

PLANNING COMMITTEE – 24 MARCH 2022

PART I - DELEGATED

5. 21/1703/FUL - Demolition of the existing dwelling and detached garage, subdivision of site and construction of two dwellings and associated works at DONKEY GATE, CORAL GABLES, SOLESBRIDGE LANE, CHORLEYWOOD, WD3 5SN

Parish: Chorleywood Parish Council
Expiry of Statutory Period: 20.09.2021
Extension of time: 31.03.2022

Ward: Chorleywood North And Sarratt
Case Officer: David Heighton

Recommendation: That Planning Permission be Granted.

Reason for consideration by the Committee: Called in by Chorleywood Parish Council who consider that the development represents inappropriate development in the Green Belt and have highway concerns.

Update: The application was considered by Members at the Planning Committee Meeting on 18 November 2021, 16 December 2021 and 20 January 2022.

At the November meeting Members agreed to defer the application pending the receipt of comments from Hertfordshire County Council Highways and to enable a site visit to take place.

At the December meeting Members agreed to seek further clarification from Hertfordshire County Council Highways relating to their response to this application and the response to the previous application. Further comments were provided and are set out at paragraph 4.1.6. The applicant had also advised that during construction small delivery vehicles will be used (Construction Management Plan was recommended to be secured by condition).

At the January meeting Members resolved to defer the application and requested the submission of a Construction Management Plan. The applicant has provided the requested Construction Management Plan, which was circulated to Members. It seeks to satisfy the requirements of the suggested Condition 3 including further requested details by Members.

1 Relevant Planning History

- 1.1 05/0703/CLPD: Certificate of lawfulness proposed use: Erection of timber fencing around allotment – Permitted
- 1.2 06/0302/FUL: Infill extensions, conversion of detached office outbuilding to residential accommodation, existing detached outbuilding converted to habitable accommodation with first floor above to create a self-contained unit and changes to fenestration detail on all elevations – Withdrawn
- 1.3 06/0543/FUL: Retrospective: Change of use of disused allotment land to residential amenity land – Refused – Appeal Allowed
- 1.4 06/0592/FUL: Infill extensions, conversion of detached office outbuilding to residential accommodation, existing detached outbuilding converted to habitable

accommodation with first floor above to create a self-contained unit and changes to fenestration detail on all elevations – Permitted

- 1.5 07/1356/FUL: Demolition of existing garage and sheds and erection of replacement garage and store – Permitted
- 1.6 07/1357/CLPD: Certificate of Lawfulness Proposed Development: Erection of replacement gates with 1.85m piers at access to communal driveway – Permitted
- 1.7 08/0093/CLPD: Certificate of Lawfulness Proposed Use: Relocation of 1.85m boundary fence – Withdrawn
- 1.8 08/0341/CLED: Certificate of Lawfulness Existing Development: Fence – Withdrawn
- 1.9 08/0540/RSP: Retrospective: Change of use from allotment land to residential garden and erection of 1.85m high close boarded fence – Permitted
- 1.10 09/0606/FUL: Single-storey side extension – Permitted
- 1.11 12/0619/FUL: Construction of a single storey pool house – Refused, for the following reasons:

R1: The proposed development by reason of its scale, bulk, design and siting would result in an inappropriate and overly prominent form of urbanising development, disproportionate in size to the original dwelling and detrimental to the openness and rural character of the Metropolitan Green Belt. No very special circumstances are considered to exist. This is contrary to Policies CP1 and CP11 of the Core Strategy (adopted October 2011) and Saved Policies GB1 and GB7 of the Three Rivers Local Plan 1996-2011.

- 1.12 20/2752/OUT: Outline Application: Demolition of the existing dwellinghouse and detached garage and erection of a replacement dwellinghouse, subdivision of site and construction of new dwellinghouse (appearance, landscaping and scale reserved) – Refused for the following reasons:

R1: The proposed widening of the vehicular access, loss of soft landscaping and positioning of the new bin store would collectively result in an urbanising form of development, eroding the open and rural character of the Chorleywood Common Conservation Area. The development would lead to less than substantial harm to the Conservation Area. No public benefits have been identified which would outweigh the harm. The development is therefore contrary to Policies CP1 and CP12 of the Core Strategy (adopted October 2011), PolicyDM3 of the Development Management Policies LDD, the Chorleywood Common Conservation Area Appraisal (2010) and NPPF (2019).

R2: The proposed development would not contribute to the provision of affordable housing and it has not been demonstrated that such provision would not be viable. The development therefore fails to meet the requirements of Policy CP4 of the Core Strategy (adopted October 2011) and the Affordable Housing Supplementary Planning Document (approved June 2011).

R3: In the absence of a bat survey, it has not been demonstrated that the proposed development would not have an adverse impact on any protected species which may be present within or use the site. Therefore necessary consideration and appropriate mitigation cannot be given to the impact of the development on protected species or their habitats contrary to Policies CP1 and CP9 of the Core Strategy (adopted

October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

2 Description of Application Site

- 2.1 The application site comprises a rectangular plot which lies to the rear (northwest) of properties fronting Solesbridge Lane and at the rear (north) of Burford House, The Holt and Saffron Lodge on Rickmansworth Road, and a private track (known as Donkey Gate) which provides vehicular access via Solesbridge Lane.
- 2.2 The application site contains a white rendered detached bungalow situated in the northern western corner of the plot, with a detached timber clad pitched roofed annex to the immediate east and outbuildings to the southern and eastern boundaries. The dwelling is served by a long driveway which abuts the southwestern boundary. The boundary treatment around the application site consists of a 1.8m high close-boarded fencing, 2-2.5m high hedging, mature trees and a gate to the driveway.
- 2.3 In terms of policy designations, the application site is located within the Metropolitan Green Belt, although this does not extend to the access and track adjacent to Solesbridge Lane. To the south and east the site is bounded by, but outside of, the Chorleywood Common Conservation Area, although part of the access track which falls within the application site is within the Conservation Area. To the north the site is bounded by, but is outside of, the Chilterns Area of Outstanding Natural Beauty (AONB) and the Chorleywood House Estate Local Nature Reserve. The proposals map identify the main house and access track to be within the Key Centre of Chorleywood, but the land to the east of the house (formerly allotment gardens) is not part of the Key Centre.

3 Description of Proposed Development

- 3.1 The application seeks planning permission for the demolition of the existing dwellinghouse and detached garage and the erection of a replacement dwellinghouse, subdivision of site and construction of a new dwellinghouse.
- 3.2 The existing bungalow is proposed to be demolished and re-located from its current position, close to the north western boundary of the plot, to a new position, built close to the south western boundary, set in 5.25m from the south western boundary and 6m from the western boundary. It is noted from the submitted plans that it would have a building footprint of 171sqm and would be of contemporary design, appearing as a single storey building but containing a basement/lower ground level and ground floor level with green sedum roofs. It would have a plot size of approximately 2950sqm with the existing self-contained annex being retained. There would be space for the parking of at least three vehicles and a turning head is also included, which utilises the existing drive.
- 3.3 The replacement dwelling would be split into two flat roof sections with an overall width of 12.9m and depth of 17.2m in a "T" shaped layout. It would have a maximum height above ground level of 3.1m and would be finished in stone cladding/knapped flint and charred timber cladding with aluminium windows and doors with a concrete fascia and lintel. The replacement dwelling would contain three bedrooms all of which would be located at the lower ground level with an external lightwell.
- 3.4 The proposed new dwelling would be constructed towards the eastern boundary towards the front entrance of the site and would be sited to the north of the existing gravel access drive. It would face in a south-westerly direction and would have a building footprint of approximately 73sqm. Like the replacement dwelling it would

have a contemporary design and would appear single storey in nature. However, it will include a basement/lower ground level, ground level and roof accommodation within the pitched roof. The new house would contain four bedrooms. The new dwelling would be split into two sections with a central flat roof link. The dwelling would have pitched roofs with a maximum height of 5.6m and an eaves height of 2.3m. It would have a width of 11.1m and depth of 8.4m and would be built in brick and finished in with a charred timber cladding with aluminium windows and doors with clay roof tiles.

- 3.5 The new dwelling would be located within a plot of 560sqm, physically separated from the adjacent replacement dwelling's garden by a new boundary hedge with trees planted at the rear. The dwelling would be served by two parking spaces and a turning head is proposed within the plot.
- 3.6 A bin store is also proposed within the internal driveway with a collection point immediately outside the site. The access into the plot to serve the two dwellings would be reduced in width by 3m and replaced with soft landscaping.
- 3.7 A number of unprotected trees are to be removed in close proximity to the new dwellings, with a net gain of 10 trees proposed including further soft landscaping including new hedging.
- 3.8 Amended plans were received during the course of the current application, which reduced the height of the proposed replacement dwelling and also reduced its footprint.

4 Consultation

4.1 Statutory Consultation

4.1.1 Chorleywood Parish Council: [Objection]

Initial comments:

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

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

The Committee support the concerns and objections raised by neighbouring residents

The property is located within Greenbelt and AONB. The proposal makes mention of its footprint, however it fails to consider the existing and proposed volume. Furthermore, the addition of a further dwellinghouse would result in residential paraphernalia that would through the erection of boundary treatment, through an increase in the intensity of use of the site. Its layout does not respond to the surrounding context and it is considered to be a form of backland development that is inappropriate within this context. The entrance onto the Highway is dangerous and unsafe Overall, the proposal is a contrived development that would harm the openness of the Green Belt. No very special circumstances have been presented in favour of the development that outweigh harm to the openness of the Green Belt.

Officer Note: To clarify, the site is not in the AONB, but adjacent, beyond the western and north-western boundaries of the application site.

Comments following re-consultation of amended plans, updated 25.02.2022:

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

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

- The Committee support the concerns and objections raised by neighbouring residents

- The property is located within Greenbelt and AONB. The proposal makes mention of its footprint, however it fails to consider the existing and proposed volume. Furthermore, the addition of a second dwelling house would result in residential paraphernalia that would through the erection of boundary treatment, create an increase in the intensity of use of the site.

- The proposed layout does not respond to the surrounding context and it is considered to be a form of backland development that is inappropriate within this context.

- The entrance onto the Highway is dangerous and unsafe and does not comply with the emergency services or refuse access.

- Overall, the proposal is a contrived development that would harm the openness of the Green Belt. No very special circumstances have been presented in favour of the development that outweigh harm to the openness of the Green Belt, Policy CP12

- Request a condition is placed on this development to remove permitted development rights.

4.1.2 National Grid: [No comments received, any comments received will be verbally updated]

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

I would recommend approval, subject to further details of remedial landscaping, replacement tree planting, and a tree protection method statement

4.1.4 Conservation Officer: (made the following comments)

The property is located in the immediate setting of the Chorleywood Common Conservation Area. Donkey Gate is accessed via Solesbridge Lane, which partly lies within the Conservation Area. The Conservation Area bounds the site to the east and south. To the north of the site are open fields. The Conservation Area Appraisal states: the overwhelming character of the Chorleywood Common Conservation Area is rural, centring around an open common, with core buildings on the fringes dating from the Medieval to Edwardian and Victorian periods.

This application follows an outline application and previous full application for a similar scheme (ref:20/2752/OUT & 21/1703/FUL).

Within the full application it was noted that there would be no in-principle objection to the demolition of the existing bungalow, it is of neutral architectural quality and made a limited contribution to the setting of the Conservation Area. Given the site has been previously developed there is scope for development on the site that is appropriate and sympathetic to the setting of the Conservation Area.

