

PLANNING COMMITTEE – 24 FEBRUARY 2022

PART I - DELEGATED

7. 21/2590/FUL – Erection of six units within a single two storey flatted block (three 2-bed & three 1-bed), with associated parking, access, alterations to land levels and landscaping at LAND AT THE REAR OF CLOVERS COURT, CHORLEYWOOD, HERTFORDSHIRE

Parish: Chorleywood Parish Council

Ward: Chorleywood South and Maple Cross

Expiry of Statutory Period: 12.01.2022

Case Officer: Matthew Roberts

Extension of time: 28.02.2022

Recommendation: That Planning Permission be Granted

Reason for consideration by the Committee: Called in by Chorleywood Parish Council due to impact on future occupiers, drainage and overdevelopment concerns; and three Members of the Planning Committee to ascertain whether the submitted proposal has overcome the dismissed appeal scheme in relation to the impact on future occupiers.

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

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

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

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

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

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

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

The appeal was dismissed in April 2011.

- 1.2.2 11/1652/FUL - Demolition of existing bungalow at No.79 Quickley Lane and the erection of 3 town houses with associated access, parking, bin storage, landscaping and amenity areas – Permitted.
- 1.2.3 12/2072/FUL - Minor amendments to planning permission 11/1652/FUL (erection of 3 town houses with associated access, parking, bin storage, landscaping and amenity areas) to reduce the width of the proposed terrace of three houses, marginally increase their depth and to realign the access road – Permitted.
- 1.2.4 13/1631/FUL - Variation of condition 2 of planning permission 12/2072/FUL: to create a staggered ridge height between the dwellings, accommodation within the roofspace including the insertion of rooflights to front and rear associated with second floor accommodation and the realignment of the flank boundaries – Permitted, not implemented.
- 1.2.5 14/0641/FUL - Variation of condition 2 of planning permission 13/1631/FUL: to include first floor front clear glazed window, bricked exterior to north eastern elevation, re-siting of rooflights, alteration and increase to parking area and re-grading of rear landscape amenity area – Permitted and implemented.

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

- 1.3.1 10/0065/FUL – Erection of 3 x 2 bed dwellings with associated access, off street parking, bin store provision and landscaping (Forward part of the site) – Permitted March 2010 - Not Implemented.
- 1.3.2 10/0703/FUL - Erection of 3 houses to the rear of 81 Quickley Lane - Refused July 2010 for the following reasons;

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

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

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

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

- 1.3.3 10/2209/FUL - Demolition of No. 79 & 81 Quickley Lane and erection of 12 town houses split into 4 blocks, two blocks of 3 x 2 bedroom town houses to the front of the site and two blocks of 3 x 3 bedroom town houses including bin storage area and associated access road and parking – Withdrawn November 2010.
- 1.3.4 12/0972/RSP - Part Retrospective: Erection of three dwellings and associated parking - amended development following planning permission 10/0065/FUL- Refused August 2012 for the following reason:

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

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

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

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

R1: *The proposed development by virtue of the limitations of the application site fails to provide a comprehensive planning scheme for the whole site, failing to take into account already approved adjoining developments. The proposal would therefore result in a poor form of development that fails to address sufficiently the characteristics and opportunities of the wider site. The proposal is therefore not in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).*

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

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

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

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

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

R7: *The proposed development would result in an increase in demand for education, libraries, childcare facilities, youth facilities, open space/children's play space and sustainable transport provision in the area. The proposed development in the absence of an agreement under the provisions of Section 106 of Town and Country Planning Act 1990 would fail to recognise the impact of the development upon these services. The proposal would also attract a requirement for fire hydrant provision. The application would therefore fail to meet the requirements of Policies PSP2, CP1, CP8 and CP10 of the Core Strategy (adopted October 2011), Policy DM11 of the Development Management Policies LDD (adopted July 2013) and Open Space, Amenity and Children's Playspace SPD (adopted December 2007).*

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

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

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

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

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

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

R1: *The proposed development would represent overdevelopment with the proposed dormer windows resulting in an overbearing and un-neighbourly form of development and would outlook neighbouring dwellings to the detriment of their residential amenity. The proposed development would also fail to provide sufficient usable amenity space for future*

occupiers. The proposal would therefore be contrary to Policies CP1, CP3 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

This decision was not appealed.

19/0040/FUL - Erection of six 3-bed dwellings with associated parking, access and landscaping. Refused, for the following reasons:

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

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

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

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

This decision was appealed but subsequently dismissed (APP/P1940/W/19/3235144).

1.4.7 19/1863/FUL - Erection of six dwellings with associated parking, access and landscaping. Withdrawn.

1.4.8 20/1349/FUL - Erection of six units within a single two storey flatted block (three 2-bed & three 1-bed), with associated parking, access, alterations to land levels and landscaping. Refused by members of the Planning Committee for the following reasons:

R1: *The proposed development by virtue of its contrived nature, scale and height would result in the overdevelopment of the site to the detriment of the area's spacious, verdant, suburban character. The development would therefore be contrary to Policies CP1 and CP12 of the Core Strategy (adopted October 2011), Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013) and Policy 2 of the Chorleywood Neighbourhood Plan (Referendum Version, August 2020).*

R2: *The proposed lightwells to the ground floor flats would result in the absence of a natural outlook and significantly restrict daylight into the bedrooms. These factors combined would*

have an unacceptable impact on the living conditions enjoyed by future residents, contrary to Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

This decision was appealed (APP/P1940/W/21/3269609) and dismissed solely in relation to R2, impact on future occupiers.

2 Description of Application Site

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

3 Description of Proposed Development

- 3.1 This application seeks planning permission for the erection of six units within a two storey flatted block (three 2-bed & three 1-bed), with associated parking, access, alterations to land levels and landscaping.
- 3.2 The proposed six flats would be contained within a two storey flat roofed building of contemporary design positioned immediately opposite the existing terraces which serve Clovers Court, separated by a minimum distance of 20m extending up to 24m. The building would have a maximum height of 7m, maximum width of 26m and depth of 14.5m, set in from the north eastern boundary with properties fronting Rendlesham Way by a minimum of 9m and set in 1.5m from the south western boundary with No.83 Quickley Lane and land at the rear of Orchard Cottage. The building would have a varied external appearance comprising of light grey render, dark stained timber boarding, facing brickwork and aluminium framed windows. Green roofs are also proposed on-top of the single storey projections.
- 3.3 At ground level there will be three, two bed flats which would comprise open plan living, with a kitchen and dining area, bathroom, storage and two bedrooms. At the rear each flat would have a small private amenity area enclosed by close boarded fencing and retaining walls

with by 1.1m high glass balustrades above. At first floor level there are three, one bed flats of a similar layout accessed via a lobby area. All flats via the lobbies would have access to a tiered communal garden which will be supported by new trees and hedging.

- 3.4 The area between the proposed building and the north eastern boundary is proposed to contain a new timber refuse and recycling store and cycle stores. This space would be hard surfaced and complimented by soft landscaping.
- 3.5 The parking area serving the site would include a total of 25 spaces, 13 parking spaces serving the existing terraces (No.1-6 Clovers Court) and 12 new spaces of which 3 would be for visitors/guests.
- 3.6 The application was supported by a schedule of materials, Design & Access Statement, Viability Statement, Energy and Sustainability Statement, Biodiversity Checklist and an Arboricultural Impact Assessment and Method Statement.
- 3.7 During the process the plans have been amended to enlarge the refuse store.
- 3.8 The key differences between the previous refused application 20/1349/FUL and the current submission is:
 - greater excavation will now be required at the rear of the building to enable a minimum 5.7m deep private amenity area to the ground floor flats;
 - bigger refuse store and a larger single cycle store;
 - tandem parking to the northern western side of the parking courtyard.

4 Consultation

4.1 Statutory Consultation

4.1.1 Chorleywood Parish Council: [Objection]

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

The application follows a similar scheme dismissed at appeal in which the Inspector found;

"the ground floor of the building would comprise of three 2-bed units. Both of the bedrooms within each of these units would be served by a lightwell for the provision of outlook and light. The only outlook from all bedrooms to the ground floor units would therefore be out to the lightwell towards a high wall, at close quarters. This would be overly oppressive for occupants when within the bedrooms."

Whilst the applicant appears to have sought to address this reason for refusal, unfortunately, the application does not go far enough. Due to the height of retaining walls together with the balcony and vegetation, the proposed lawn outside the bedrooms would be significantly overshadowed. The ground floor bedroom windows would not be provided with adequate outlook and light. This application would not overcome the reasons for refusal in relation to the quality of accommodation for future residents.

Furthermore, neighbouring residents addressed the Parish Council Planning Committee noting that in order to facilitate the proposal, a significant amount of excavation would be required (much more than previously sought due to a difference in land levels). The application is not supported by a basement impact assessment to assess the impact of the development on drainage, flooding, groundwater conditions and structural stability. There are significant concerns raised by neighbouring residents on this matter and the application cannot be permitted without the submission of a Basement Impact Assessment which should be reviewed by an engineer appointed by the Council (paid for by the developer).

This is a material planning consideration that must be factored into the assessment of the application.

Overall, there are concerns that this is an overdevelopment of the site and this application fails to satisfactorily address the concerns raised by the Parish Council, neighbouring residents and the Planning Inspector. The benefits of the delivery of new homes is tempered because the application simply seeks to cram in properties without proper regard to the amenities of existing and future residents.

