the erection of three dwellings and the resulting intensification of the use of the access and associated noise or disturbance to the neighbours on either side of the access would largely be dependent on the size of the dwellings. However, the use of the access to serve three to four dwellings is not considered to result in significant vehicular movements which would result in demonstrable harm to the neighbouring dwellings. The use of the access and its impact on the immediately adjacent neighbours would be similar to the relationship at Goosefields and Bankside Down and sufficient separation between Woodlands and Gravel House and the access is considered to be retained to reduce the impact of noise or disturbance so as not to cause demonstrable harm to the residential amenities of these neighbours justifying refusal of permission.

8.4.17 Overall, it is not considered that the proposed layout and access for the erection of three dwellings would result in demonstrable harm to the residential amenities of neighbouring properties and the development would be acceptable in accordance with Policies CP1 and CP12 of the Core Strategy and Policies DM1 and DM9 and Appendix 2 of the Development Management Policies LDD.

8.5 Amenity Space Provision

8.5.1 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: Amenity Space of Appendix 2 of the Development Management Policies LDD sets out indicative amenity space standards as follows:

1 bedroom dwelling – 42sq.m

2 bedroom dwelling – 63sq.m

3 bedroom dwelling – 84sq.m

4 bedroom dwelling – 105sq.m

Additional bedrooms – 21sq.m each.

8.5.2 The proposed layout would achieve rear gardens ranging from 320sq.m – 440sq.m. The layout would therefore achieve acceptable amenity spaces to serve the proposed dwellings in excess of the indicative standards.

8.5.3 While the depth of the rear gardens of the three dwellings fronting Old Chorleywood Road would be reduced, these gardens would still far exceed the indicative standards.

8.6 Landscaping & Trees

8.6.1 Policy DM6 of the Development Management Policies LDD sets out that development 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.

8.6.2 The Landscape Officer has advised that a Tree Survey should be submitted to demonstrate that the layout of the proposed three dwellings would not compromise the root protection area of the large Oak and Ash trees. The applicant has been advised of this requirement and an update will be provided to members at the committee meeting.

8.7 Highways, Parking & Access

8.7.1 Policy CP10 of the Core Strategy sets out that development will need to demonstrate that is provides a safe and adequate means of access and requires development to make adequate provision for all users, including car parking, giving priority to people with mobility difficulties, pedestrians, cyclists and equestrians.

8.7.2 The Highway Authority has raised no objection to the proposed development which is therefore not considered to have a detrimental impact on highway safety. The Highway Authority has noted that inadequate provision for refuse vehicles within the site layout formed part of the basis of the refusal of planning application 08/0775/FUL on this site but states that this lack of provision has been taken into account as part of this application through the inclusion of a turning head to an adoptable standard.

8.7.3 Policy DM13 of the Development Management Policies LDD requires development to make provision for parking in accordance with the parking standards set out at Appendix 5 of the Development Management Policies LDD as follows:

1 bedroom dwelling – 1.75 spaces per dwelling (1 assigned space)

2 bedroom dwelling – 2 spaces per dwelling (1 assigned space)

3 bedroom dwelling – 2.25 spaces per dwelling (2 assigned spaces)

4 or more bedroom dwelling – 3 spaces per dwelling (3 assigned spaces).

8.7.4 The parking provision would form part of the consideration of any subsequent reserved matters application(s). However, it is noted that the proposed layout and access would provide acceptable spacing to the frontage of each dwelling to accommodate off-street car parking; the Design and Access Statement comments that parking would be provided at four spaces per dwelling.

8.8 Sustainability

8.8.1 Policy DM4 of the Development Management Policies LDD states that from 2016, applications for new residential development will be required to demonstrate that the development will meet a zero carbon standard (as defined by central government). However, the Government is yet to provide a definition for zero carbon and the Council is therefore continuing to apply the 2013 requirements, i.e. applicants will be required to demonstrate that development will produce 5% less carbon dioxide emissions than Building Regulations Part L (2013) requirements having regard to feasibility and viability.

8.8.2 As this application is for outline permission with appearance and scale reserved matters, a full Energy Statement has not been submitted with the application and would form part of the consideration of any subsequent reserved matters application(s). However, it is acknowledged that the Design and Access Statement includes a brief Energy Statement which sets out that the dwellings would achieve Level 3 in the Code for Sustainable Homes.

8.9 Wildlife & Biodiversity

8.9.1 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. The Habitats Directive places a legal duty on all public bodies to have regard to the habitats directive when carrying out their functions.

8.9.2 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 LDD. 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.

8.9.3 The application has been accompanied by a Local Biodiversity Checklist which states that the development would not impact on any protected species. However, the location of the site adjacent to a woodland area and an eco-site at the cemetery is noted, as well as the neighbour comments. Herts Ecology and Herts and Middlesex Wildlife Trust have therefore been consulted but are yet to provide comments on the application. Any comments received will be provided at the committee meeting.