There were concerns regarding the scale of the proposed replacement dwelling (plot 1) which was set over three storeys, including a basement level. The positioning (closer to the boundary of the Conservation Area), scale and boxy form of the proposed dwelling was considered inappropriate as it would result in a more visually intrusive structure within the setting of the Conservation Area. The existing bungalow is low-profile works to preserve the rural setting of the Conservation Area as it has a minimal visual impact. It was recommended a single storey dwelling with basement level would be more appropriate for the site to lessen the visual impact of the new dwelling.

The proposal has been amended and the dwelling for plot 1 is single storey with basement level. This had addressed previous concerns regarding the scale of the dwelling, a single storey dwelling works to minimise the visual impact of built form of the site. A green roof has been proposed for plot 1 which would be supported as it would soften the appearance of built form. It is assumed that the proposed photovoltaics to the roof of plot will lay flat. Setting them at an angle would not be supported as this would be overly prominent. The success of this application from a heritage perspective would be to maintain the verdant views from properties within the Conservation Area as much as possible. The plot is well screened by mature trees and it is proposed to plant an additional ten trees within the site which reinforces the verdant and rural setting of the Conservation Area.

As per previous advice, there is an opportunity to lessen the visual impact of the new dwellings through appropriate materials. Black timber cladding is still proposed for the external elevation treatment which previous raised concerns given its dark and contrasting appearance. There are outstanding concerns regarding this aspect however, material details can be reserved by condition. There is a preference for untreated timber cladding that naturally weathers over time or a very light charred timber to create a softer appearance and harmonising with the landscape.

Regarding the proposed dwelling for plot 2, previous advice stated: 'The proposed single storey dwelling with basement level to the north east of the site raises less concern. The visual impact of the barn-like dwelling will be limited given its smaller scale.' This remains relevant.

I would not raise an objection to the scheme efforts have been made to lessen the visual impact of the scheme as much as possible. I recommend a condition is attached for the external materials, in particular the timber cladding for both dwellings and the proposed roof tiles and brickwork of plot 2.

4.1.5 Hertfordshire Ecology: (made the following comments)

Hertfordshire Environmental Records Centre has no ecological information specific to the site however the application is supported by two ecological reports:

- *A Preliminary Roost Assessment by Jones & Sons Environmental, (report date February 2021)*
- *Emergence and Activity Bat Survey (EBS) by Cherryfield Ecology (report date July 2021)*

The site consists of a dwelling and large a garden space enclosed by woodlands and trees. On onside it is adjacent to Chorleywood House Estate Local Nature Reserve, I have no reason to consider this will impacted by the development.

Bats

The application is supported by a bat emergence and re-entry survey by ARBTECH. Two activity surveys undertaken on the 6th and 27th of May 2020 confirmed the presence of a bat roost of low conservational status. I have no reason to dispute this conclusion. With this information in place, I consider the LPA has sufficient information on bats for determination. It is acknowledged that if bats will be affected by the proposal, a European Protected Species (EPS) licence will be required from Natural England to proceed lawfully. I have no reason to believe that a licence will not be issued.

A Preliminary Roost Assessment by Jones & Sons Environmental, (report date February 2021) found no bats or evidence of bats and but did assessed the building as having a low potential as a bat roost. The beech trees proposed for removal were also assessed and found to have a negligible potential. Subsequently, one emergence survey undertaken on the 22nd of June 2021 by Cherryfield Ecology (report date July 2021) observed no behaviour indicating the presence of a roost. Consequently, no further surveys are required, and bats do not need to be considered a constraint to this development. With this information in place, I consider the LPA has sufficient information on bats for determination.

Biodiversity net gain and ecological enhancements

The proposed landscaping plan gives details, of type and location of ecological enhancements for birds, and house sparrows as well as new tree and hedgerow planting. I support the use of native species suggested. Although the absence of a biodiversity metric means it is not possible to calculate a biodiversity net gain for the site as outlined in the environment bill. These and other measures such as the sedum roof will allow the proposal to deliver a biodiversity uplift to the site.

4.1.6 Hertfordshire Highways: (made the following comments)

Decision

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

1) Electric Vehicle (EV) Charging Point

Prior to the first occupation of the development hereby permitted, each residential dwelling shall be provided with an active (ready to use) EV charging point which shall thereafter be provided and permanently retained.

Reason: To ensure construction of a satisfactory development and to promote sustainable development in accordance with Policies 5, 19 and 20 of Hertfordshire's Local Transport Plan (adopted 2018).

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

AN1) *Storage of materials:* The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the County Council website at: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

AN2) *Obstruction of highway:* It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the County Council website at: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

AN3) *Debris and deposits on the highway:* It is an offence under section 148 of the Highways Act 1980 to deposit compost, dung or other material for dressing land, or any rubbish on a made up carriageway, or any or other debris on a highway to the interruption of any highway user. Section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development and use thereafter are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available by telephoning 0300 1234047.

Comments/Analysis

Site and Surroundings

Solesbridge Lane is a classified C local access road subject to a 30mph speed limit which is highway maintainable at public expense. The nearest bus stops are located within 206m of the site entrance and is a stop for the 103 Chiltern Hundreds to High Wycombe or Watford. The closest train station to the site is Chorleywood which is approximately 1.6km from the site and is served by Chiltern Railways and the Metropolitan Line to London Marylebone, Aylesbury, Amersham, Chesham and Aldgate. Therefore, the Highway Authority are satisfied the site is in a sustainable location, which is in line with the principles set out in HCC's Local Transport Plan 4 (LTP4).

Access and Parking

The application proposes no changes to the existing access to the site from Solesbridge Lane, and the proposals do not alter the visibility from this access which is already disrupted by vegetation within third party land. The access from the site boundary to Donkey Gate has suitable forward visibility, especially with the removal of the current gate. There have not been any collisions close to the access within the last 5 years, but it is noted that there have been two slight and one severe collision at the junction of Solesbridge Lane and Rickmansworth Road.

Parking is a matter for the LPA, but HCC would like to comment that according to drawing number 1101 B, there is parking available for two vehicles outside each

property with space available for further parking if required. Cycle parking is shown within plot 1 on drawing number 1210 A and due to gardens being private cycle parking is possible at plot 2 also. In line with Three Rivers emerging standards and the NPPF, it is recommended that new dwellings have one active charging point for electric vehicles.

Refuse and Waste Collection

Manual for Streets Paragraph 6.8.9 states that waste collection vehicles must be able to get within 25m of the bin storage location. The current bin collection point shown on drawing number 1101 B is over this 25m however, the plans state this is an existing arrangement so it would be up to TRDC waste management to confirm if this is acceptable.

Emergency Vehicle Access

In accordance with Manual for Streets Paragraph 6.7, the entirety of a dwelling must be within 45m from the edge of the highway so an emergency vehicle can gain access. The proposed dwellings are significantly further than this from the highway and it is unlikely that a fire tender will be able to turn within the site, therefore, Herts Fire and Rescue have been asked to comment on the application separately.

Conclusion

HCC as Highway Authority has considered the application and are satisfied that the proposal would not have an unreasonable impact on the safety and operation of the adjoining highway and therefore, has no objections on highway grounds to this application subject to the above condition.

Update: 05.01.2022

Following correspondence between the Case Officer and the Highway's Authority, the following comments were submitted:

"Highways officers have visited the site.

It is clear that the two applications are materially different, eg the size of the turning heads on site have been reduced in this current application, which is most likely what the Fire Service are concerned about. Nevertheless, the previous Highways Officer also accepted the previous outline application, subject to a full application, and did not have concerns over highway safety at the site, same as I. As previously stated, I had concerns relating to a fire tender accessing the dwellings and therefore, sent the application to the Fire Service to comment. They stated that a fire tender would not be able to access the site, therefore, it is the Fire Service who should be consulted further to discuss any possible mitigation to this.

As for collisions close to the site, using the data which we have, the closest collision to Donkey Gate are two which occurred in 2021 and in 2018 at the traffic light junction of Solesbridge Lane and Rickmansworth Road."

Update: 14.02.2022

Following submission of a Construction Management Plan, the following comments were submitted:

Decision

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

Comments/Analysis

A Construction Management Plan (CMP) has been submitted as an amendment to the proposal. A CMP was requested to ensure that the demolition of the existing dwelling and construction of two new dwellings will not have a negative impact on the surrounding area of Donkey Gate and the highway.

The submitted plan outlines the site layout, access, deliveries, facilities, parking, noise/dust and health and safety.

The use of a banksman will assist in the movement of large vehicles into and out of the site, this shall ensure that any concerns relating to the visibility from the access of Donkey Gate and the highway are resolved. The deliveries are timed outside of peak hours in the AM and PM and avoid school drop-off and pick-up times, therefore, reducing the chance of congestion. The size of vehicles will not exceed 8m in length, ensuring that all vehicles can safely enter and egress the site. The vehicles will be able to turn around within the site meaning that they can egress onto the highway into forward gear.

Parking for the construction period will be within the site ensuring that no vehicles relating to the development will be parked within the highway or causing an obstruction on Donkey Gate. Wheel washing is also included in the CMP which ensures that debris is not deposited onto the highway.

Therefore, HCC as the Highway Authority is satisfied with the amendments that have been added to the proposal in the form of a Construction Management Plan.

4.1.7 Hertfordshire Fire and Rescue: (made the following comments)

Following the review of planning application 21/1703/FUL the demolition of the existing dwelling and detached garage, subdivision of site and construction of two dwellings and associated works at Donkey Gate, Coral Gables Solesbridge Lane Chorleywood WD3 5SN. This service believes that in accordance with Approved Document B – Dwellings Section 13- Vehicle access 13.1. A fire appliance would not be able to access the new proposed dwellings via Donkey Gate as the road is too narrow and is outside the 45 metre requirements.

However, where sprinklers in accordance with BS 9251:2014 or BS EN 12845 are fitted throughout a house or block of flats:

a) the distance between the fire appliance and any point within the house (houses having no floor more than 4.5 m above ground level) may be up to 90m;

b) the distance between the fire and rescue service pumping appliance and any point within the house or flat may be up to 75 m (in houses or flats having one floor more than 4.5 m above ground level).

As long as the sprinkler system complies with the following British Standards BS 9251:2014 or BS EN 12845 then it would be acceptable.

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 23 including 14 day re-consultation

4.2.2 No of responses received: 12

4.2.3 Site Notice: Posted 06.08.2021 - Expired: 27.08.2021

4.2.4 Summary of Responses: 12 – Objections

- Ownership – Part of the access is not owned by the applicant
- Unacceptable impact on the open character of the Green Belt
- Backland development
- Additional dwelling excessively prominent
- No affordable housing contribution
- Adverse effect on trees
- Additional traffic
- Overdevelopment
- Construction issues due to narrow access

Officer comments: Whilst the access is not owned by the applicant the relevant notice (Certificate B) was served on the land owner (see section 25 of submitted application form). It should be noted that the grant of planning permission does not automatically mean that the permission can be implemented if other consents cannot be obtained. The other above concerns will be addressed within the analysis section of the report.

5 Reason for Delay

- 5.1 Committee cycle, deferred for member site visit, further clarification regarding highway safety and submission of a Construction Management Plan.

6 Relevant Planning Policy, Guidance and Legislation

6.1 National Planning Policy Framework and National Planning Practice Guidance

- 6.1.1 In July 2021 the new National Planning Policy Framework was published. This is read alongside the National Planning Practice Guidance (NPPG). The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another. The 2021 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”.

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

6.2 The Three Rivers Local 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 include PSP2, CP1, CP2, CP3, CP4, CP8, CP9, CP10, CP11 and CP12.

The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM1, DM2, DM3, DM4, DM6, DM7, DM10, DM13 and Appendices 2 and 5.