Officer comment: The application site does not fall within a flood zone nor is it identified as an area at risk of surface water flooding. As such, it is not considered that the submission of a Basement Impact Assessment is reasonable. All retaining walls required by the development will be subject to a planning control which will involve liaison with Building Control to ensure they are adequate which would of course be in the applicant's interest.

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

The site has trees and hedging around the boundary. These could potentially be negatively impacted by the development through root severance, changes to the root environment, compaction through the movement and storage of plant, damage through harmful construction practices, contamination due to spillage of fuel or other materials, unsympathetic facilitation pruning, and direct damage to the stem and crown.

An arboricultural report has been submitted as part of the application. The report lists the removal of one tree due to arboricultural reasons and utilises protective fencing to mitigate the negative impacts of construction. The survey for the report was stated as carried out in June 2019 and the report was written in October 202, valid from 2 years of the date of the survey, as such the report is already out of date. Having carried out a desktop study from images taken in 2021 the line of trees looks to be the same as in the plans included in the report. In order that the tree protection areas are accurate however it is recommended new measurements are taken from the trees and the Tree Protection Plans updated.

If the application is granted it is recommended that a dischargeable condition is included that any trees within or near to the site shall be resurveyed in order that a new Tree Protection Plan is created and submitted to and approved in writing by the Local Planning Authority. This will enable the trees in site to be protected in accordance with the requirements of BS 5837 (2012) 'Trees in Relation to Design, Demolition and Construction'.

Officer comment: Having visited the site the Tree Protection Plan is considered acceptable.

4.1.2.1 HCC Highway Authority: [No objection, subject to a condition and informative]

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 Points as % of total car parking spaces
Prior to the first occupation / use of the development hereby permitted, provision shall be made for 20% of the car parking spaces to have active provision for EV charging and 801% of the car parking spaces to have passive provision for EV charging.*

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).

Site and Surroundings

Clovers Court is an unclassified private driveway which is not highway maintainable at public expense. Clovers Court connects to Quickley Lane which is an unclassified local access road subject to a 30mph which is highway maintainable at public expense.

Sustainability

The closest bus stop to the site is approximately 345m from the site on Stag Lane and is a stop for the R2 to Northwood. The nearest train station to the site is Chorleywood, approximately 1km away, which is served by Chiltern Railways and the Metropolitan line to destinations such as Aylesbury, London Marylebone, Amersham, Chesham, and Aldgate. Around 900m from the site is the centre of Chorleywood where a number of services and amenities can be found. 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 proposal makes use of the existing access from the highway onto Clovers Court. The existing access serves the dwellings fronting the proposed flats. Due to Quickley Lane being a 30mph unclassified local access road the standard visibility splay of 2.4m x 43m, as outlined in Roads in Hertfordshire: Highway Design Guide 3rd Edition Section 4 – Design Standards and Advice, can be reduced to 2m x 43m. The reduction in setback means that there is sufficient visibility from the site access provided the surrounding vegetation is maintained. There have not been any collisions on Quickley Lane close to the access within the last 5 years.

Parking is a matter for the LPA, but HCC would like to comment that the proposed parking spaces are of the acceptable size of 2.4m x 4.8m, as stated within Manual for Streets. Under Three Rivers District Council's emerging standards it would be expected that electric vehicle (EV) charging be available with 20% active and 80% passive provision for flats. Secure covered cycle parking has been provided within the site as shown on drawing number 1344/P/1F.

Surface Water

The Government's flood risk maps for planning indicate parts of the carriageway to be at a high risk of surface water flooding: <https://check-long-term-flood-risk.service.gov.uk/postcode>. Therefore, a drainage solution from the proposed flats which removes the risk of expelling surface water onto Quickley Lane should be provided to ensure flood risk does not increase.

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 swept path drawing provided shows a waste collection vehicle reversing into the site. This reversing distance is further than the recommended maximum of 12m stated in Manual for Streets. This arrangement must be deemed satisfactory by TRDC as the waste management authority.

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 flats are further than this distance and the submitted swept path drawings show that a large vehicle would not be able to turn around on site. Therefore, this application has been forwarded to Hertfordshire Fire and Rescue to comment 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 comments made by TRDC as the waste collection authority and Hertfordshire Fire and Rescue.

4.1.3 Hertfordshire Fire and Rescue Service: [No objection, subject to a condition]

The following application will require a condition for the provision of fire hydrants, at no cost to the county, or F&S. This is to ensure adequate water supplies are available at all times, for in the event of an emergency.

4.1.4 Affinity Water: [No objection, informative added]

Water Quality

You should be aware that the proposed development site is located within an Environment Agency defined groundwater Source Protection Zone (SPZ) corresponding to our Pumping Station (MILE). This is a public water supply, comprising a number of abstraction boreholes, operated by Affinity Water Ltd.

The construction works and operation of the proposed development site should be done in accordance with the relevant British Standards and Best Management Practices, thereby significantly reducing the groundwater pollution risk. It should be noted that the construction works may exacerbate any existing pollution. If any pollution is found at the site then the appropriate monitoring and remediation methods will need to be undertaken.

Any works involving excavations below the chalk groundwater table (for example, piling or the implementation of a geothermal open/closed loop system) should be avoided. If these are necessary, a ground investigation should first be carried out to identify appropriate techniques and to avoid displacing any shallow contamination to a greater depth, which could impact the chalk aquifer.

For further information we refer you to CIRIA Publication C532 "Control of water pollution from construction - guidance for consultants and contractors".

Water efficiency

Being within a water stressed area, we expect that the development includes water efficient fixtures and fittings. Measures such as rainwater harvesting and grey water recycling help the environment by reducing pressure for abstractions in chalk stream catchments. They also minimise potable water use by reducing the amount of potable water used for washing, cleaning and watering gardens. This in turn reduces the carbon emissions associated with treating this water to a standard suitable for drinking, and will help in our efforts to get emissions down in the borough.

4.1.5 Thames Water: [No objection, informative added]

Thames Water would advise that with regard to foul water sewerage network infrastructure capacity, we would not have any objection to the above planning application, based on the information provided.

With regard to surface water drainage, Thames Water would advise that if the developer follows the sequential approach to the disposal of surface water we would have no objection. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. Should you require further information please refer to our website.

<https://developers.thameswater.co.uk/Developing-a-large-site/Apply-and-pay-forservices/Wastewater-services>

Thames Water recognises this catchment is subject to high infiltration flows during certain groundwater conditions. The scale of the proposed development doesn't materially affect the sewer network and as such we have no objection. In the longer term Thames Water, along with other partners, are working on a strategy to reduce groundwater entering the sewer network.

Thames Water recognises this catchment is subject to high infiltration flows during certain groundwater conditions. The developer should liaise with the LLFA to agree an appropriate sustainable surface water strategy following the sequential approach before considering connection to the public sewer network. The scale of the proposed development doesn't materially affect the sewer network and as such we have no objection. In the longer term Thames Water, along with other partners, are working on a strategy to reduce groundwater entering the sewer network.

The applicant is advised that their development boundary falls within a Source Protection Zone for groundwater abstraction. These zones may be at particular risk from polluting activities on or below the land surface. To prevent pollution, the Environment Agency and Thames Water (or other local water undertaker) will use a tiered, risk-based approach to regulate activities that may impact groundwater resources. The applicant is encouraged to read the Environment Agency's approach to groundwater protection (available at <https://www.gov.uk/government/publications/groundwaterprotection-position-statements>) and may wish to discuss the implication for their development with a suitably qualified environmental consultant.

4.1.6 National Grid: [No comments received. Any comments received will be verbally updated at the Committee meeting]

4.1.7 Environmental Protection: [Informal discussions have taken place]

4.1.8 Crime Prevention Officer: [No comments received. Any comments received will be verbally updated at the Committee meeting]

4.2 **Public/Neighbour Consultation**

4.2.1 Number consulted: 80

4.2.2 No of responses received: 11 (10 objections / 1 neutral)

4.2.3 Site Notice: Expired 14.12.2021

4.2.4 Press Notice: Not applicable.

4.2.5 Summary of Responses:

- Traffic congestion
- Construction traffic
- Overdevelopment
- Inadequate bin storage
- Unacceptable levels of parking
- Members should visit the site
- Instability of further excavations
- Permitted development rights should be removed if approved
- Privacy issues
- Noise and disturbance
- Less excavation if number of units reduced
- Controls over lighting
- Use of green roof as terrace

5 Relevant Planning Policy, Guidance and Legislation

5.1 National Planning Policy Framework and National Planning Practice Guidance

In July 2021 the revised NPPF was published, to be read alongside the online National Planning Practice Guidance. 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”.

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 unless there is a clear reason for refusing the development (harm to a protected area). Relevant chapters include: Chapter 2; Chapter 4; Chapter 5; Chapter 9; Chapter 11 and Chapter 12.

5.2 The Three Rivers Local Development Plan

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

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies PSP3, CP1, CP2, CP3, CP4, CP8, CP9, CP10 and CP12.

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

The Chorleywood Neighbourhood Development Plan is also relevant, specifically Policies 2, 3, 5, 10 & 13.