8.10 Refuse and Recycling

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

8.10.2 The Highway Authority has advised that the proposed access would meet the adopted standards for service vehicles and the site would therefore be accessible by waste operatives.

8.10.3 The proposed layout would give scope for the adequate storage of bins to the rear of properties with access to the frontage via the side of the dwellings. However, full details of proposed bin storage areas would need to be provided as part of any reserved matters application(s) to ensure that the siting and appearance would not have a detrimental impact on the character or appearance of the area or neighbouring residential amenities.

8.11 Infrastructure Contributions and Affordable Housing

8.11.1 The proposed development would result in a net gain of three residential units. Policy CP4 of the Core Strategy requires development that would result in a net gain of one or more dwellings to contribute to the provisions of affordable housing. The Affordable Housing SPD was approved by the Council in June 2011 as a material consideration and supports the implementation of Policy CP4.

8.11.2 However, following an appeal decision overturning the previous High Court judgement giving legal effect to the policy set out in the Written Ministerial Statement of 28 November 2014 by Brandon Lewis; the NPPG has been updated at paragraph 31 to advise that contributions should not be sought from developments of 10-units or fewer with a maximum combined gross floor space of no more than 1,000sq.m. As a result, the Local Planning Authority will no longer be requiring contributions towards affordable housing for sites which are below these thresholds.

8.11.3 While the proposal would not exceed 10-units, the proposed combined gross floor space is unknown at this outline planning application stage. Therefore, should any subsequent reserved matters application(s) result in the floor space exceeding 1,000sq.m affordable housing contributions would be sought at that stage.

8.11.4 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’ whereby the charge per sq.m of residential development is £180.

9. **Recommendation**

9.1 That the decision be delegated to the Director of Community and Environmental Services to consider any representations received and that PLANNING PERMISSION BE GRANTED subject to the following conditions:

C1 Details of the appearance, landscaping and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.

Reason: To prevent the accumulation of unimplemented planning permissions, to enable the Local Planning Authority to review the suitability of the development in the light of altered circumstances and to comply with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

C2 An application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall commence before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: In pursuance of Section 92(2) of the Town and Country Planning Act 1990 and as amended by the Planning and Compulsory Purchase Act 2004.

C3 The development hereby permitted shall be carried out in accordance with the following approved plans: OCWR001.

Reason: For the avoidance of doubt, in the proper interests of planning and in the interests of maintaining the residential amenity of neighbouring properties and the character of the area in accordance with Policies PSP1, CP1, CP2, CP3, CP4, CP8, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011), Policies DM1, DM4, DM6, DM9, DM10, DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013) and Policy SA1 of the Site Allocations LDD (adopted November 2014).

C4 The development shall not begin until full details of the layout, construction of the altered access to Old Chorleywood Road and on-site turning head provision have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the access has been laid out and constructed in accordance with the approved details.

Reason: This condition is a pre commencement condition in the interests of highway safety and convenience in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011).

C5 Prior to the commencement of the site works details of parking for all contractors, sub-contractors, visitors and delivery vehicles shall be submitted to and approved in writing by the Local Planning Authority and that area shall be maintained clear of any obstruction and retained for that purpose at all times during the period of site works.

Reason: This condition is a pre commencement condition to ensure that no obstructions to the public highway occur during the construction period, in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011).

C6 Within one month of the altered access being brought into use, all other existing access points not incorporated into the development hereby permitted shall be stopped up by raising the existing dropped kerb and reinstating the footway, verge and highway boundary to the same line, level and detail as the adjoining footway, verge and highway boundary.

Reason: To limit the number of access points along the site boundary for the safety and convenience of highway users in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011).

C7 The development shall not be occupied until the details of garaging, parking and maneuvering has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and that area shall not thereafter be used for any other purpose.

Reason: To enable vehicles to draw off, park and turn clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

9.2 **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 £97 per request (or £28 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. The Council's Building Control section can be contacted on telephone number 01923 727132 or at the website above for more information and application forms.

Community Infrastructure Levy (CIL) - If your development is liable for CIL payments, it is a requirement under Regulation 67 (1) of The Community Infrastructure Levy Regulations 2010 (As Amended) that a Commencement Notice (Form 6) is submitted to Three Rivers District Council as the Collecting Authority no later than the day before the day on which the chargeable development is to be commenced. DO NOT start your development until the Council has acknowledged receipt of the Commencement Notice. Failure to do so will mean you will lose the right to payment by instalments (where applicable), lose any exemptions already granted, and a surcharge will be imposed.

Where possible, energy saving and water harvesting measures should be incorporated. Information on this is also available from the Council's Building Control section. 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.

I2 The applicant is reminded that the Control of Pollution Act 1974 stipulates that construction activity (where work is audible at the site boundary) should be restricted to 0800 to 1800 Monday to Friday, 0900 to 1300 on Saturdays and not at all on Sundays and Bank Holidays.

I3 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 development maintains/improves the economic, social and environmental conditions of the District.