Chorleywood Neighbourhood Development Plan (Referendum Version, August 2020)

6.3 Other

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

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

Affordable Housing Supplementary Planning Document (adopted June 2011).

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

The Chorleywood Common Conservation Area Appraisal (2010)

Chorleywood Common Article 4(2) Direction (2010)

7 Planning Analysis

7.1 Principle of Residential Development

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

7.1.2 The application site is not identified as part of the District's housing supply in the Site Allocations LDD (SALDD) (adopted November 2014). Policy CP2 of the Core Strategy (adopted October 2011) stipulates that in assessing applications for development not identified as part of the District's housing supply, including windfall sites, applications will be considered on a case by case basis having regard to:

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

7.1.3 Policy CP3 of the Core Strategy stipulates that housing development should make the most efficient use of land, without compromising the quality of the environment and existing residential uses.

7.1.4 The north-western part of the application site is located within the Key Centre of Chorleywood, as identified in the Core Strategy and the Proposals Map. The Core Strategy is supported by Policy PSP2 which states that future development will predominantly be focused on sites within the urban area. The Spatial Strategy of the Core Strategy advises that Key Centres will provide approximately 60% of the District's housing requirements over the Plan period to include 45% of affordable housing. There is scope for continued infilling with the urban area, primarily on previously developed land, subject to the protection of existing residential and historic character and amenities. Notwithstanding the above, the proposed dwelling would be situated on garden land within a built up area and thus the whole site cannot be considered to fall within the definition of 'previously developed land' as set out by Annex 2 of the NPPF. While the NPPF does not include a presumption against development on garden land, each application is to be assessed on its individual merits. Consequently, given the location of the site within a built up area within and immediate adjacent to a Key Centre there is no in-principle objection to the residential development, subject to consideration against other material considerations.

7.2 Impact on Metropolitan Green Belt

7.2.1 The application site is located within the Metropolitan Green Belt with the local area characterised by its openness and rural appearance, especially to the north of the application site. The fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open; the most important attributes of Green Belts is their openness. Green Belts can shape patterns of urban development at sub-regional and regional scale; and to help to ensure that development occurs in locations allocated in Development Plans. They help to protect the countryside, be it in agricultural, forestry or other use. They can assist in moving towards more sustainable patterns of urban development.

7.2.2 As with previous Green Belt policy, the NPPF identifies the five purposes of including land in Green Belts:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns from merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

7.2.3 The requirements of the NPPF are considered to reflect adopted policies of the Three Rivers District Council Local Plan. Policy CP11 of the Core Strategy (adopted October 2011) states that there will be a general presumption against inappropriate development that would not preserve the openness of the Green Belt and Policy DM2 of the DMP LDD broadly reflects the guidance as set out in the NPPF. Paragraph 149 of the NPPF states that a Local Planning Authority should regard the construction of new buildings as inappropriate in the Green Belt. However, it states that exceptions to this are:

- a) Buildings for agriculture and forestry;
- b) Provision of appropriate facilities (in connection with the existing use of land or change of use) for outdoor sport, outdoor recreation, cemeteries and burial

grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it

- c) The extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original buildings
- d) The replacement of a building, provided that the new building is in the same use and not materially larger than the one it replaces**
- e) Limited infilling in villages**
- f) Limited affordable housing for local community needs under policies set out in the Development Plan (including policies for rural exception sites) and;
- g) Limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings) which would:
 - not have a greater impact on the openness of the Green Belt than the existing development; or
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the Local Planning Authority.

7.2.4 Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The NPPF states that when considering proposals, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt and that very special circumstances will not exist unless harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

7.2.5 With regard to the additional dwelling and paragraph 149(e) of the NPPF, it is important to firstly consider whether the application site falls within a village; in this instance, Chorleywood. The NPPF does not specify a village must be designated as such in the development plan, or specify what the limits of the village should be. Having regard to appeal decisions, it is accepted that the definition of a village is a matter of planning judgement and even if a site falls outside a designated settlement boundary, this is not definitive as to whether a site falls within a village or not. The plot for the new dwelling would lie adjacent to the existing/replacement dwelling, adjacent to built form development immediately to the south and is also adjacent to linear forms of development along Solesbridge Lane which all form part of Chorleywood. The immediate vicinity includes two public houses, a Church, primary school and petrol garage which includes a small supermarket and all are considered to form part of the wider settlement of Chorleywood. Furthermore, within a greater walking distance of approximately 200 metres (use of Chorleywood Common) access can be gained to the main defined centre of Chorleywood, which accommodates a far greater range of services. Having regard to the above, it is considered that the plot of the new dwelling can, by virtue of the surrounding site circumstances, be considered to fall within a village.

7.2.6 Notwithstanding the above, in order for the development to not comprise inappropriate development within the Green Belt, the plot for the new dwelling would need to support "limited infilling." There is no definition of limited infilling, but it is considered to constitute a "small gap" having regard to both the scale and form of the development, interpreted in the context of the overall aim of the Green Belt. In this instance, only one dwelling is proposed which is limited and in terms of infilling it would be built between the existing/replacement dwelling and the built form development as mentioned above.

7.2.7 The bulk and scale of the new proposed dwelling would also be deemed appropriate. At a maximum height of 5.6m and with an eaves height of 2.3m, it would not be excessively prominent and would be screened by mature trees to the northern rear boundary and both the western and eastern flanks, which would be subject to a condition of any approval. With regards to the scale, the dwelling would be effectively split into two sections with pitched roofs and a central flat roofed link. This helps break up the proposed built form, which would not therefore not be overly excessive in terms of bulk and scale and would be sympathetic to the surrounding area. As a result of the new dwelling's location within the application site and having regard to its locational context, relationship with adjacent built form development and scale, it is considered to represent limited infilling within a village. The new dwelling would therefore constitute appropriate development within the Green Belt and thus by virtue of its appropriateness would not harm the openness of the Green Belt.

7.2.8 Replacement dwelling Green Belt calculations:

- Existing footprint – 260sqm
- Proposed footprint – 171sqm
- Existing Volume – 954m3
- Proposed Volume – 864m3
- Existing Floorspace – 225sqm
- Proposed floorspace – 248sqm

Update: 01.12.2021

	Footprint	Floorspace	Volume	Max Height
Existing Buildings	355sqm	225sqm	1,112 m3	4.2m
Proposed Buildings	284sqm	480sqm	842 m3 – Above Ground 573.5 – Below Ground 1,415.5 m3 - Overall	5.6m

The refused scheme, was an outline application and as such the details of the scale and appearance of the replacement dwelling and new proposed dwelling were reserved matters.

7.2.9 With regard to the replacement dwelling, paragraph 149(d) of the NPPF allows the replacement of a building, provided the new building is the same use and not materially larger than the one it replaces. It is noted from the proposed amended plans that the proposed replacement dwelling would include a basement/lower ground level and a ground floor level, thus, appearing as a single storey building from the majority of achievable vantage points. The proposed dwelling would be split into two sections and would have a flat roof form, 3.1m in height, which would be 1.1m lower than the existing dwelling. The decrease in height is noted and would be considered an improvement in comparison to the existing dwelling in terms of a reduction in the existing mass and volume. Greater weight is given to the form and scale of the development proposed including the proposed built footprint of the proposed dwelling, there would be an overall reduction of 71sqm, a 20% reduction on the existing built form proposed across the application site.

7.2.10 It is acknowledged that the development would result in a reduction in footprint. The proposed built footprint would be reduced by approximately 89sqm, over 25%. With regards to volume, the replacement dwelling with result in a 10.5% reduction. It is acknowledged that this is a reduction in built form, which would have a direct positive impact on the openness within the site including the relocation of the replacement

away from the AONB boundary to the north which contains open fields, although it is recognised that footprint and volume are just two factors to consider in the overall balance. It is considered that whilst there would be a slight increase in floorspace of 23sqm, this would be at basement level, which would not be visible. A reduction in volume of 90sqm, a footprint of 89sqm and an improved siting would ensure that the replacement dwelling would not be materially larger and thus appropriate in the Green Belt and would not harm openness. Further, given the location within the Green Belt, proximity of the AONB and the topography of the site, permitted development rights would be removed from the application site in respect of extensions including roof extensions.

- 7.2.11 To ensure appropriate boundary treatment further details with regard to the design and height of the proposed plot boundary treatment is considered necessary and a condition would be attached to any permission in the event of an approval. An additional condition would also be attached to any permission requiring further details of all hard and soft landscaping.
- 7.2.12 In light of the above assessment, it is considered that the replacement dwelling would not be materially larger than the one it replaces and is considered to fit into the exception set out at paragraph 149(d) and would therefore be considered appropriate development. As such it will not harm openness. As highlighted above, the proposed new dwelling would constitute limited infilling in a village and meet the requirement of paragraph 149 (e) of the NPPF. On that basis, the development is considered appropriate development in the Green Belt and therefore automatically would not harm openness. The proposed development would therefore comply with Policy CP11 of the Core Strategy, Policy DM2 of the DMP LDD and the NPPF (2021).

7.3 Impact on Character, Street Scene and Conservation Area

- 7.3.1 This amended application has reduced the scale of the proposed replacement dwelling. Further, this application has removed any of previous changes to widen and alter the existing vehicular access (Donkey Gate) including the erection of a bin store and loss of soft landscaping close to Solesbridge Lane. As such, this scheme is materially different to the one previously refused under 20/2752/OUT).
- 7.3.2 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', and should 'conserve and enhance natural and heritage assets'.
- 7.3.3 In terms of new residential development, Policy DM1 of the Development Management Policies document (adopted July 2013) advises that the Council will protect the character and residential amenity of existing areas of housing from forms of backland, infill or other forms of new residential development which are inappropriate for the area. Development will only be supported where it can be demonstrated that the proposal will not result in
- i) Tandem development
 - ii) Servicing by an awkward access drive which cannot easily be used by service vehicles
 - iii) The generation of excessive levels of traffic
 - iv) Loss of residential amenity

v) Layouts unable to maintain the particular character of the area in the vicinity of the application site in terms of plot size, plot depth, building footprint, plot frontage width, frontage building line, height, gaps between buildings and streetscape features (e.g. hedges, walls, grass verges etc.)