5.3 Other

Affordable Housing Supplementary Planning Document (adopted June 2011)

Evidence Relating to the Application of the Affordable Housing Threshold in Core Strategy Policy CP4: Affordable Housing (December 2020)

South West Hertfordshire Local Housing Needs Assessment 2020

Housing Land Supply Update (December 2020).

Housing Delivery Test Action Plan (June 2021).

Technical Housing Standards – nationally described space standards (March 2015).

Solid Waste Storage / Collection Guidance (Environmental Protection Department)

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

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

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

6 Reason for Delay

6.1 Committee cycle.

7 Planning Analysis

7.1 Overview

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

7.1.2 In respect of previous planning history, planning application 10/0703/FUL for three houses to the rear of No.81 Quickley Lane was refused by the Local Planning Authority (LPA) and dismissed on 3 May 2011 by the Planning Inspectorate (APP/P1940/A/10/2144323). The houses subject of this appeal were sited towards the very rear of the site and included a long access road in excess of 40m from Quickley Lane with an extensive area of hardstanding covering the majority of the curtilage. The appeal was dismissed on grounds that the scheme would be harmful to the character and appearance of the area and there would have been unacceptable provision for utility and emergency vehicles by virtue of the long access road. This appeal decision is a material planning consideration.

7.1.3 Planning permission was also granted at appeal (APP/P1940/W/16/3149879) in September 2016 for the erection of two bungalows opposite the existing terraces (Nos.1 to 6 Clovers Court). This appeal decision followed the Council's decision to refuse the application on grounds of character and affordable housing. Nevertheless, in terms of impact on character, the Inspector disagreed that the erection of two bungalows would have a harmful impact on the area's character.

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

7.1.5 Following this application a further proposal (reference 19/0040/FUL) for the erection of six, 3 bed dwellings was submitted but refused by the Council on four grounds (un-neighbourly form of development to No.6 Rendlesham Way; overdevelopment; impact on protected trees & affordable housing). This application was appealed but subsequently dismissed on all abovementioned grounds.

7.1.6 The most recent application (reference 20/1349/FUL) for the erection of six units within a two storey building was refused by the Council due to overdevelopment and the impact on the future residents. This decision was appealed and dismissed but was dismissed solely on impact on future residents.

7.1.7 As the development is very similar to 20/1349/FUL, the key areas of concern relate to whether the amended layout of the amenity space serving the ground floor flats and greater level of excavation would be acceptable having regard to future living conditions and the

character of the area. Nevertheless, the following sections set out a full planning assessment.

7.2 Principle of development

- 7.2.1 Policy CP3 of the Core Strategy stipulates that the Council will promote high quality residential development that respects the character of the District and caters for a range of housing needs. In addition, Policy CP12 states that development should *'have regard to the local context and conserve or enhance the character, amenities and quality of an area and should make efficient use of land whilst respecting the distinctiveness of the surrounding area.'*
- 7.2.2 The NPPF encourages the effective use of land. At the heart of the NPPF is a presumption in favour of sustainable development which seeks positive improvements in the quality of the built environment but at the same time balancing social and environmental concerns.
- 7.2.3 The proposed development would result in a net gain of six residential flats. The site is not identified as a housing site in the adopted Site Allocations Document. However, as advised in this document, where a site is not identified for development, it may still come forward through the planning application process where it will be tested in accordance with relevant national and local policies.
- 7.2.4 The application site is within Chorleywood which is identified as a Key Centre in the Core Strategy. The Spatial Strategy of the Core Strategy advises that new development will be directed towards previously developed land and appropriate infilling opportunities within the urban areas of Key Centres and Core Strategy Policy PSP3 indicates that the Key Centres (including Chorleywood) will provide approximately 60% of the District's housing requirements over the plan period.
- 7.2.5 The proposal would be on former garden land and as such would not be considered to be development of previously developed land. Nevertheless, development of garden land is not prohibited, subject to consideration against national and local planning policies. Furthermore, the principle of development within the "backland" area of the application site and the introduction of six flats has been accepted and the site is considered deliverable. Additionally, the net gain of dwellings would weigh in favour of the development as the Council cannot demonstrate a five year supply of housing.

7.3 Housing Mix

- 7.3.1 Policy CP3 of the Core Strategy states that the Council requires housing proposals to take into account the district's range of housing needs, in terms of the size and type of dwellings as identified by the Strategic Housing Market Assessment (SHMA). The most recent SHMA was published in 2020 and has identified the indicative targets for market sector dwelling size within the Three Rivers District as being:
- 1 bedroom 5% of dwellings
 - 2 bedrooms 23% of dwellings
 - 3 bedrooms 43% of dwellings
 - 4+ bedrooms 30% of dwellings
- 7.3.2 The application proposes 50% of its housing provision to be 1 bed dwellings and 50% to be 2 bed dwellings. Therefore, the proposal does not take into account the range of housing needs required by the SHMA. However, it is recognised that the proportions of housing mix may be adjusted for specific schemes to take account of market information, housing needs and preferences and specific site factors. No justification for the proposed mix has been provided, however, given the scale of development, it is not considered that the lack of variety in the housing mix would weigh against the proposal.

7.4 Affordable Housing

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

7.4.2 The proposed development would result in a requirement for a commuted sum of £351,250 towards affordable housing based on a habitable floorspace of 281sq. metres multiplied by £1,250 per sq. metres which is the required amount in 'Highest Value Three Rivers' market area.

7.4.3 This application has been supported by a Viability Appraisal, which has been reviewed by the Council's independent viability assessor. The applicant's submitted appraisal concluded that the scheme cannot viably afford to provide any commuted payment towards affordable housing. As part of the review under the previous application the build costs were also assessed by an independent chartered quantity surveyor as there were some concern that the build costs were too high. However, there is now general agreement and build costs have since increased further. It was concluded that the residual land value was below the benchmark land value which demonstrated that the scheme cannot support an affordable housing contribution.

7.5 Impact on character and appearance of area

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

7.5.2 Policy DM1 and Appendix 2 of the Development Management Policies document set out that new residential development should not be excessively prominent in relation to the general street scene and should respect the character of the street scene, particularly with regard to the spacing of properties, roof form, positioning and style of windows and doors and materials. In terms of new residential development, Policy DM1 advises that the Council will protect the character and residential amenity of existing areas of housing from forms of 'backland', 'infill' or other forms of new residential development which are inappropriate for the area. Development will only be supported where it can be demonstrated that the proposal will not result in:

- i) Tandem development
- ii) Servicing by an awkward access drive which cannot easily be used by service vehicles
- iii) The generation of excessive levels of traffic
- iv) Loss of residential amenity
- v) Layouts unable to maintain the particular character of the area in the vicinity of the application site in terms of plot size, plot depth, building footprint, plot frontage width, frontage building line, height, gaps between buildings and streetscape features (e.g. hedges, walls, grass verges etc.).

7.5.3 Policy 3 of the Chorleywood NDP also states in exceptional cases a limited scale of backland development may be acceptable, subject to 4 criterion; maintaining neighbouring amenity; car parking avoiding adverse impact on neighbours in terms of noise or light; development must be more intimate in mass and scale and lower than frontage properties and re-provide features such as trees. The following analysis section will cover these points in more detail and conclude at section 7.16.

7.5.4 In previous decisions it has been accepted that the application site is a backland site, and that former proposals to introduce new dwellings opposite the terraces were a form of

tandem development. However, the Planning Inspector in the September 2016 planning appeal stated that the erection of two bungalows would not constitute development that would be harmful per se, nor would it be precluded by the provisions of Policy DM1 of the Development Management Policies document.

- 7.5.5 The character of the local area has been described at length in previous applications and within the 2020 and 2021 planning appeal decisions where it was described as follows:

“The established planting and garden spaces between dwellings, many of which contain mature trees and hedgerows, contribute positively to the setting of the surrounding buildings such that there is a generous, verdant separation between the respective built form along Quickley Lane and Stag Lane. Clovers Court and Juniper Court provide some variety in terms of the plot layout as they have a tighter knit built form with the principal elevations of some dwellings facing away from the road. Nevertheless, these developments broadly respect the building line along Quickley Lane resulting overall, in a pleasant, leafy suburban character.” (2020 Appeal decision, paragraph 4)

“The surrounding area is distinctly residential in nature, albeit that there is some variety in the form and layout of the development present. Quickley Lane, from which the appeal is accessed and with which it would share the closest affinity, is characterised by dwellings set back behind front gardens but facing the road. A notable exception to this is Juniper Court which comprises dwellings near the road as well as units located further within the site arranged around a parking area. A further defining feature of the area is its sylvan appearance, with the inclusion of substantial areas of planting and trees creating a leafy and attractive streetscape.” (2021 Appeal decision, paragraph 8)

- 7.5.6 The submitted proposal takes on a more contemporary design approach which would generally be at odds with the terraces immediately opposite and surrounding built form. However, the local area is extremely varied and thus the introduction of a contemporary style building is simply considered to add to the area's character, which, given the building's positioning would have relatively limited visibility from public vantage points, other than views from the private access from Quickley Lane. It should also be noted that the contemporary design approach was supported by the Inspector in the 2021 appeal who commented as follows:

“The scheme proposes the construction of a flat-roofed, contemporary styled building to accommodate six units. The building would be positioned in the site such that it would not be generally visible from viewpoints in the surrounding area, other than from glimpses along the vehicular access of Clovers Court, which itself is enclosed by substantial retaining walls with fences atop, and from adjoining dwellings. Where visible, given the use of a flat roof, it would not be so tall as to obscure surrounding trees, which would remain visible above the new built form. As a result, there would be little effect on the sylvan character and appearance of the area.”

“The new building would also be set off both side boundaries, ensuring that it would not fill the site and consequently it would not appear as a cramped form of development and nor would it be unduly urbanising, given its close affinity with the existing built form of Clovers Court. There would be some areas of hardstanding associated with the construction of the development, including car parking and paths to the front of the building. However, there is already a significant area of hardstanding within the existing development, and I find that the appeal scheme would not increase this to any unacceptable degree. Moreover, new hedging and tree planting is proposed that would soften the appearance of the development and aid in its assimilation into the verdant and green qualities of the surroundings.”

- 7.5.7 As a result, there is no in principle objection to a contemporary approach. The proposed building would use a variety of materials (timber boarding, grey multi brick and light grey

render) and its flat roof form would reduce its visual presence within the site and from private views from neighbouring outlook.

- 7.5.8 In light of the above appeal and the fact that very little is changing to the front of the building under the submitted scheme, the layout and design of the building and parking areas are considered acceptable.
- 7.5.9 In respect of the excavation at the rear of the building to facilitate that the private amenity areas, it is not considered that this would adversely affect the character of the area given that the building would obscure the majority of the retaining walls from view. The majority of the retaining walls would be adjacent to the building and the flank boundaries; although the depth of the retaining walls would be greater adjacent to south eastern boundary which straddles the rear garden of No.83 and an open plot of land known as Land at the rear of Orchard Cottage. Nevertheless, the siting of the proposed building will ensure that the retaining walls would not be readily visible or unduly prominent to adversely affect the character of the site and wider area.
- 7.5.10 Should the application be approved, further details regarding external lighting should be submitted along with details of the boundary treatments including retaining walls and the proposed materials including the hard surfacing areas across the application site.
- 7.5.11 The concern regarding the impact on the area's character is acknowledged, nevertheless, for reasons expressed above and having regard to the 2021 appeal decision, it is not considered that the addition of 6 flats would be overdevelopment nor would it appear harmful to the area's character. The development would therefore accord with Policy DM1 and Appendix 2 of the Development Management Policies LDD and Policies 2 and 3 of the Chorleywood Neighbourhood Plan 2020-2035.

7.6 Impact on the amenities of neighbours

- 7.6.1 Policy CP12 of the Core Strategy states that development should 'protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space'. Policy DM1 and Appendix 2 of the Development Management Policies document set out that residential development should not result in loss of light to the windows of neighbouring properties nor allow overlooking, and should not be excessively prominent in relation to adjacent properties. Policy DM1 and Appendix 2 of the Development Management Policies LDD sets out further guidance in relation to residential development and states that development resulting in the loss of residential amenity will not be supported and distances between buildings should be sufficient so as to prevent overlooking, particularly from upper floors. Additionally, it states that in respect of rear to flank distances, where the rear of a building looks onto the side of another the distance between them must be sufficient to avoid the flank wall having an overbearing effect.
- 7.6.2 The 2020 appeal scheme was identified as being overbearing and also by virtue of its siting (set in 1-1.2m from the boundary) resulted in significant overshadowing to the adjacent property, No.6 Rendlesham Way which is positioned to the north east. In order to overcome these issues the previous scheme amended the siting of the building so it would be set in from the neighbouring boundary point by approximately 9m with a back to side distance of 21m (previous refused application was 12-16m). When considering the separation distance and the flat roof design of the scheme at a height of 6.2m closest to the neighbour who is on higher land, it is not considered that the proposed building would appear overbearing, nor would it result in any unacceptable levels of overshadowing to this neighbour.
- 7.6.3 In respect of overlooking the proposed flats would have outlook across the car parking area and for the first floor flats also across the communal amenity area to the rear. The proposed building has a staggered building line and therefore would be separated from the existing

six terraces at the front of Clovers Court by 20-24m. The Design Criteria sets out that as an indicative figure, 28m 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. Having regard to the site circumstances and the introduction of soft landscaping to the car park, the proposed front to front distances are considered acceptable to avoid unacceptable levels of inter-overlooking between properties and to No.2 Rendlesham Way to the north east and No.83 Quickley Lane to the north west. At the rear, the first floor flats would have outlook across the amenity area and would not overlook adjacent neighbouring properties as the existing boundary treatments would ensure that privacy levels are preserved.

- 7.6.4 Concern has been raised with regards to the use of the flat roof on the single storey projection at the front of the building towards the south west; however, a condition has been recommended to control its use for maintenance purposes only.
- 7.6.5 Policy DM9 of the Development Management Policies LDD states that planning permission will not be granted for development which has an unacceptable adverse impact on the indoor and outdoor acoustic environment of existing or planned development.
- 7.6.6 The proposed development will increase general activity on site, especially within the parking area and area accommodating the refuse and recycling and cycle stores. Whilst recognising the noise created from those on site, given the site circumstances and its suburban context within a built up area, it is not considered that the noise and disturbance generated as a result of the development would harm neighbouring amenity and has not previously been cited as a reason for refusal in previous schemes which also included a net gain of six dwellings.
- 7.6.7 The refuse and recycling store and cycle store would be located in close proximity to the neighbouring boundary with No.6 Rendlesham Way; however, the application site is on a significantly lower land level and would be completely screened by the existing boundary treatments. Additionally, given the relationship between the application site and No.6 Rendlesham Way no unacceptable levels of noise and disturbance is considered to arise.
- 7.6.8 If approved, it is noted that the construction works including the land level changes could have the potential to adversely affect the living conditions of the existing occupiers currently living at Clovers Court and those immediately adjacent to the site. It will therefore be important that a Construction Management Plan is imposed to ensure that measures are in place to reduce the impact throughout the construction phase.
- 7.6.9 As the proposed development involves flats it is not considered necessary to remove permitted development rights as flats do not benefit from any.

7.7 Quality of accommodation for future occupants

- 7.7.1 It is also necessary to consider the amenity impact of the development towards the future occupiers of the flats in accordance with Policy CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies LDD which seeks to protect residential amenities for residents of new development. 2.8m x 13m.
- 7.7.2 The previous scheme was dismissed at appeal in 2021 as it was found that the occupiers of the ground floor units would not experience satisfactory living conditions, due to the lack of outlook and daylight. The Inspector noted the following at paragraphs 5 and 6 of the decision letter:

“The ground floor of the building would comprise of three 2-bed units. Both of the bedrooms within each of these units would be served by a lightwell for the provision of outlook and light. The only outlook from all bedrooms to the ground floor units would therefore be out to the lightwell towards a high wall, at close quarters. This would be overly oppressive for

occupants when within the bedrooms. While the appellant contends that the bedrooms would primarily be used at night, this does not dissuade me that bedrooms are often used at other times of the day and that as such should benefit from adequate outlook.”

“Moreover, the submitted cross sections show that the lightwells would be almost 4 metres in depth and as a result, notwithstanding the southern aspect, limited light would reach the interior of the bedrooms. As a consequence, while I note the appellants intention to paint the walls of the lightwell white as well as that the rooms would be served by large openings, the interior of the bedrooms would not be well lit due to limited natural illumination. The provision of large windows to the front of the units, would do little to ameliorate this due to the internal enclosure of the bedrooms, as well as their distance from this light source. I note that the appellant contends that lightwells are commonplace across the country and while this may be true, in this instance I have found that they would result in an inadequate internal environment for occupiers. That the lightwells would provide additional outdoor space would not overcome this harm.”

- 7.7.3 As part of the submitted scheme greater earth would be excavated to enable a deeper private amenity area for the ground floor units. The minimum depth of the patio/lawn areas would be 4.5m with the total depth being 5.7m which includes the raised planting area, compared previously with the 1.6m deep light wells. Whilst the amenity areas would still be enclosed from the communal gardens, the retaining wall would be constructed in two parts. The closest retaining wall from the rear of the building set at a distance of 4.5m away would be 1.7m in height to hold a planting area of 1.2m in depth. At this point, set back from the wall a further retaining wall would be erected at a height of 2m. At this point a further 1.2m obscure glazed panel would be erected, taking the total height to 4.9m. Given the stepped nature of the enclosures including the separation distance between the rear of the ground floor flats and the enclosures it is considered that all bedrooms would receive acceptable levels of light reception, noting that all bedrooms also face in a southerly direction. Whilst recognising the concerns from the Parish, the prominence of the enclosures from outlook from the ground floor flats would also to be mitigated by soft landscaping (details of which are to be agreed via condition in the event of an approval) and each ground floor unit would also have their own usable amenity space which would further aid their future living environment.
- 7.7.4 The proposed first floor flats would have natural outlook to both the front and rear with easy access to the communal amenity garden.
- 7.7.5 The rear most part of the site (excluding the tiered planters) would now remain predominately unaltered and would provide two relatively level communal areas (referred to as lower garden and higher garden on the submitted plans). A further area of lawn is to be retained within the north eastern corner. As a result, more than sufficient space will be retained that would allow for a range of outdoor activities.
- 7.7.6 In light of the above, it is considered that the changes made have overcome the dismissed scheme and the living conditions of future occupants would now be acceptable.
- 7.8 Amenity space provision
- 7.8.1 Within the Design Criteria as set out within Appendix 2 of the Development Management Polices LDD it states that for one bed flats there should be an indicative level of 21sqm, with 10sqm for each additional bedroom which can be allocated specifically to each flat or communally. The Design Criteria makes it clear that the disposition of amenity space may be in the form of private gardens or in part, may contribute to formal spaces/settings for group of buildings and that any communal space for flats should be well screened from highways and passers-by.