- 7.3.4 Traffic generation, access for service vehicles and impact on residential amenity are discussed in the relevant sections below and it is noted that the proposal would not result in tandem development.
- 7.3.5 Policy DM1 and the Design Guidelines at Appendix 2 of the Development Management Policies document also set out that new 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.
- 7.3.6 Policy 1 of the Chorleywood Neighbourhood Plan is relevant to this application and states: 'Development proposals in conservation areas should preserve or enhance the character or appearance of the conservation area and use materials that are appropriate as defined in the relevant conservation area appraisal document.' Policy 2 of the Chorleywood Neighbourhood Plan is also relevant to this application. Policy 2 states: 'All development should seek to make a positive contribution to the 'street scene' by way of frontage, building line, scale and design.'
- 7.3.7 Policy DM3 of the Development Management Policies LDD relates to development adjacent to conservation areas, and states that "Permission will not be granted for development outside but near to a Conservation Area if it adversely affects the setting, character, appearance of or views in to or out of that Conservation Area. The Chorleywood Common Conservation Area Appraisal is also applicable, providing further guidance on the special character of the adjacent Conservation Area and states: 'The overwhelming character of the Chorleywood Common Conservation Area is rural, centering around an open common, with core buildings on the fringes dating from the Medieval to Edwardian and Victorian periods. Some of these buildings are the result of urban growth from neighbouring towns, whilst others are isolated remnants of how Chorleywood Village has grown.'
- 7.3.8 The streetscene of Solesbridge Lane is mixed, consisting of dwellings of varying size and architectural design with development also to the rear of these properties, Warwick court, Solesbridge Close and Donkey Gate. As such there is not a prevailing plot shape and size to properties off Donkey Gate and adjacent roads leading from Solesbridge Lane, within the vicinity of the application site. However, many of these are characterised by larger, more spacious plots with a single storey dwelling, which is also a characteristic of properties on Rickmansworth Road to the south and two storey dwellings in the case of Solesbridge Close. The proposed new plot would be similar to the other plot opposite off Donkey Gate at approximately 560sqm and would be therefore would not be out of character when considering the varied nature of plots in the area. The immediate street scene of Solesbridge Lane comprise of a mix of cottages, terrace houses and detached houses with the surrounding area of relatively large detached dwellings which, while largely traditional in architectural style, vary in their specific design with other examples of relatively modern development or extensions and alterations to original dwellings. The area is therefore characterised by its sense of spaciousness rather than the architectural style of dwellings within it.
- 7.3.9 The submitted block plan indicates that the site would be subdivided so that the proposed new dwelling would be located at a right angles to the existing dwelling, adjacent to the south-eastern boundary and would replace the existing double

garage. The existing dwelling would be replaced and repositioned to the south, along the western boundary, within an existing area of open space. The proposed subdivision and the subsequent siting of the dwellings would result in an acceptable layout, in keeping with the surroundings. As such the proposed dwelling would be in keeping with the immediate area and the underlying varied character of this part of Solesbridge Lane.

- 7.3.10 The plot sizes would retain rear garden areas with ample space, which would be of sufficient size to serve the proposed dwellings. These would appear in keeping within the immediate setting and surrounding area. In terms of scale and appearance, given the existing topography and the location of the site towards the top of the hill, given that the replacement dwelling and proposed dwelling would appear single storey in appearance, with basement levels below ground floor level they would not result in visually obtrusive forms of development. The amended scheme has taken account of this and as such their visibility from public vantage points would be limited and furthermore, given the proposed soft landscaping proposed. The proposed replacement dwelling would be of an alternative modern architectural style to that normally found within the surrounding area. The replacement dwelling would include a large flat roof. The dwelling would be largely clad in timber and flint with a green roof. Further, the replacement dwelling would not be visible from the streetscene, given the set back nature of the plot and internal soft landscaping. As such, it is not considered that modern design approach to the buildings within the area would result in demonstrable harm to the character or appearance of the streetscene or wider area.
- 7.3.11 The proposed dwelling would be split into two forms with a flat roof link. The two elements would have pitched roofs, which are considered to be in keeping and would not be out of character with the area. Given the size of the proposed dwelling being single storey in nature and the proposed soft landscaping including trees, which would act as screening and would be subject to a condition on any approval. Further, the proposed dwelling would be set approximately 45m at its closest point from the highway. As such it is not considered that the proposed dwelling would become a prominent feature within the street scene.
- 7.3.12 The Conservation Officer has been consulted and considers that the proposed development would not have an adverse effect on the Conservation Area and as such holds no objection to the proposal. The Conservation Officer further comments that the reduction in scale of the replacement dwelling and the overall amended proposed scheme would preserve the setting of the Conservation Area. However, it is noted that in terms of materials, black timber cladding would be of a contrasting appearance. As such, it is considered that the use of more appropriate materials could be used to lessen any visual impact of the development through the use of a condition on any approval. The use of an untreated timber cladding would appear more appropriate within the setting. Therefore, subject to the use of appropriate materials the proposed development would not be considered to constitute significant adverse harm to an extent which would justify a reason for refusal of the application on Conservation Area grounds. Further, subject to details, the proposed bin storage area in this location is also noted and as such would preserve and enhance the appearance of the site and the surrounding Conservation Area.
- 7.3.13 In summary, the subdivision of the site and construction of an additional dwelling including the replacement of the existing dwelling would be considered acceptable and in keeping with the character of the surrounding area and would not harm views into and out of the Chorleywood Common Conservation Area. The proposed development therefore complies with Policies CP1 and CP12 of the Core Strategy

and Policy DM1, DM3 and Appendix 2 of the Development Management Policies LDD, the Chorleywood Common Conservation Area Appraisal (2010) and Policy 1 and 2 of the Chorleywood Neighbourhood Development Plan (Referendum Version, August 2020).

7.4 Impact on the Chilterns Area of Outstanding Natural Beauty (AONB)

7.4.1 Policy DM7 (Chilterns Area of Outstanding Natural Beauty (AONB) of the Development Management Policies LDD (adopted 2013) advises that the Council will support the development unless the proposal would fail to conserve the special landscape character and distinctiveness of the AONB by reason of the siting, design or the type or form of development or would detract from the setting of the AONB and has an adverse impact on views into and out of the area.

7.4.2 The proposal would be sited in a part of the site which is currently open and undeveloped. However, overall the development would result in a significant reduction in the footprint of built form across the site, with the replacement dwelling moving away from the northern boundary, adjacent to the AONB. The shifting of the position of the main dwelling house to the southwestern boundary, would improve its siting in relation to the nature reserve and AONB beyond to the northwest and northeast of the application site.

7.4.3 The site lies to the rear of properties which are part of the built-up frontages along Rickmansworth Road and Solesbridge Lane and is open in character and contributes to the rural character of the wider area beyond. However, it is noted that the application site has well screened boundaries, which would reduce the visibility of the proposed building in the wider surrounding area.

7.4.4 Whilst the proximity of the Chilterns AONB is noted, given proposed reposition of built form and that only limited, if any, views into the site would be possible it is considered that there would not be any adverse impact on the AONB.

7.5 Impact on amenity of neighbours

7.5.1 Policy CP12 of the Core Strategy states that development proposals should protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space.

7.5.2 Policy DM1 and Appendix 2 of the DMP 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. To ensure that loss of light would not occur to the habitable rooms of neighbouring dwellings as a result of new development, the Design Criteria at Appendix 2 of the Development Management Policies document advise that two storey development should not intrude into a 45 degree spay line across the rear garden from a point on the joint boundary, level with the rear wall of the adjacent property. This principle is dependent on the spacing and relative positions of properties and consideration will be given to the juxtaposition of properties, land levels and the position of windows and development on neighbouring properties.

7.5.3 With regards to privacy and overlooking the Design Guidelines states distances between buildings should be sufficient so as to prevent overlooking, particularly from upper floors. As an indicative figure, 28 metres should be achieved between the faces of single or two storey buildings backing onto each other or in other circumstances where privacy needs to be achieved. Distances should be greater between buildings in excess of two storeys (especially dwellings/flats) with elevations which directly face

one another or in situations where there are site level differences involved. Mitigating circumstances such as careful layout and orientation, screening and window positions may allow a reduction of distances between elevations. With regard further to overlooking, Appendix 2 of the Development Management Policies LDD sets out that where garden length alone is relied upon for privacy a minimum of 14m should be retained.

- 7.5.4 The submitted plans indicate that the proposed new dwelling would be set off the south-eastern boundary by approximately 3.7m and the flank elevation would be separated from the rear elevation of the neighbour, No. 9 Solesbridge Lane by approximately 30m. The rear elevation of the new dwelling would be set off the north-eastern boundary by approximately 16m and the proposed front elevation would be set off the south-eastern boundary by approximately 20m. The replacement dwelling would be located towards the south-western boundary with the flank elevation of the dwelling set approximately 5.25m from this boundary, with Burford House, a care home beyond. It would be set off the western boundary by approximately 6m and the north-western boundary by approximately 28m. As such it is not considered that the proposed new or the replacement dwelling would have an overbearing impact or be an unneighbourly form of development adjacent to the neighbouring properties, especially having regard to potential screening from existing and proposed trees. Further, given the proposed built form of the replacement dwelling and the proposed dwellings would be of a single storey nature in their height from above ground floor level. As such, the proposal would not result in any adverse impact on the residential amenity of any neighbouring dwelling.
- 7.5.5 It is noted that there is a slight land level change within the application site, between the new dwelling and the neighbouring dwellings on Solesbridge Lane, with the proposed dwelling on a slightly higher land level, however, the single storey appearance and the siting of trees would provide a suitable screen between the two properties on the application site and neighbouring properties.
- 7.5.6 Given the layout of the proposed replacement dwelling and new dwelling on the application site and their single storey appearance, there would not be an adverse impact on the privacy and outlook of the adjoining neighbour.
- 7.5.7 In summary, the proposed development would not result in any adverse impact on the residential amenity of any neighbouring dwelling and the development would therefore be acceptable in accordance with Policy CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies.

7.6 Amenity Space Provision for future occupants

- 7.6.1 Policy CP12 of the Core Strategy states that development should take into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space. The Design Criteria at Appendix 2 of the Development Management Policies document (adopted July 2013) provides indicative levels of amenity space for dwellings in relation to the number of bedrooms. Appendix 2 of the Development Management Policies LDD sets out that a three bedroom dwelling should have 84sqm of amenity space and a four bedroom dwelling 105sqm.
- 7.6.2 The new dwelling would benefit from a rear amenity space measuring approximately 185sqm to the northeast of the proposed dwelling. This is well in excess of the indicative levels for a dwelling of this size and is considered sufficient for future occupiers of the dwelling.

- 7.6.3 There would be over 2,000sqm of amenity space for the proposed replacement dwelling, which is considered as an ample amount amenity space

7.7 Affordable Housing

- 7.7.1 Appendix A of this report sets out the position of the Council and evidence relating to the application of the affordable housing threshold in Core Strategy Policy CP4: Affordable Housing. The evidence has recently been updated following a review.
- 7.7.2 The LPA is satisfied that the evidence at Appendix A enables more weight to be attached to the need to comply with Policy CP4 of the Core Strategy. The most up to date evidence confirms that small site contributions make a material contribution to affordable housing within the District. As such, applications will continue to be assessed in accordance with the requirements of the Development Plan and will seek monetary contributions on developments resulting in a net gain of one to nine dwellings unless viability demonstrates otherwise.
- 7.7.3 The proposed development would result in a requirement for a commuted sum of £261,250 towards affordable housing based on a habitable floor-space for the proposed dwelling of 209sqm multiplied by £1,250 per sqm, which is the required amount in the 'Highest Value Three Rivers' market area.
- 7.7.4 The application was accompanied by a Viability Statement which concluded that the scheme is not able to support an affordable housing payment and remain viable. The appraisal has been reviewed to establish if there is any surplus or deficit when compared to the "benchmark land value". The review carried out which includes the benchmark land value of £1,100,000 shows a deficit of £312,010.
- 7.7.5 Therefore, in summary, the proposed development would not contribute to the provision of affordable housing within the District, however, it has been demonstrated that such provision would not be viable. The development therefore complies with the requirements of Policy CP4 of the Core Strategy and the Affordable Housing Supplementary Planning Document (June 2011).

7.8 Parking & Access

- 7.8.1 Core Strategy Policy CP10 requires development to make adequate provision for all users, including car parking. Appendix 5 of the DMP LDD outlines that a dwelling with 3 or more bedrooms should provide 3 on site spaces. Dwellings with two bedrooms should have 2 parking spaces. In relation to parking provision the submitted information indicates that proposed dwelling would have 2 parking spaces and the replacement dwelling would have ample space for car parking, which would therefore comply with the standards of Appendix 5.
- 7.8.2 The access to the new dwellings within the application site would remain unchanged and would utilise the existing hardstanding gravel, with a small section of soft landscaping removed to facilitate access to the new proposed dwelling.
- 7.8.3 The access rights and use of the access way (Donkey Gate) between No. 8 and No. 9 Solesbridge Lane is a civil matter and one that would need to be resolved before commencing the planning permission, if granted.
- 7.8.4 It is noted that the access to the site is narrow and would be unchanged. It is further acknowledged that there is a concern raised by neighbours with regards to the construction of the development and the associated excavation works.

Update: 01.12.2021

- 7.8.5 Hertfordshire Highways have considered the application and are satisfied that the proposal would not have an unreasonable impact on the safety and operation of the adjoining highway. As such there is no objection on highway grounds. It is further noted that Hertfordshire Highways have recommended that new dwellings have one active charging point for electric vehicles, which the applicant is agreeable to and as such, will be subject to a condition.
- 7.8.6 Hertfordshire Fire and Rescue have also considered the application acceptable subject to a particular sprinkler system, which would be imposed by way of a condition.
- 7.8.7 An area of protected grasscrete/eco-grid has been laid in addition to the two proposed parking spaces for Plot 2, to enable the parking of a further vehicle.

Update: 05.01.2022

- 7.8.8 Hertfordshire Highways have confirmed that they have visited the site. There is no further update with regards to their consideration of the current application. There remains no objection on highway grounds.
- 7.8.9 It is recognised when considering 20/2752/OUT Hertfordshire Highways when considering 20/2752/OUT stated that "vehicles cannot enter the site from Solesbridge Lane when a vehicle is waiting to exit the site. When this happens, vehicles are forced to reverse or wait in the highway while the vehicle in the access either reverses or leaves the access." They confirmed at the time that this was an undesirable situation but as confirmed recently, did not formally object. It was acknowledged that the applicant had sought to improve access under 20/2752/OUT however evidently even without the previous changes Hertfordshire Highways hold no objection.

Update: 07.03.2022

- 7.8.10 The submitted Construction Management Plan sets out the following:
- 2m high hoardings to be erected behind existing fencing with the existing opening into the main body of the site widened
 - Project will have full time banksman who will be responsible for management of deliveries and vehicle movements, as well as liaising with immediate neighbours
 - Delivery access to the site from Donkey Gate will be planned to fall outside school and commuter hours, from 9:30 to 14.30 Monday to Friday and 8:00 to 13:00 on Saturdays.
 - All delivery vehicles will be rigid trucks or large van with no vehicles longer than 8m in length
 - Vehicle deliveries will be time controlled with specific time slots allocated
 - On-site parking for staff and operatives will be available
 - Site plan provided with tracking, location of site office/welfare facilities and contractor parking
 - Site working hours will be from 8:00 to 17:00 Monday to Friday and from 8:00 to 13:00 on Saturday. Site closed Sunday and Bank Holidays.
 -
- 7.8.11 Hertfordshire Highways have commented on the revised Construction Management Plan (CMP) and are satisfied that any concerns relating to the visibility from the access of Donkey Gate and the highway are resolved. The CMP confirms that all proposed vehicles would be able to safely enter and egress the site, that no vehicles

relating to the development will be parked within the highway or causing an obstruction on Donkey Gate and given the proposed timings, reduce congestion.

7.8.12 There remains no objection on highway grounds.

7.9 Wildlife and Biodiversity

7.9.1 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.

7.9.2 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 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.

7.9.3 Given the location of the site it is considered that there could be a significant impact on protected species. The Council will seek a net gain in biodiversity and the quality and quantity of Green infrastructure, through the protection and enhancement of assets across the site. Development will not compromise the integrity of the Green Infrastructure network, by causing fragmentation, damage to, or isolation of Green Infrastructure assets including natural habitats and species. It is noted that the site is adjacent to the Chilterns AONB and Local Nature Reserve and that measures to avoid adverse impacts and enhance biodiversity will need to be provided by developer, who has submitted an ecology and bat report.

7.9.4 Hertfordshire Ecology were consulted formally as part of this planning application and have concluded that following the bat surveys, bats do not need to be considered a constraint to the development. There is no objection regarding the potential presence or impact on a European Protected Species. The ecological survey is adequate and puts forward enhancement measures, to install two bat boxes, which would be subject to a condition.

7.9.5 It is noted that the proposed soft landscaping would include a net gain of 10 trees including hedging and sedum roofs. The Ecology officer also notes that these ecological enhancements measures for birds would be beneficial and other measures such as the sedum roof will allow the proposal to deliver a biodiversity uplift to the site. The details of the proposed soft landscaping would be subject to a condition for any approval.

7.9.6 Therefore, it has been demonstrated that the proposed development subject to conditions requiring the measures above to be implemented would not have an adverse impact on any protected species. Therefore the development complies with Policies CP1 and CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

7.10 Trees and Landscaping

7.10.1 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.

- 7.10.2 The application site contains a number of trees within the proposed plots. The application has been accompanied by detailed arboricultural information in the form of an Arboricultural Planning Report and Landscaping Plan. The Landscape Officer is satisfied with the details within the submitted report and plans, subject to a condition.
- 7.10.3 It is acknowledged that there would be some tree removal. The submitted information details that 5 individual trees are to be removed together with the 2 groups of trees. The Landscape Officer is satisfied that none of these trees are of such individual value as to object to their loss provided that the detailed scheme of replanting would be put into place to mitigate for their collective loss. The replacement of these trees is however of significant importance to the character and visual amenity of the application site and the surrounding Chorleywood Common Conservation Area. As such, further details of the soft landscaping including heights and to plot boundaries would be required. A suitable condition would be applied to ensure an adequate detailed scheme of replanting trees, soft landscaping and boundary treatments across the site. This would also ensure the protection of trees adjacent to the access point and along the site boundaries including adjacent to Donkey Gate.
- 7.10.4 Therefore, subject to conditions the proposed development would comply with the requirements of DM6 of the Development Management Policies and Policies CP1 and CP12 of the Core Strategy (adopted October 2011).

7.11 Sustainability

- 7.11.1 Policy CP1 of the Core Strategy requires the submission of an Energy and Sustainability Statement demonstrating the extent to which sustainability principles have been incorporated into the location, design, construction and future use of proposals and the expected carbon emissions.
- 7.11.2 Policy DM4 of the 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.
- 7.11.3 The application is supported by an Energy Statement dated July 2021 prepared by In Property Ltd, which details that the dwelling would result in a 6.43% saving in CO2 emissions. A condition on any consent would require that the development is carried out in accordance with the Energy Statement, which would comply with Core Strategy Policy CP1 and Policy DM4 of the Development Management Policies document.

7.12 Refuse and Recycling

- 7.12.1 Policy DM10 (Waste Management) of the Development Management Policies LDD (adopted July 2013) advises that the Council will ensure that there is adequate provision for the storage and recycling of waste and that these facilities are fully integrated into design proposals. New developments will only be supported where:

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

7.12.2 A bin and recycling area is proposed within the curtilage of the application site, however, specific design details have not been provided with regards to the storage of refuse and recycling facilities to serve the new dwellings, which would be the subject of a condition on any approval. The proposed site/block plan indicates that the existing bin collection point would be used as per the existing arrangements. As such, subject to a condition, the details provided would ensure an adequate provision would be made to serve the new dwelling in accordance with Policy DM10 of the Development Management Policies document.

8 Recommendation

That PLANNING PERMISSION BE GRANTED subject to the following conditions:

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

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

C2 The development hereby permitted shall be carried out in accordance with the following approved plans: TRDC 001 (Location Plan), 0101, 0201, 1105, 1202 A, 1203, 1402 A, 1101 C, 1201 B, 1301 A, 1401 B.

Reason: For the avoidance of doubt and in the proper interests of planning and in the interests of the visual amenities of the locality, the openness of the Green Belt and residential amenity of neighbouring occupiers, in accordance with Policies PSP2, CP1, CP2, CP3, CP4, CP8, CP9, CP10, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM2, DM3, DM4, DM6, DM7, DM10, DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013), the Chorleywood Common Conservation Area Appraisal (2010) and Policy 1 and 2 of the Chorleywood Neighbourhood Development Plan (Referendum Version, August 2020).

C3 The development shall be undertaken in full compliance with the Construction Management Plan (dated 25th January 2022 prepared by Millen) and shall be adhered to throughout the construction period.

Reason: This condition is in order to minimise danger, obstruction and inconvenience to users of the highway and to minimise disturbance to local residents in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011) and DM9 of the Development Management Policies LDD (adopted July 2013).

C4 No operations (including tree felling, pruning, demolition works, soil moving, temporary access construction, or any other operation involving the use of motorised vehicles or construction machinery) whatsoever shall commence on site in connection with the development hereby approved until the branch structure and trunks of all trees shown to be retained and all other trees not indicated as to be removed and their root systems have been protected from any damage during site

works (including those trees adjacent to Donkey Gate), in accordance with a scheme designed in accordance with BS5837:2012, to be submitted to and approved in writing by the Local Planning Authority.

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

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

- C5 Before any building operations above ground level hereby permitted are commenced, samples and details of the proposed external materials to the new and replacement dwellings shall be submitted to and approved in writing by the Local Planning Authority and no external materials shall be used other than those approved.

Reason: To prevent the new dwellings from being constructed in inappropriate materials in accordance with Policies CP1, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1, DM2, DM3 and Appendix 2 of the Development Management Policies LDD (adopted July 2013) and the Chorleywood Common Conservation Area Appraisal (2010).

- C6 Before the first occupation of the replacement dwelling hereby permitted, the existing dwellinghouse and associated hard surfacing (as shown dotted black on drawing number 1101 B) shall be permanently removed from the site including all resultant materials with the land restored in accordance with Condition 9.

Reason: In the interests of the openness of the Green Belt in accordance with Policies CP1, CP11 and CP12 of the Core Strategy (adopted October 2013), Policies DM1, DM2 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C7 Prior to the first occupation of the dwellings hereby permitted, the biodiversity mitigation set out at 'Enhancements' in Recommendations of the Ecology Report prepared by Cherryfield Ecology dated 02.07.2020. Namely a minimum of two bat boxes have been erected on site. Once erected the mitigation measures shall be permanently retained thereafter.

Reason: To maintain wildlife habitat and to meet the requirements of Policies CP1, CP9 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

- C8 Prior to the first occupation of the dwellings hereby permitted, each residential dwelling shall be provided with an active (ready to use) Electric Vehicle charging point which shall thereafter be provided and permanently retained.

Reason: To ensure construction of a satisfactory development and to promote sustainable development in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011) and Policy DM10 of the Development Management Policies LDD (adopted July 2013).

- C9 Prior to the first occupation of dwellings hereby permitted, a soft landscaping scheme specifying the restoration of the land in and around the existing dwelling (to be demolished), all replacements trees, shrubs, hedging and boundary treatments (including species, girth and initial planting height) within the plots, has been submitted to and approved in writing by the Local Planning Authority. The agreed landscaping scheme shall be undertaken in accordance with the approved details.

All soft landscaping works shall be carried out before the end of the first planting and seeding season following first occupation of any part of the buildings or completion of the development, whichever is sooner.

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

Reason: This condition is to preserve the character and appearance of the wider application site and surrounding Chorleywood Common Conservation Area in accordance with Policies CP1, CP10, CP12, Policy DM1, DM3 and Appendix 2 and the Chorleywood Common Conservation Area Appraisal (2010).

- C10 Immediately following the implementation of this permission, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any other revoking and re-enacting that order with or without modification) no development within the following Classes of Schedule 2 of the Order shall take place within both plots 1 and 2.

Part 1

Class A - enlargement, improvement or other alteration to the dwelling

Class B - additions etc to the roof of a dwellinghouse

Class E - buildings etc incidental to the enjoyment of a dwellinghouse

No development of any of the above classes shall be constructed or placed on any part of the land subject of this permission.