7.8.2 The proposed plans indicate that amenity space will be provided both privately (for the ground floor two bed flats) and communally to the rear via lower and higher garden levels. Based on the Design Criteria, the following amenity levels are required:

- 63sqm for one bed flats (21sqm x 3)
- 93sqm for two bed flats (31sqm x 3)
- Total indicate amount required: 156sqm

7.8.3 The total usable communal amenity area serving the development would amount to approximately 230sqm which exceeds the indicative requirement (excludes paths and soft landscaped terrace). This communal area would be well screened from highways. In addition, further enclosed private amenity spaces will exist for the two bed flats on the ground floor ranging from 38sqm to 51sqm. In light of the above, policy complaint levels of amenity space would be provided.

7.9 Parking/Access/Highways

7.9.1 When applying the Parking Standards as set out within Appendix 5 of the Development Management Policies LDD, it states that a one bed flat would require 1.75 spaces (1 assigned space) and for two bedroom flats there is a requirement of 2 spaces (1 assigned space).

7.9.2 The development proposed would require 12 (rounded up from 11.25 spaces) parking spaces of which 6 should be assigned. However, owing to the fact that the parking area would be shared with the existing well established terraces, a further 12 spaces must be allocated to those occupiers as per previous planning permissions. Therefore, a total of 24 spaces (rounded up from 23.25 spaces) would be required to serve both existing and proposed developments within Clovers Court.

7.9.3 The proposed parking layout shows 25 spaces in total; 13 allocated to the existing terraces, 9 allocated to the six new flats and 3 visitor spaces. As a result, based on the above there would be 12 spaces serving the new building. This accords with the required parking standards set out above.

7.9.4 Following numerous site visits over the years it appears from observations that parking serving the existing 2/3 bed dwellings is well contained to the site, in front of the terraces rather than right across the existing hard surface area or within local roads, which suggests that existing parking levels are acceptable. Whilst this scheme will introduce six new flats, it is not considered that the development would result in the displacement of on-street parking within the locality or cause harm to highway safety and visitor spaces are provided. All the two bed flats would have two allocated parking spaces with one space allocated to all one bed flats.

7.9.5 Additionally, the site is located within a relatively accessible location to local transport networks. The Chorleywood Train Station is one mile away and the site is also a short walk to local bus stops on Furze View and Heronsgate Road.

7.9.6 Cycle storage is also set out within Appendix 5 and states that for flats there is a requirement for 1 space per 2 units. The submitted plans indicate that the cycle store would provide space for 6 bikes, double the required amount.

7.9.7 The development is already served by a formal access from Quickly Lane which is not planned to be altered. The parking area is private and does not form part of the public highway; however, it is recognised that the parking area will need to provide drainage or be of porous material so details of the hard surfacing will be secured by condition.

7.9.8 If granted, a Construction Management Plan should also be imposed so the existing parking spaces serving the terraces would be safeguarded throughout the construction phase.

7.10 Impact on trees

- 7.10.1 Policy DM6 of the Development Management Policies LDD states that development proposals should seek to retain trees and other important landscape and nature conservation features whilst including new trees and other planting to enhance the landscape of the site and its surroundings as appropriate. It also states that development should be designed in such a way as to allow trees and hedgerows to grow to maturity without causing undue problems of visibility, shading or damage and that development likely to result in future requests for significant topping, lopping or felling will be refused.
- 7.10.2 The application site contains a number of trees towards the rear of the site. These trees exist alongside relatively mature trees found within neighbouring gardens which form part of the area's verdant character. The trees within the application site adjacent to the boundary with Terre Haute are protected. A Beech hedge also exists along the boundary with No.8 Rendlesham Way although it is recognised that no trees exist adjacent to this neighbour, contrary to the submitted landscape plan.
- 7.10.3 Unlike previous submissions the rear part of the amenity area will not be altered physically, other than its alteration to provide tiered planters with steps. The tiered planter falls outside the root protection area of the protected trees and therefore would not result in harm, although tree protection details would need to be secured by condition and erected prior to works commencing on site.
- 7.10.4 The submitted Arboricultural Impact Assessment indicates that only the Ash tree (T2) will be removed as it is in decline. All other trees and hedging will be retained. The submitted details also show that new trees and hedging will be planted within the rear amenity area and within the car parking area. To ensure that appropriate species are planted and would have a relatively instant impact, especially within the parking area, a soft landscaping condition is recommended.
- 7.10.5 In light of the above and subject to the recommended conditions, the development would comply with Policy DM6 of the Development Management Policies LDD.

7.11 Ecology impacts

- 7.11.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive. The Habitats Directive places a legal duty on all public bodies to have regard to the habitats directive when carrying out their functions.
- 7.11.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of this application in accordance with Policy CP9 of the Core Strategy and Policy DM6 of the Development Management Policies document. Paragraph 170 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by proposals minimising impacts on and providing net gains for biodiversity, including by minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 7.11.3 A Local Biodiversity Checklist has been completed by the applicant and submitted with the application and states that no protected species or biodiversity interests will be affected as a result of the application. The site is not in or located adjacent to a designated wildlife site. The Local Planning Authority is not aware of any records of protected species within the immediate area that would necessitate further surveying work being undertaken and given the nature of the proposed development there would not be any adverse impacts on biodiversity. To aid biodiversity across the site, new tree and hedge planting will occur.

7.12 Refuse and Recycling

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

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

7.12.2 Following discussions with the Council's Environmental Protection department refuse vehicles do currently access the site. At the time of the report, tracking details were to be provided to ensure that acceptable provision can still be made.

7.12.3 The proposed bin store has been enlarged during the process to ensure that sufficient capacity can be achieved for the flats, as well as the ability for the existing occupiers of the terraces to use the store if they so wish. The store would be set approximately 11m from the parking area, which is within the accepted limits (25m distance) as set out within the guidance provided by Environmental Protection.

7.13 Sustainability

7.13.1 Policy DM4 of the Development Management Policies LDD sets out that development must produce at least 5% less carbon dioxide emissions than Building Regulations Part L (2013) requirements having regard to feasibility and viability. This may be achieved through a combination of energy efficiency measures, incorporation of on-site low carbon and renewable technologies, connection to a local, decentralised, renewable or low carbon energy supply.

7.13.2 The application has been supported by an Energy and Sustainability Statement which sets out that the development would deliver a minimum 30% reduction over the Part L1A baseline. This is to be achieved by through the use of passive design measures, efficient building fabric (high levels of insulation and efficient glazing) and PV panels. Following discussions with the agent it is apparent that the above may be subject to change so a follow-up Energy and Sustainability Statement will be secured by condition.

7.14 Infrastructure Contributions

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

7.15 Planning balance

7.15.1 At the time of writing the report, the development has no unacceptable conflict with the relevant local planning policies which are considered out of date (as the LPA cannot demonstrate a five year supply of deliverable housing), having regard to paragraph 11 of the NPPF.

7.15.2 The NPPF makes it clear at paragraph 11 that there is a presumption in favour of sustainable development that planning permission should be granted unless either a) there is a clear reason for refusing the development proposal given its impact on an area or asset of particular importance (para 11(d)(i)), or b) that any adverse impacts of doing so would significantly and demonstrably outweigh the benefits (para 11(d)(ii)). Whilst it is recognised

that the housing mix is not strictly in accordance with Policy CP3 of the Core Strategy, given the scale of the development it is not considered to provide a clear reason for refusal.

7.15.3 In the view that no clear reason for refusing the development has been demonstrated it is considered acceptable. If the above matters or other material considerations are identified as harmful then these must be balanced against the benefits of the scheme. The benefits include the contribution towards boosting the overall housing supply in the district and the economic benefits to the local area which would arise from the development.

7.16 **Summary:**

7.16.1 The development is considered to be acceptable and the alterations to the rear of the building will ensure that future occupiers of the ground floor two bed flats would have acceptable living conditions, as well as access to their own amenity area. As such, it is considered that the changes made have overcome the sole reason for the dismissed planning appeal.

8 **Recommendation**

8.1 That PLANNING PERMISSION be GRANTED subject to the following conditions:-

C1 Time Limit

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 In accordance with plan numbers

The development hereby permitted shall be carried out in accordance with the following approved plans: 1344/P/1G; 1344/P/2B; 1344/P/3B; 1344/P/4A; 1344/P/5; 1344/P/6C, 1344/P/7A & OAS 19-142-TS01 Rev B.

Reason: For the avoidance of doubt, to preserve the character and appearance of the area, safeguard protected trees and highway safety and in the proper interests of planning in accordance with Policies PSP3, CP1, CP2, CP3, CP4, CP8, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011), Policies DM1, DM4, DM6, DM8, DM9, DM10, DM11 and DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013) and Policies 2, 3, 5, 10, 13 of the Chorleywood Neighbourhood Plan 2020-2035 (Referendum Version, August 2020).