Reason: To ensure adequate planning control over further development having regard to the limitations of the site, in the interests of the visual amenities of the site and to preserve the openness of the Green Belt, in accordance with Policies CP1, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1 and DM2 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C11 No external lighting shall be installed on the application site or affixed to any buildings on the application site unless the Local Planning Authority has first approved in writing details of the position, height, design and intensity (for those which do not comprise development in their own right). The lighting shall be installed in accordance with the approved details before the first occupation of the dwelling hereby permitted.

Reason: In the interests of maintaining wildlife habitats, visual amenity and openness of the Green Belt to meet the requirements of Policies CP1, CP9, CP11 and CP12 of

the Core Strategy (adopted October 2011) and Policies DM2, DM6 and DM9 of the Development Management Policies LDD (adopted July 2013).

- C12 Notwithstanding the details on the approved plans, no development in relation to the proposed refuse and recycling provision for the development shall take place until a scheme for the separate storage and collection of waste has been submitted to and approved in writing by the Local Planning Authority. Details shall include the siting, size and appearance of refuse and recycling facilities on the premises. The development hereby permitted shall not be occupied until the approved scheme has been implemented and these facilities should be retained permanently thereafter.

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

- C13 The existing annexe serving the replacement dwelling of plot 1, shall not be occupied at any time other than for purposes ancillary to the residential use of the replacement dwelling (Plot 1) and shall not be used as an independent dwelling at any time.

Reason: The creation of a separate and independent unit would not comply with the Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM2 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C14 The dwellings hereby permitted shall both be fitted with a sprinkler system in accordance with British Standards BS 9251:2014 or BS EN 12845.

Reason: To ensure that acceptable emergency provision and access is provided to the site in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011) and Policy DM10 of the Development Management Policies LDD (adopted July 2013).

- C15 The development shall not be occupied until the energy saving measures detailed within the submitted Energy Statement are incorporated into the approved development.

Reason: This condition is to ensure that the development meets the requirements of Policy CP1 of the Core Strategy (adopted October 2011) and Policy DM4 of the Development Management Policies LDD (adopted July 2013) and to ensure that the development makes as full a contribution to sustainable development as possible.

8.1 Informatives:

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

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

There may be a requirement for the approved development to comply with the Building Regulations. Please contact Hertfordshire Building Control (HBC) on 0208 207 7456 or at buildingcontrol@hertfordshirebc.co.uk who will be happy to advise

you on building control matters and will protect your interests throughout your build project by leading the compliance process. Further information is available at www.hertfordshirebc.co.uk.

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

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

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

- 12 The applicant is reminded that the Control of Pollution Act 1974 allows local authorities to restrict construction activity (where work is audible at the site boundary). In Three Rivers such work audible at the site boundary, including deliveries to the site and running of equipment such as generators, should be restricted to 0800 to 1800 Monday to Friday, 0900 to 1300 on Saturdays and not at all on Sundays and Bank Holidays.
- 13 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority suggested modifications to the development during the course of the application and the applicant and/or their agent submitted amendments which result in a form of development that maintains/improves the economic, social and environmental conditions of the District.
- 14 Bats are protected under domestic and European legislation where, in summary, it is an offence to deliberately capture, injure or kill a bat, intentionally or recklessly disturb a bat in a roost or deliberately disturb a bat in a way that would impair its ability to survive, breed or rear young, hibernate or migrate, or significantly affect its local distribution or abundance; damage or destroy a bat roost; possess or advertise/sell/exchange a bat; and intentionally or recklessly obstruct access to a bat roost.

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

The UK Bat Helpline: 0845 1300 228

Natural England: 0300 060 3900

Herts & Middlesex Bat Group: www.hmbg.org.uk or an appropriately qualified and experienced ecologist.

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

- 15 Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the County Council website at: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.
- 16 Obstruction of highway: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the County Council website at: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.
- 17 Debris and deposits on the highway: It is an offence under section 148 of the Highways Act 1980 to deposit compost, dung or other material for dressing land, or any rubbish on a made up carriageway, or any or other debris on a highway to the interruption of any highway user. Section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development and use thereafter are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available by telephoning 0300 1234047.

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

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

Background

- 1.1 In November 2014, the Minister of State for Housing and Planning issued a Written Ministerial Statement (WMS) setting out changes to national planning policy. The WMS stated that financial contributions towards affordable housing should no longer be sought on sites of 10 units or less and which have a maximum combined gross floor area of 1,000sqm. National Planning Practice Guidance (NPPG) was amended to reflect this. However on 31st July 2015 the High Court held (*West Berkshire Council v SSCLG* [2015]) that the policy expressed through the WMS was unlawful and the NPPG was changed to reflect this. On 11th May 2016 the Court of Appeal reversed the High Court decision. The NPPG was subsequently amended to reflect the WMS on 19th May 2016.
- 1.2 In light of the above developments, between November 2014 and August 2015 and May 2016 and 1st September 2017 the Council gave greater weight to the WMS policy and associated NPPG guidance in it than to adopted Policy CP4 of its Core Strategy in respect of development proposals for 10 dwellings or less and which had a maximum combined gross floor area of 1000 sq metres. However, having undertaken an analysis of up to date evidence of housing needs (**The Needs Analysis**), officers advised in 2017 that when considering the weight to be given to the WMS in the context of breaches of the adopted development plan policy, the local evidence of housing need contained in the Needs Analysis should generally be given greater weight. On 1st September 2017 the Council resolved to have regard to the Needs Analysis as a consideration of significant weight when considering the relationship between Policy CP4 and the WMS for the purposes of Section 70(2) Town and Country Planning Act 1990 and Section 38(6) Planning and Compulsory Purchase Act 2004 in respect of development proposals of 10 dwellings or less.
- 1.3 On 24th July 2018 a new version of the National Planning Policy Framework¹ (the Framework) was published with immediate effect for development management purposes. Paragraph 63 of the Framework advises that *“Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer).”* Annex 2 of the NPPF defines *“major development”* as *“for housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more.”*
- 1.4 The Council's current affordable housing policy is set out in Policy CP4 of the Core Strategy (adopted in October 2011) and establishes that :
 - a) “...All new development resulting in a net gain of one or more dwellings will be expected to contribute to the provision of affordable housing.”

¹ The revised National Planning Policy Framework was updated in February 2019 and July 2021 and retains the policies as stated in Paragraph 1.3 of this document.

- e) “In most cases require affordable housing provision to be made on site, but in relation to small sites delivering between one and nine dwellings, consider the use of commuted payments towards provision off site. Such payments will be broadly equivalent in value to on-site provision but may vary depending on site circumstances and viability.”

1.5 The supporting text to Policy CP4 summarises the justification for it:

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

1.6 This policy remains the legal starting point for the consideration of planning applications under Section 38(6) PCPA 2004, which requires that the Council determines applications in accordance with the adopted development plan unless material considerations indicate otherwise. Revised NPPF 63 is a material consideration. The weight to be given to it is a matter for the decision maker when determining each planning application. This note explains the advice from the Head of Planning Policy & Projects and Head of Regulatory Services on the weight that they recommend should be given to NPPF 63 for these purposes in light of the Needs Analysis.

1.7 Since the adoption of its Core Strategy in 2011 and as of 31 December 2021, Three Rivers has received small site affordable housing contributions amounting to over **£2.4 million**. Utilising those monies, development is has funded the delivery of 21 units of affordable housing, with the remaining monies utilised as a contribution towards the delivery of a further 17 affordable dwellings. It is clear that Three Rivers' policy has already delivered a significant contribution towards the delivery of much needed affordable housing in the district.

1.8 In addition to the £2.4 million already received, small scale (1-9 unit) schemes have secured to date a further **£2.7million to £4.0million²** of affordable housing contributions in respect of unimplemented but current planning permissions. All of those schemes were agreed to be viable with those sums secured. The Council has several large scale future residential developments planned which will aim to deliver substantial quantities of further affordable housing in the District in the medium term

² The sums payable secured by Sec 106 will be subject to indexation, in most cases from June 2011 which will not be calculable until the date of payment. The quoted upper limit includes a policy compliant contribution of £1,341,250.00 which relates to a minor development PP subject to a late stage viability review mechanism. The AHC, whilst capped at this figure, will only be known once viability is re-run at occupation when actual build costs and realised sales values are understood. The contribution paid could therefore be substantially less than the policy compliant sum referred to above, hence the range specified. Data is as of February 2022

future, utilising those additional affordable housing contributions as and when they are received.

- 1.9 Policy CP4 makes it clear that a requirement for a scheme to contribute towards the provision of affordable housing is subject to viability considerations and is therefore consistent with paragraph 122 of the Framework. The application of CP4, which includes this in built viability allowance, cannot properly be said to be a barrier to delivery. Indeed between 1 October 2011 and 31 March 2021, 250 planning permissions were granted for minor residential developments which contribute a net dwelling gain. Of those only 13 have been permitted to lapse which is only 5.2% of all such schemes³.
- 1.10 Current evidence of housing need in the District is noted below at 2.4 to 2.11. It confirms that the needs underlying the adopted development plan policy remain pressing.

Importance of Small Sites to Three Rivers

- 1.11 It is important to acknowledge the percentage of residential development schemes which tend to come forward in the District which propose the delivery of less than 10 dwellings: from 1 April 2017 to 31 March 2021, 215 planning applications for residential development involving a net gain of dwellings were determined⁴ by the Council. Of these, 191 applications (89%) were for schemes which proposed a net gain of 1-9 units. Having a large number of small sites is an inevitable consequence of the District being contained within the Metropolitan Green Belt. The contribution to both market housing supply and affordable housing supply are therefore both material to overall identified needs and adopted development plan objectives. This is dealt with in more detail below.
- 1.12 If the weight to be given to the Framework is greater than the adopted development plan, this large proportion of Three Rivers' expected new housing delivery will contribute nothing towards affordable housing. This would compromise Three Rivers' ability to deliver its objectively assessed need for affordable housing.

2 Development Plan Policies and the WMS

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

³ The Needs Analyses (December 2019 and December 2020) referred to a lapse rate of 9% for minor developments; manual analysis has since demonstrated that a number of sites included in the 9% lapse figure have been subject to subsequent planning applications which were granted approval. Such sites have therefore still come forward for development despite earlier permissions lapsing. The lapse percentage in this Needs Analysis (January 2022) has therefore been revised to exclude application sites which are subject to later approvals which are either outstanding, under construction or complete.

⁴ Includes refused and approved applications. Excludes prior approval developments.

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

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

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

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

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

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

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

2.4 Officers advise that whilst the Framework is a material consideration, breaches of Policy CP4 should not, in light of ongoing evidence of housing need in the Needs

Analysis, be treated as outweighed by the Framework. This conclusion has been reached having had regard to the following relevant factors:

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

General House Price Affordability in Three Rivers

- 2.5 Due to the District's close proximity to London, Three Rivers has traditionally been situated within a high house price area. According to data published by the Office of National Statistics (ONS) in the third quarter of 2016⁵, the lowest quartile house price in Three Rivers in 2016, representing the cheapest properties in the District was £325,000.00, making it the **fifth**⁶ most expensive local authority area in England and Wales (excluding London), out of a total of three hundred and three local authority areas (see table 1 below).

Number	Local Authority Name	Lowest Quartile House Prices (2016)
1	Elmbridge	£375,000.00
2	St Albans	£355,000.00
3	Windsor and Maidenhead	£340,000.00
4	Hertsmere	£330,000.00
5	Three Rivers	£325,000.00

Table 1.

Since the publication of the above ONS data in 2016, the general house price affordability position has grown worse. According to data published by the Office of National Statistics (ONS), the lowest quartile house price in Three Rivers in September 2020 was £365,000⁷. The lowest quartile house price of £365,000 places Three Rivers as the **fourth** most expensive local authority area in England and Wales (excluding London), out of a total of three hundred and three local authority areas (see table 2 below). The lowest quartile house price has risen by £40,000 from 2016 to 2020, demonstrating a worsening affordability position.

⁵ ONS (2021) *Dataset: House price to residence-based earnings ratio Table 6a*

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

⁶ Note that prior to the formation of the Buckinghamshire Council (now a unitary authority), Three Rivers was the seventh most expensive local authority area as two local authorities in Buckinghamshire ranked higher in lower quartile house price than Three Rivers in 2016 (South Bucks - £370,000.00; Chiltern - £335,000.00).

⁷ Office for National Statistics (2021) *Dataset: House price to residence-based earnings ratio Table 6a*
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

Number	Local Authority Name	Lowest Quartile House Prices (2020)
1	Elmbridge	£411,250
2	St Albans	£400,000
3	Windsor and Maidenhead	£375,000
4	Three Rivers	£365,000

Table 2.

Lowest quartile earnings in Three Rivers in 2016 were £24,518.00 and £26,983.00 in 2020, 13.3 times worsening to 13.5 below the lowest quartile house prices (ratio of lower quartile house prices to lower quartile gross annual, residence based earnings⁸). In a mortgage market where lenders are traditionally willing to lend 3.5 times a person's income, clearly a lending requirement at over 13 times such an income means that most first time buyers are simply unable to purchase a dwelling in the District. Such a lending ratio would have required a first time buyer in 2020 to have a deposit of £270,560.00, or (without such a deposit) to earn £94,440.00 per annum to get onto the lowest/cheapest rung of the property ladder. An additional Stamp Duty payment would also have been due (subject to COVID related temporary relaxation).

When one considers the median affordability ratio⁹ for Three Rivers compared to the rest of England and Wales, the position is even more serious: in 2016, the median quartile income to median quartile house price affordability ratio was 13.77, the fourth¹⁰ worst affordability ratio in England and Wales (excluding London), as set out in table 3 below, again when compared against three hundred and three local authorities.

Number	Local Authority Name	Median quartile house price affordability ratio ⁸ (2016)
1	Hertsmere	14.23
2	Mole Valley	14.18
3	Elmbridge	13.86
4	Three Rivers	13.77

Table 3.

Over the period 2016 to 2020, the median quartile house affordability ratio in Three Rivers has improved with a decrease from 13.77 in 2016 to 12.92 in 2020 (see table 4 below). Whilst the median affordability ratio has slightly improved (by 0.85), Three Rivers has maintained its position with the fourth worst affordability ratio in England and Wales (excluding London), demonstrating a lack of improvement in Three Rivers' affordability position nationally.

Number	Local Authority Name	Median quartile house price affordability ratio ¹ (2020)
1	Mole Valley	16.84
2	Elmbridge	14.17
3	Epsom and Ewell	13.26

⁸ Office for National Statistics (2020) *Dataset: House price to residence-based earnings ratio Table 6b*
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

⁹ Affordability ratio statistics are revised annually by the ONS to reflect revisions to the house price statistics and earnings data.

¹⁰ Note that prior to the formation of the Buckinghamshire Council (now a unitary authority), Three Rivers had the fifth worst affordability ratio most expensive local authority area as a local authority in Buckinghamshire ranked higher in median affordability ratio than Three Rivers in 2016 (Chiltern – 14.49).

4	Three Rivers	12.92
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Table 4.

Looking at the ratio of lower quartile house prices to lower quartile to gross annual, residence based earnings, in 2016 the ratio was 13.26. By September 2020 that had risen to 13.53, showing a worsening ratio over the period from 2016 to 2020.

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

Affordable Housing Requirements in Three Rivers

- 2.6 The Local Housing Needs Assessment (LNHA) (August 2020) is the most recent update to the South West Hertfordshire Strategic Housing Market Assessment January 2016 (SHMA) and estimates the need for affordable housing over the 2020-2036 period. The LNHA splits its analysis between affordable housing to rent and affordable housing to buy.

Affordable Housing Need - To Rent

- 2.7 The South West Hertfordshire Local Housing Needs Assessment (LNHA) (August 2020) found that at that time there were approximately 1,276 households within Three Rivers that were situated in unsuitable housing. Unsuitability is based on the numbers of homeless households and in temporary accommodation, households in overcrowded housing, concealed households and existing affordable housing tenants in need. 57% of these households are estimated to be unable to afford market housing without subsidy, which means the revised gross need is reduced to 727 households¹¹.
- 2.8 In addition to needs arising from those in unsuitable housing, the LNHA also analyses affordable need to rent arising from newly-forming households within the District. The LNHA estimates 800 new households forming per annum in Three Rivers over the period 2020 to 2036. 45% of these newly-forming households are estimated to be unable to afford market housing (to rent) resulting in 360 new households with a need for affordable housing to rent each year over the period 2020 to 2036¹².
- 2.9 The LNHA also considers newly arising need for affordable rent from existing households (i.e. households residing in market accommodation now requiring affordable housing). The LNHA estimates an additional 77 existing households falling into need for affordable rent per year over the period 2020 to 2036¹³.
- 2.10 Taking into account the figures of need noted above and the supply of affordable housing to rent through re-lets, the LNHA calculates the annual affordable housing

¹¹ Table 33: Estimated Current Rented Affordable Housing Need, South West Hertfordshire Local Housing Needs Assessment (August 2020)

¹² Table 34: Estimated Level of Rented Affordable Housing Need from Newly Forming Households (per annum 2020-2036), South West Hertfordshire Local Housing Needs Assessment (August 2020)

¹³ Table 35: Estimated level of Housing Need from Existing Households (per annum 2020-2036), South West Hertfordshire Local Housing Needs Assessment (August 2020)

need to rent over the period 2020 to 2036 as 350 in Three Rivers¹⁴. This need involves households who cannot afford anything in the market without subsidy and is equivalent to 55% of the District's total local housing need requirement calculated by the standard methodology. This indicates the substantial scale of need for this type of affordable housing.

Affordable Housing Need - To Buy

- 2.11 In addition, the LNHA estimates a need of 162 units for affordable home ownership per annum¹⁵ over the period 2020 to 2036, although this is a need which is formed by households identified as being able to afford to rent privately without subsidy.

Total Affordable Housing Need

- 2.12 Combining the need for affordable housing to rent and affordable housing to buy results in the calculation of 512 affordable units per year, equating to approximately 80% of Three Rivers' total local housing need requirement (as calculated by the standard method).

Affordable Housing Provision in Three Rivers

- 2.13 Core Strategy CP4 requires around 45% of all new housing in the District to be affordable. As stated previously, prior to the WMS, all new developments that had a net gain of one or more dwellings would, subject to viability, be expected to contribute towards this.
- 2.14 Since the start of the plan period from 1 April 2001 to 31st March 2021 (the latest date where the most recent completion figures are available), 4,965 gross dwellings were completed. From this, 1,128 were secured as affordable housing, a total of 22.7%. This percentage is significantly below the Core Strategy target of 45% which means there was a shortfall of 1,107 or 22.3% in order to fulfil the 45% affordable housing requirement up to 31 March 2021. This shortfall only exacerbates the already pressing need for small sites to contribute towards the provision of affordable housing.
- 2.15 In the latest monitoring period of 2020/21 (financial year), 26 sites¹⁶ delivered a net gain of one or more dwellings and would therefore be required to contribute to affordable housing under Policy CP4 (either through an on-site or off-site contribution). These were made up of four major developments (15%) and 22 minor developments (86%). 17 of the 26 schemes contributed to affordable housing provision whilst nine of the 26 schemes did not contribute:
- Four out of the 26 sites provided viability justification, in line with CP4 policy, for the absence of affordable housing provision.

¹⁴ Table 37: Estimated Annual Level of Affordable/Social Rented Housing Need (2020-2036), South West Hertfordshire Local Housing Needs Assessment (August 2020)

¹⁵ Table 42: Estimated Annual Need for Affordable Home Ownership (2020-2036), South West Hertfordshire Local Housing Needs Assessment (August 2020)

¹⁶ Sites with completions in 2020/21

- Four of the applications were determined during the 2014/15 and 2016/17 periods noted at 1.2 above (when the Council was dealing with applications on the basis that the WMS should be given overriding effect regardless of the viability position on specific schemes). Affordable housing provision was forgone on them on this basis, which is now reflected in the low affordable provision as they are built out.
- Of the 17 schemes which did contribute, nine made contributions via commuted sums towards off-site provision; all nine schemes were minor developments, demonstrating the important role of small sites in collecting financial payments to be spent on affordable housing provision. Of the remaining eight schemes which contributed via on-site provision in 2020/21, three were major developments and five were minor developments, with four of the five minor developments delivered by Registered Providers (17/2077/FUL, 17/2606/FUL – Three Rivers District Council; 17/0883/FUL – Thrive Homes; 14/1168/FUL – Watford Community Housing Trust). This reflects the pattern of on-site delivery from large schemes, with commuted sums from minor developments, unless delivered by Registered Providers.

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

- 2.16 In 2017/2018 (financial year), there were 67 planning applications determined¹⁷ for net gain residential schemes, of which 57 were small site schemes (85%). In 2018/19 (financial year), there were 50 planning applications determined for net gain residential schemes, of which 46 were small site schemes (92%). In 2019/20 (financial year), there were 60 planning applications for net gain residential schemes determined, of which 55 were small sites schemes (92%). In 2020/21 (financial year), there were 38 planning applications for net gain residential schemes determined, of which 33 were small site schemes (87%). It is therefore clear that a high proportion of small site schemes have been proposed in the District, equating to 89% of applications over the past four financial years.
- 2.17 In terms of numbers of completed dwellings proposed by those small site schemes, between 2011-2021 (financial years) some 384 net dwellings were completed which equates to 38 net dwellings per annum and to 22.2% over the 2011-2021 period. 22.2% is a significant proportion of the overall supply. Whilst such numbers are significant, it is acknowledged that major developments, whilst far less frequent, provided significantly greater quantities of housing. However CP4(e) does not generally require small site schemes to provide on-site affordable housing (small-scale piecemeal development is unattractive to RP's). Instead commuted sums in lieu of on-site provision are required and thus it is the sums of money secured and the contribution those make towards the provision of additional much needed affordable housing in the District which the policy should be tested against. This has been

¹⁷ Includes refused and approved applications. Excludes prior approval developments.

acknowledged by Planning Inspectors on appeal, as referred to at paragraph 2.21 below:

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

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

- 2.18 As set out at paragraphs 1.7 and 1.8 above, the commuted payments (£2.4 million) spent on the provision of affordable housing which have been collected by the Council to date have made a direct contribution towards the identified affordable housing shortfall in the district: providing some 21 units with some of the monies being utilised to assist in the delivery of a further 17 units (38 in total). Furthermore, as set out at paragraph 1.8 above, small scale (1-9 unit) schemes have (as at February 2022) secured a further **£2.7million - £4.0million** (see footnote 2) in respect of unimplemented but current planning permissions. The Council has several large scale future residential developments planned which will aim to deliver substantial quantities of further affordable housing in the District in the medium term future, utilising those additional affordable housing contributions as and when they are received. It is clear therefore that CP4(e) has made and will continue to make a significant contribution towards the provision of much needed affordable housing in the District in the future.