C3 Hard and Soft Landscaping Scheme / tree protection / lighting / boundary treatments

No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority in consultation with Building Control. In respect of hard landscaping, these details shall include full construction details (including foundation design) of all retaining walls within the application site; details, including a plan, indicating the positions, design, materials and types of all boundary treatments; and details, including the position, height, design and intensity of all external lighting to be installed on the site or affixed to any buildings.

All hard landscaping works required by the approved shall be carried out in complete accordance with those details prior to the first occupation of the development hereby approved.

In respect of the soft landscaping, these details shall include all proposed soft landscaping measures (including green roofs) with reference made to species and initial planting height in accordance with 1344/P/6B (Landscaping Layout).

All soft landscaping works required by the approved scheme shall be carried out in accordance with a programme to be agreed before the development commences, and shall be maintained including the replacement of any trees or plants which die or are removed or become seriously damaged or diseased in the next planting season with others of a similar size or species for a period of five years from the date the approved scheme was completed.

Reason: This condition is a pre-commencement condition in the interests of visual amenity in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

C4 Construction Management Plan

No development whatsoever shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Management Plan shall include details of:

- a. Construction vehicle numbers, type, routing;
- b. Access arrangements to the site;
- c. Construction and storage compounds (including areas designated for contractor car parking, loading / unloading and turning areas);
- d. Siting and details of wheel washing facilities;
- e. Cleaning of site entrances, site tracks and the adjacent public highway;
- f. Timing of construction activities (including delivery times and removal of waste);
- g. Measures in place to safeguard the parking areas for the 1-6 Clovers Court

Reason: This is a pre-commencement condition in order to safeguard the residential amenities of neighbouring properties, protect highway safety and the amenity of other users of the public highway and rights of way in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011) and Policies DM9, DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

C5 Submission of materials

The development shall not commence until electronic samples and details of the proposed external materials (external walls, windows, doors, lightwells and the external appearance of the refuse/recycling store and cycle store) have been submitted to and approved in writing by the Local Planning Authority and no external materials shall be used other than those approved.

Reason: This condition is a pre-commencement condition to ensure that the external appearance of the dwellings are acceptable having regard to the local context in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

C6 Tree Protection

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, in accordance with the Arboricultural Impact Assessment & Method Statement (OAS 19-142-AR01 Rev B dated October 2021).

The protective measures, including fencing, shall be undertaken in full accordance with the Tree Protection Plan (OAS 19-142-TS01 Rev B) 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).

C7 Sustainability measures

The development shall not be occupied until the energy saving measures detailed within the Energy and Sustainability 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.

C8 Parking area

Prior to the first occupation of the development hereby permitted, the parking spaces shall be constructed, surfaced and permanently laid out in accordance with the approved plan 1344/P/1G (Proposed Site Plan). The parking spaces shall thereafter be kept permanently available for the use of residents and visitors to the site only.

Reason: To ensure that adequate off-street parking and manoeuvring space is provided within the development so as not to prejudice the free flow of traffic and in the interests of highway safety in accordance with Policies CP1, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

C9 Cycle stores

Prior to the first occupation of the development hereby permitted, the two cycle stores shall be implemented in accordance with drawing numbers 1344/P/1G & 1344/P/7A (and the external appearance details as agreed via Condition 5) and be permanently retained thereafter.

Reason: In order to ensure bicycle parking facilities are provided and encourage use of sustainable modes of travel in accordance with Policies CP1, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

C10 Refuse and recycling enclosure

Prior to the first occupation of the development hereby permitted, the refuse and recycling enclosure shall be implemented in accordance with drawing numbers 1344/P/1G & 1344/P/7A (and the external appearance details as agreed via Condition 5) and be permanently retained thereafter.

Reason: In order to ensure bicycle parking facilities are provided and encourage use of sustainable modes of travel in accordance with Policies CP1, CP10 and CP12 of

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

C11 Use of flat roof

The flat roof on the single storey front projection (in front of flat 6) hereby permitted, shall not be accessed or used at any time other than for maintenance purposes.

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

8.2 **Informatives:**

11 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. 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.

- 12 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.
- 13 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.
- 14 The applicant is advised that the requirements of the Party Wall Act 1996 may need to be satisfied before development commences.

15 Thames Water:

Waste:

Thames Water recognises this catchment is subject to high infiltration flows during certain groundwater conditions. The scale of the proposed development doesn't materially affect the sewer network and as such we have no objection, however care needs to be taken when designing new networks to ensure they don't surcharge and cause flooding. In the longer term Thames Water, along with other partners, are working on a strategy to reduce groundwater entering the sewer networks.

Thames Water recognises this catchment is subject to high infiltration flows during certain groundwater conditions. The developer should liaise with the LLFA to agree an appropriate sustainable surface water strategy following the sequential approach before considering connection to the public sewer network. The scale of the proposed development doesn't materially affect the sewer network and as such we have no objection, however care needs to be taken when designing new networks to ensure they don't surcharge and cause flooding. In the longer term Thames Water, along with other partners, are working on a strategy to reduce groundwater entering the sewer network.

Surface Water:

With regard to surface water drainage, Thames Water would advise that if the developer follows the sequential approach to the disposal of surface water we would have no objection. Management of surface water from new developments should follow Policy SI 13 Sustainable drainage of the London Plan 2021. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. Should you require further information please refer to our website. <https://developers.thameswater.co.uk/Developing-a-large-site/Applyand-pay-for-services/Wastewater-services>.

Thames Water would advise that with regard to FOUL WATER sewerage network infrastructure capacity, we would not have any objection to the above planning application, based on the information provided.

Water:

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

16 Affinity Water:
Water Quality

You should be aware that the proposed development site is located within an Environment Agency defined groundwater Source Protection Zone (SPZ) corresponding to our Pumping Station (MILE). This is a public water supply, comprising a number of abstraction boreholes, operated by Affinity Water Ltd.

The construction works and operation of the proposed development site should be done in accordance with the relevant British Standards and Best Management Practices, thereby significantly reducing the groundwater pollution risk. It should be noted that the construction works may exacerbate any existing pollution. If any pollution is found at the site then the appropriate monitoring and remediation methods will need to be undertaken.

Any works involving excavations below the chalk groundwater table (for example, piling or the implementation of a geothermal open/closed loop system) should be avoided. If these are necessary, a ground investigation should first be carried out to identify appropriate techniques and to avoid displacing any shallow contamination to a greater depth, which could impact the chalk aquifer.

For further information we refer you to CIRIA Publication C532 "Control of water pollution from construction - guidance for consultants and contractors".

Water efficiency

Being within a water stressed area, we expect that the development includes water efficient fixtures and fittings. Measures such as rainwater harvesting and grey water recycling help the environment by reducing pressure for abstractions in chalk stream catchments. They also minimise potable water use by reducing the amount of potable water used for washing, cleaning and watering gardens. This in turn reduces the carbon emissions associated with treating this water to a standard suitable for drinking, and will help in our efforts to get emissions down in the borough.

Infrastructure connections and diversions

There are potentially water mains running through or near to part of proposed development site. If the development goes ahead as proposed, the developer will need to get in contact with our Developer Services Team to discuss asset protection or diversionary measures. This can be done through the My Developments Portal (<https://affinitywater.custhelp.com/>) or aw_developerservices@custhelp.com.

In this location Affinity Water will supply drinking water to the development. To apply for a new or upgraded connection, please contact our Developer Services Team by going through their My Developments Portal (<https://affinitywater.custhelp.com/>) or aw_developerservices@custhelp.com. The Team also handle C3 and C4 requests to cost potential water mains diversions. If a water mains plan is required, this can also be obtained by emailing maps@affinitywater.co.uk. Please note that charges may apply.

- 17 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.

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.

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.

- 18 The applicant is encouraged to install passive provision for electric vehicles within the parking area.

**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.”*
 - 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:

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

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

- 1.6 This policy remains the legal starting point for the consideration of planning applications under Section 38(6) PCPA 2004, which requires that the Council determines applications in accordance with the adopted development plan unless material considerations indicate otherwise. Revised NPPF 63 is a material consideration. The weight to be given to it is a matter for the decision maker when determining each planning application. This note explains the advice from the Head of Planning Policy & Projects and Head of Regulatory Services on the weight that they recommend should be given to NPPF 63 for these purposes in light of the Needs Analysis.
- 1.7 Since the adoption of its Core Strategy in 2011, Three Rivers has received small site affordable housing contributions amounting to over **£2.1 million**. Utilising those monies, development is currently underway which will deliver 21 units of affordable housing, with the remaining monies utilised as a contribution towards the delivery of a further 17 affordable dwellings. It is clear that Three Rivers' policy has already delivered a significant contribution towards the delivery of much needed affordable housing in the district.
- 1.8 In addition to the £2.1 million already received, small scale (1-9 unit) schemes have secured to date a further **£2.5million to £3.8million²** of affordable housing contributions in respect of unimplemented but current planning permissions. All of those schemes were agreed to be viable with those sums secured. The Council has several large scale future residential developments planned which will aim to deliver substantial quantities of further affordable housing in the District in the medium term future, utilising those additional affordable housing contributions as and when they are received.
- 1.9 Policy CP4 makes it clear that a requirement for a scheme to contribute towards the provision of affordable housing is subject to viability considerations and is therefore consistent with paragraph 122 of the Framework. The application of CP4, which includes this in built viability allowance, cannot properly be said to be a barrier to delivery. Indeed between 1 October 2011 and 31 March 2020 226 planning permissions were granted for minor residential developments which contribute a net dwelling gain. Of those only 21 have been permitted to lapse which is only 9% of all such schemes.

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.

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

Importance of Small Sites to Three Rivers

- 1.11 It is important to acknowledge the percentage of residential development schemes which tend to come forward in the District which propose the delivery of less than 10 dwellings: from 1 April 2017 to 31 March 2020, 177 planning applications for residential development involving a net gain of dwellings were determined³ by the Council. Of these, 158 applications (89%) were for schemes which proposed a net gain of 1-9 units. Having a large number of small sites is an inevitable consequence of the District being contained within the Metropolitan Green Belt. The contribution to both market housing supply and affordable housing supply are therefore both material to overall identified needs and adopted development plan objectives. This is dealt with in more detail below.
- 1.12 If the weight to be given to the Framework is greater than the adopted development plan, this large proportion of Three Rivers' expected new housing delivery will contribute nothing towards affordable housing. This would compromise Three Rivers' ability to deliver its objectively assessed need for affordable housing.

2 Development Plan Policies and the WMS

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

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

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

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

- 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

³ Includes refused and approved applications. Excludes prior approval developments.

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 2016⁴, the lowest quartile house price in Three Rivers in 2016, representing the cheapest properties in the District was £325,000.00, making it the **seventh** most expensive local authority area in England and Wales (excluding London), out of a total of three hundred and six local authority areas (see table 1 below).

Number	Local Authority Name	Lowest Quartile House Prices (2016)
1	Elmbridge	£375,000.00
2	South Bucks	£370,000.00
3	St Albans	£355,000.00

⁴ ONS (2020) *Dataset: House price to residence-based earnings ratio Table 6a* <https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

4	Windsor and Maidenhead	£345,000.00
5	Chiltern	£335,000.00
6	Herstmere	£330,000.00
7	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 2019 was £347,000⁵. The lowest quartile house price of £347,000 continues to place Three Rivers as the **seventh** most expensive local authority area in England and Wales (excluding London), out of a total of three hundred and six local authority areas (see table 2 below). Whilst Three Rivers' position as the seventh most expensive local authority area remains consistent, the lowest quartile house price has risen by £22,000 from 2016 to 2019.

Number	Local Authority Name	Lowest Quartile House Prices (2019)
1	South Bucks	£410,000
2	Elmbridge	£400,500
3	St Albans	£385,000
4	Chiltern	£370,000
5	Epsom and Ewell	£357,000
6	Windsor and Maidenhead	£355,667
7	Three Rivers	£347,000

Table 2.

Lowest quartile earnings in Three Rivers in 2016 were £24,518.00 and £24,811.00 in 2019, 13.3 times worsening to 14 below the lowest quartile house prices (ratio of lower quartile house prices to lower quartile gross annual, residence based earnings⁶). In a mortgage market where lenders are traditionally willing to lend 3.5 times a person's income, clearly a lending requirement at 14 times such an income means that most first time buyers are simply unable to purchase a dwelling in the District. Such a lending ratio would have required a first time buyer in 2019 to have a deposit of £260,161.00, or (without such a deposit) to earn £99,143.00 per annum to get onto the lowest/cheapest rung of the property ladder. An additional Stamp Duty payment would also have been due (subject to COVID related temporary relaxation).

When one considers the median affordability ratio⁷ for Three Rivers compared to the rest of England and Wales, the position is even more serious: in 2016, the median quartile income to median quartile house price affordability ratio was 13.77, the fifth worst affordability ratio in England and Wales (excluding London), as set out in table 3 below, again when compared against three hundred and six local authorities.

Number	Local Authority Name	Median quartile house price affordability ratio ⁸ (2016)
1	South Bucks	14.49
2	Hertsmere	14.23

⁵ Office for National Statistics (2020) *Dataset: House price to residence-based earnings ratio Table 6a* <https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

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

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

3	Mole Valley	14.18
4	Elmbridge / Chiltern	13.87
5	Three Rivers	13.77

Table 3.

The median quartile house price affordability ratio has worsened since 2016. In 2019, Three Rivers had the third worst affordability ratio in England and Wales (excluding London), with its median quartile house affordability ratio measured at 14.53⁸, as set out in table 4 below. In 2017 and 2018, the median quartile house affordability ratios were 14.31 and 13.75 respectively. Whilst the ratio slightly improved from 2016 to 2018 with a decrease to 13.75, the 14.53 ratio measured in 2019 demonstrates a worsening position over the longer term 2016-2019 period.

Number	Local Authority Name	Median quartile house price affordability ratio ¹ (2019)
1	Isles of Scilly	17.71
2	Mole Valley	14.87
3	Three Rivers	14.53

Table 4.

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

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

Affordable Housing Requirements in Three Rivers

- 2.6 The South West Hertfordshire Strategic Housing Market Assessment January 2016 (SHMA) found that at that time there were approximately 658 households within Three Rivers that were situated in unsuitable housing. Unsuitability is based on the number of households shown to be overcrowded in the 2011 Census (updated to a 2013 base for the purposes of the SHMA). 59.4% of these households were unable to afford market housing, which meant the revised gross need was reduced to 391 households.⁹
- 2.7 The SHMA also looked into newly-arising (projected future) need within the District, which was accepted as arising from newly forming households and existing households falling into this need. In South West Herts, the SHMA estimated a need totalling 2,760 new households per annum from 2013-2036. 15% of this need falls within Three Rivers, which equates to an estimated level of affordable housing need in the District from newly forming households of 419 per annum.
- 2.8 With these figures in mind, the SHMA calculated the net affordable housing need within the five local authority areas of the South West Herts area as being 54,997 units over the 23 year period from 2013 to 2036. This is 2,391 units per annum.¹⁰ The net need within Three Rivers was calculated as being 357 units per annum or 8,211 units over the same 23 year period.

⁸ Office for National Statistics (2020) *Dataset: House price to residence-based earnings ratio Table 5c* <https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

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

¹⁰ Table 38: South West Hertfordshire Housing Market Assessment (January 2016). Net need = Current Need + Need from Newly-Forming Households + Existing Households falling into Need – Supply of Affordable Housing.

The SMHA identified the district's OAN for the next plan period as being 514 dwellings a year; thus affordable housing need equates to 69% of total housing need.

Affordable Housing Provision in Three Rivers

- 2.9 Core Strategy CP4 requires around 45% of all new housing in the District to be affordable. As stated previously, prior to the WMS, all new developments that had a net gain of one or more dwellings would, subject to viability, be expected to contribute towards this.
- 2.10 Since the start of the plan period from 1 April 2001 to 31st March 2020 (the latest date where the most recent completion figures are available), 4,689 gross dwellings were completed. From this, 1,037 were secured as affordable housing, a total of 22.1%. This percentage is significantly below the Core Strategy target of 45% which means there was a shortfall of 1,073 or 23% in order to fulfil the 45% affordable housing requirement up to 31 March 2020. This shortfall only exacerbates the already pressing need for small sites to contribute towards the provision of affordable housing.
- 2.11 In the latest monitoring period of 2019/20 (financial year), 17 sites¹¹ delivered a net gain of one or more dwellings and would therefore be required to contribute to affordable housing under Policy CP4 (either through an on-site or off-site contribution). These were made up of five major developments (29%) and 12 minor developments (71%). Only five schemes contributed to affordable housing provision:
- Four out of the 17 provided viability justification, in line with CP4 policy, for the absence of affordable housing provision.
 - Eight of the applications were determined during the 2014/15 and 2016/17 periods noted at 1.2 above (when the Council was dealing with applications on the basis that the WMS should be given overriding effect regardless of the viability position on specific schemes). Affordable housing provision was forgone on them on this basis, which is now reflected in the low affordable provision as they are built out.
 - Of the five sites which contributed to affordable housing delivery in 2019/20 four were major developments and one was a minor development (17/2628/FUL – Thrive Homes (Registered Provider) scheme). This reflects the pattern of on-site delivery from large schemes, with commuted sums from minor developments (see para. 2.12).