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

- 2.19 As set out at paragraph 1.9 above, Policy CP4 makes it clear that a requirement for a scheme to contribute towards the provision of affordable housing is subject to viability considerations and is therefore consistent with paragraph 122 of the Framework. The application of CP4, which includes this in built viability allowance, cannot properly be said to be a barrier to delivery. The Council accepts that if, properly tested, viability cannot be established on current day costs and values then a scheme should not currently be required to provide or contribute to affordable housing delivery. Between 1 October 2011 and 31 March 2021 there were 250 planning permissions granted for minor (net gain) residential developments in the District. Of those only 13 have lapsed (5.2%)¹⁸. This demonstrates that the application of CP4 has not acted as a brake on small scale residential developments.

Relevant Appeal Decisions

- 2.20 There have been a number of appeal decisions since the WMS was upheld by the High Court in May 2016. As an example, the Planning Inspectorate has dismissed appeals that were submitted against the decisions made by Elmbridge Borough Council (appeal no: 3146699), Reading Borough Council (appeal ref: 315661), South Cambridgeshire District Council (appeal ref: 3142834) and Islington Borough Council (3154751, 3164313, 3174582, 3177927 and 3182729). These were for small scale housing schemes where those Councils had attached greater weight to their affordable housing

¹⁸ See footnote 3.

policy than to the WMS as a consequence of local evidence of substantial affordable housing need. Copies of these three appeals are attached to Appendix 1. The Council considers these appeal decisions to be of continuing relevance post the new Framework.

- 2.21 The Inspectors appointed to determine these appeals stated that the WMS needed to be addressed alongside existing Local Plan policy. Within each case, the Inspectors found that there was substantial evidence of a pressing need for affordable housing within these three local authority areas. On this basis, it was considered that local policy had significant weight and there was strong evidence to suggest that these issues would outweigh the WMS within these three cases.
- 2.22 In March 2017 the Planning Inspectorate issued a response to a letter from Richmond and Wandsworth Councils regarding the perceived inconsistency of approach by the inspectorate in relation to a further five appeal decisions made in 2016, regarding the weight that was made to the WMS. A copy of this letter is attached to Appendix 2.
- 2.23 Out of these five decisions, the Planning Inspectorate considered that three appeal decisions were reasonable, and fairly reflected the Court of Appeal's decision that although great weight should be attached to the WMS as a material circumstance; planning applications must be decided in accordance with the development plan, unless material considerations indicate otherwise.
- 2.24 However, the Planning Inspectorate considered that the decision taken on the two remaining appeals which stated that lesser weight was afforded to local policies because they were now, in part, inconsistent with national policy, was not appropriate. The seventh paragraph in the response from the Inspectorate, summarised the approach that the Inspectorate acknowledges should be taken:
- "...an Inspector to start with the development plan and any evidence presented by the LPA supporting the need for an affordable housing contribution, establish whether the proposal is in conflict with those policies if no contribution is provided for, and, if there is conflict, only then go on to address the weight to be attached to the WMS as a national policy that post-dates the development plan policies."*¹⁹
- 2.25 It is clear therefore that the Planning Inspectorate considered that although the WMS (and now the Framework) was a material consideration, this should be balanced against the policies within a plan along with any further evidence that supports a Local Planning Authority's application of the policy.
- 2.26 The Council's stance has been tested on appeal on numerous occasions (26 decisions as at the date of this document) and the Planning Inspectorate have repeatedly concluded (that whilst the NPPF carries considerable weight, it does not outweigh CP4 of the Councils development plan given the acute and substantial need for affordable housing in the District and the important contribution small sites make towards addressing this shortfall. Below are extracts from a few of those decisions:

¹⁹ Paragraph 7, Planning Inspectorate Letter, March 2017.

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

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

- **APP/P1940/W/19/3221363, The Swallows, Shirley Road, Abbots Langley Decision date: 27th June 2019:**

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

- **APP/P1940/W/19/3225445, 6 Berkely Close, Abbots Langley Decision date 5th August 2019:**

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

- **APP/P1940/W/19/3230999, 27 Gable Close, Abbots Langley Decision Date: 1st November 2019:**

“The Council has provided detailed evidence of acute affordable housing need locally: a Needs Analysis was undertaken in May 2016 after the publication of the Written Ministerial Statement which introduced the affordable housing thresholds now included in the Framework. Based on the Needs Analysis, the Council’s evidence highlights the issue of general house price affordability in the District, plus an exceptionally high need for affordable housing exacerbated by a significant shortfall in supply. It also identifies the importance of small sites in providing affordable housing with contributions from small sites amounting to over £2.1 million since 2011 being spent towards the delivery of 38 affordable dwellings.

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

- **APP/P1940/W/19/3230911, 67 & 69 St Georges Drive, Carpenders Park, Decision date 22nd October 2019:**

“The Council has undertaken several needs analyses, the latest being July 2018, to demonstrate the acute shortage of affordable housing in the District, especially in light of high house prices and that much of the District is also constrained by the Metropolitan Green Belt. It further highlights the importance small sites make to the contribution to the overall provision of affordable

housing. Up until the end of March 2017 there has only been 22.6% of affordable housing provision which falls short of the policy requirement of 45%. The shortfall demonstrates that the provision of affordable housing is still very much needed, such that Policy CP4 should continue to apply to small sites, despite the Framework and the WMS. In light of the Council's body of evidence that demonstrates the particular housing circumstances and needs of the District, I attach substantial weight to this local evidence and consider that the national policy position does not outweigh the development plan and Policy CP4 in this instance."

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

Decision date 11th October 2019:

"The Council states that its Strategic Housing Market Assessment (2010) has demonstrated that there is a significant affordable housing need locally due to very high house prices and rents and a constricted supply of suitable housing sites. Further, the South West Hertfordshire Strategic Housing Market Assessment (2016) estimated a net affordable housing need of 14,191 in the District between 2013-36 and there is also a worsening situation with regards to affordability. Based on the Council's evidence the District is the 7th most expensive local authority area in England and Wales in 2016 and demonstrates that its application of Policy CP4 has delivered a significant contribution of over £2.1 million towards the delivery of affordable housing without disrupting the supply of small residential sites. Decisions should be made in accordance with the development plan unless material considerations indicate otherwise. The robust evidence referred to in footnote 1 and the clear need to deliver affordable housing in the District underpins the Council's approach in Policy CP4 as an exception to national policy and therefore in this case, the Framework's threshold would not outweigh the conflict with the development plan. I therefore attach considerable weight to Policy CP4. I am also referred to a number of recent appeal decisions in the District which support this approach and are therefore relevant to the scheme before me and as such carry considerable weight."

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

Decision Date 22nd May 2019:

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

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

Decision Date 5th May 2019:

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

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

Decision Date 16th August 2019:

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

- **APP/P1940/W/19/3229038: 124 Greenfield Avenue**

Decision Date 10th December 2019

“Furthermore, windfall sites make up the majority of the proposals in a District which is constrained by the Green Belt and so delivery of affordable housing from these sites is crucial. The submitted evidence supports the proportion of housing proposals which have been on small sites in the last few years. There is no evidence before me that seeking affordable housing on small sites has precluded small windfall sites coming forward – indeed such sites have contributed a significant amount to the affordable housing pot since 2011... Overall, there is substantial evidence of considerable affordable housing need in the District and it has been demonstrated that small sites make an important contribution to affordable housing delivery in the Borough. I attach very significant weight to this consideration. Whilst the Framework is a material consideration of very considerable weight, based on the local circumstances of this case, in this instance the Framework does not outweigh the relevant development plan policy.”

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

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

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

Decision Date 7th May 2020

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

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

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

- **APP/P1940/W/20/3259397 24 Wyatts Road**

Decision Date 8th February 2021

“...I consider that the specific circumstances within this district together with the updated evidence to support Policy CP4 are sufficient, in this case, to outweigh the guidance of the Framework.”

- **APP/P1940/W/20/3260602: 8-10 Claremont Crescent, Croxley Green**

Decision Date 18th February 2021

“The Council’s case is that Policy CP4 should continue to apply to all housing developments, notwithstanding its lack of consistency with the more recent Framework. In justifying this position, it has provided robust evidence of a high affordable housing need in the district as well as an independent viability assessment in relation to this appeal. Furthermore, a number of similar appeal decisions, cited by the Council, show that Inspectors have considered development plan policies with lower affordable housing thresholds to outweigh national policy given the local evidence of substantial affordable housing need. Whilst the Framework is a material consideration of very considerable weight, based on the local circumstances of this case, in this instance it does not outweigh the relevant development plan policy. In making this judgement, I have given considerable but not full weight to Policy CP4.”

- **APP/P1940/W/20/3244533 2 Canterbury Way**

Decision Date 4th March 2021

“Over the plan period there have been times when the Council have applied Policy CP4 of the CS and times when they have not. I accept that this may have implications for the delivery of non-major sites, perhaps encouraging whether or not developers will bring forward proposals. However, it cannot be the only factor which influences whether or not such sites are brought forward. Furthermore, there is no substantive evidence to suggest that if Policy CP4 of the CS was not applied it would significantly increase the supply of housing in the district. Moreover, Policy CP4 of the CS was subject to an assessment of viability alongside all other requirements through the Local Plan process... Overall, on the basis of the evidence before me I am not convinced that the Council’s application of Policy CP4 of the CS is directly discouraging developers from bringing forward small sites due to the need to provide or contribute towards affordable housing or demonstrate that it viably cannot... housing affordability in the district is acute such that, based on the specific circumstances of this case and the evidence presented, I find on balance the proposal should make appropriate provision for affordable housing.”

- **APP/P1940/W/20/3260554: Land adjacent to 2 Coles Farm**

Decision Date 15th June 2021

“The appellant’s comments regarding the importance of small sites is noted as is the Council’s lack of a five-year housing land supply. Despite this, the proposal is required to secure a contribution towards the provision of affordable housing, however, at the point of determination no executable undertaking is before me... The proposal would be contrary to CS Policy CP4 and the Affordable Housing Supplementary Planning Document 2011 which require all new development resulting in a net gain of one or more dwellings to contribute to the provision of affordable housing.”

Conclusion

- 2.27 Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Having regard to the Framework as a material consideration of significant weight, officers' view is that the local evidence of affordable housing need continues to deserve significant weight in deciding whether, for the purposes of Section 38(6), the revised Framework policies weigh sufficiently against the Core Strategy Policy CP4. Having undertaken this assessment in 2017 and further reviewed it post the new NPPF in 2018, in December 2019, December 2020 and February 2022 with regard to more up to date evidence, where available, officers are of the view that the Framework does not outweigh the weight to be attached to the local evidence of affordable housing need. That evidence shows that the need for affordable housing in Three Rivers is great and the contribution that small sites have made has been significant. Furthermore comparisons between 2016 and 2020 ONS data shows that the affordability of housing in Three Rivers is deteriorating year on year and the need for affordable housing is growing. As such proposals for the residential development of sites of 10 dwellings or less (not “major development”) will currently be expected to contribute towards the provision of affordable housing in accordance with Policy CP4 as a condition of grant. The Council will keep this evidence under review.

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

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

Sources Used:

1. Core Strategy (October 2011)
<http://www.threerivers.gov.uk/egcl-page/core-strategy>
2. Annual Monitoring Report 2020/2021 (December 2021)
<http://www.threerivers.gov.uk/egcl-page/annual-monitoring-report>

3. Affordable Housing Supplementary Planning Document (June 2011)
<http://www.threerivers.gov.uk/egcl-page/supplementary-planning-documents>
4. South West Hertfordshire Local Housing Needs Assessment (August 2020)
<https://www.threerivers.gov.uk/egcl-page/new-local-plan-evidence-base>
5. Office of National Statistics Housing Data 2002-20
[https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousep
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February 2022