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

- 2.12 In 2017/2018 (financial year), there were 67 planning applications determined¹² for net gain residential schemes, of which 57 were small site schemes (85%). In 2018/19 (financial year), there were 50 planning applications determined for net gain residential schemes, of which 46 were small site schemes (92%). In 2019/20 (financial year), there were 60 planning applications for net gain residential schemes determined, of which 55 were small sites schemes (92%). It is therefore clear that a high proportion of small site schemes have been proposed in the District, equating to 89% of applications over the past three years.
- 2.13 In terms of numbers of completed dwellings proposed by those small site schemes, between 2011-2020 (financial years) some 341 net dwellings were completed which equates to 38 net dwellings per annum and to 20.8% over the 2011-2020 period. 20.8% is a significant

¹¹ Sites with completions in 2019/20

¹² Includes refused and approved applications. Excludes prior approval developments.

proportion of the overall supply. Whilst such numbers are significant, it is acknowledged that major developments, whilst far less frequent, provided significantly greater quantities of housing. However CP4(e) does not generally require small site schemes to provide on-site affordable housing (small-scale piecemeal development is unattractive to RP's). Instead commuted sums in lieu of on-site provision are required and thus it is the sums of money secured and the contribution those make towards the provision of additional much needed affordable housing in the District which the policy should be tested against. This has been acknowledged by Planning Inspectors on appeal, as referred to at paragraph 2.21 below: APP/P1940/W/19/3230999, 27 Gable Close, Abbots Langley: *"It also identifies the importance of small sites in providing affordable housing with contributions from small sites amounting to over £2.1 million since 2011 being spent towards the delivery of 38 affordable dwellings."*

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

- 2.14 As set out at paragraphs 1.7 and 1.8 above, the commuted payments (£2.1 million) to be spent on the provision of affordable housing which have been collected by the Council to date have made a direct contribution towards the identified affordable housing shortfall in the district: providing some 21 units with some of the monies being utilised to assist in the delivery of a further 17 units (38 in total). Furthermore, as set out at paragraph 1.8 above, small scale (1-9 unit) schemes have (as at December 2019) secured a further **£2.5million - £3.8million** (see footnote 2) in respect of unimplemented but current planning permissions. The Council has several large scale future residential developments planned which will aim to deliver substantial quantities of further affordable housing in the District in the medium term future, utilising those additional affordable housing contributions as and when they are received. It is clear therefore that CP4(e) has made and will continue to make a significant contribution towards the provision of much needed affordable housing in the District in the future.

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

- 2.15 As set out at paragraph 1.9 above, Policy CP4 makes it clear that a requirement for a scheme to contribute towards the provision of affordable housing is subject to viability considerations and is therefore consistent with paragraph 122 of the Framework. The application of CP4, which includes this in built viability allowance, cannot properly be said to be a barrier to delivery. The Council accepts that if, properly tested, viability cannot be established on current day costs and values then a scheme should not currently be required to provide or contribute to affordable housing delivery. Between 1 October 2011 and 31 March 2020 there were 226 planning permissions granted for minor (net gain) residential developments in the District. Of those only 21 have lapsed (9%). This demonstrates that the application of CP4 has not acted as a brake on small scale residential developments.

Relevant Appeal Decisions

- 2.16 There have been a number of appeal decisions since the WMS was upheld by the High Court in May 2016. As an example, the Planning Inspectorate has dismissed appeals that were submitted against the decisions made by Elmbridge Borough Council (appeal no: 3146699), Reading Borough Council (appeal ref: 3156661), South Cambridgeshire District Council (appeal ref: 3142834) and Islington Borough Council (3154751, 3164313, 3174582, 3177927 and 3182729). These were for small scale housing schemes where those Councils had attached greater weight to their affordable housing policy than to the WMS as a consequence

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

- 2.17 The Inspectors appointed to determine these appeals stated that the WMS needed to be addressed alongside existing Local Plan policy. Within each case, the Inspectors found that there was substantial evidence of a pressing need for affordable housing within these three local authority areas. On this basis, it was considered that local policy had significant weight and there was strong evidence to suggest that these issues would outweigh the WMS within these three cases.
- 2.18 In March 2017 the Planning Inspectorate issued a response to a letter from Richmond and Wandsworth Councils regarding the perceived inconsistency of approach by the inspectorate in relation to a further five appeal decisions made in 2016, regarding the weight that was made to the WMS. A copy of this letter is attached to Appendix 2.
- 2.19 Out of these five decisions, the Planning Inspectorate considered that three appeal decisions were reasonable, and fairly reflected the Court of Appeal's decision that although great weight should be attached to the WMS as a material circumstance; planning applications must be decided in accordance with the development plan, unless material considerations indicate otherwise.
- 2.20 However, the Planning Inspectorate considered that the decision taken on the two remaining appeals which stated that lesser weight was afforded to local policies because they were now, in part, inconsistent with national policy, was not appropriate. The seventh paragraph in the response from the Inspectorate, summarised the approach that the Inspectorate acknowledges should be taken:

*"...an Inspector to start with the development plan and any evidence presented by the LPA supporting the need for an affordable housing contribution, establish whether the proposal is in conflict with those policies if no contribution is provided for, and, if there is conflict, only then go on to address the weight to be attached to the WMS as a national policy that post-dates the development plan policies."*¹³

- 2.21 It is clear therefore that the Planning Inspectorate considered that although the WMS (and now the Framework) was a material consideration, this should be balanced against the policies within a plan along with any further evidence that supports a Local Planning Authority's application of the policy.
- 2.22 The Council's stance has been tested on appeal on numerous occasions and the Planning Inspectorate have repeatedly concluded (16 decisions as at the date of this document) that whilst the NPPF carries considerable weight, it does not outweigh CP4 of the Councils development plan given the acute and substantial need for affordable housing in the District and the important contribution small sites make towards addressing this shortfall. Below are extracts from a few of those decisions:
- **APP/P1940/W/19/3222318, Eastbury Corner, 13 Eastbury Avenue, Northwood, Decision date: 21 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.

¹³ Paragraph 7, Planning Inspectorate Letter, March 2017.

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

- **APP/P1940/W/19/3221363, The Swallows, Shirley Road, Abbots Langley**

Decision date: 27 June 2019:

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

- **APP/P1940/W/19/3225445, 6 Berkely Close, Abbots Langley**

Decision date 5 August 2019:

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

- **APP/P1940/W/19/3230999, 27 Gable Close, Abbots Langley**

Decision Date: 1 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 22 October 2019:**

“The Council has undertaken several needs analyses, the latest being July 2018, to demonstrate the acute shortage of affordable housing in the District, especially in light of high house prices and that much of the District is also constrained by the Metropolitan Green Belt. It further highlights the importance small sites make to the contribution to the overall provision of affordable housing. Up until the end of March 2017 there has only been 22.6% of affordable housing provision which falls short of the policy requirement of 45% The shortfall demonstrates that the provision of affordable housing is still very much needed, such that Policy CP4 should continue to apply to small sites, despite the Framework and the WMS. In light of the Council’s body of evidence that demonstrates the particular housing circumstances and needs of the District, I attach substantial weight to this local evidence and consider that the national policy position does not outweigh the development plan and Policy CP4 in this instance.”

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

Decision date 11 October 2019:

“The Council states that its Strategic Housing Market Assessment (2010) has demonstrated that there is a significant affordable housing need locally due to very high house prices and rents and a constricted supply of suitable housing sites. Further, the South West Hertfordshire Strategic Housing Market Assessment (2016) estimated a net affordable housing need of 14,191 in the District between 2013-36 and there is also a worsening situation with regards to affordability. Based on the Councils evidence the District is the 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 22 May 2019:

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

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

Decision Date 5 May 2019:

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

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

Decision Date 16 August 2019:

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

- **APP/P1940/W/19/3238285: Bell Public House, 117 Primrose Hill, Kings Langley
Decision Date 9 March 2020**
“Even taking the appellants figures that 22.8% of affordable units have arisen from non major sites, I consider this to be an important and meaningful contribution...even taking the appellant’s figures my conclusion remains unaltered.”
- **APP/P1940/W/19/3229189: Glenwood, Harthall Lane, Kings Langley
Decision Date 7 May 2020**
“The Council’s evidence sets out the acute need for affordable housing in the area and the importance of small sites in contributing to the provision of such housing. They also highlighted a large number of recent appeal decisions for small residential schemes where it has been considered that the exceptional local need should outweigh government policy, as set out in the Framework... Despite the appellant’s evidence, which included reference to a Local Plan Consultation Document (October 2018) and an analysis undertaken by them based on the Council’s Housing Land Supply Update (December 2018), it was clear to me, in the light of all the evidence before me, that a pressing need for affordable housing in the area remains. It was also clear that small sites play a key role in ensuring this provision. As such, in this case, I am satisfied that although considerable weight should be given to the Framework, it does not outweigh the development plan policy.”
- **APP/P1940/W/20/3249107: 2 Church Cottages, Old Uxbridge Road, West Hyde
Decision Date: 21 October 2020**
“The Framework at paragraph 63 sets out that the provision of affordable housing should not be sought for residential developments that are not major developments other than in designated rural areas where policies may set out a lower threshold of 5 units or fewer. That said, there is clear evidence to suggest that there is an acute need for affordable housing in the Three Rivers District and there have been several appeal decisions which supported this view... I agree that there are special circumstances which justify the provision of affordable housing below the Framework’s suggested threshold... As a result, the proposal would be contrary to Policy CP4 of the CS which amongst other matters seeks to increase the provision of affordable homes including by means of a commuted sum payment for sites of between one and nine dwellings... I have also had regard to the obvious benefits in relation to the provision of a much-needed new dwelling. However, the benefits of this are outweighed by the lack of provision for affordable housing”

Conclusion

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

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

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

Sources Used:

1. Core Strategy (October 2011)
<http://www.threerivers.gov.uk/eqcl-page/core-strategy>
2. Annual Monitoring Report 2019/2020 (December 2020)
<http://www.threerivers.gov.uk/eqcl-page/annual-monitoring-report>
3. Affordable Housing Supplementary Planning Document (June 2011)
<http://www.threerivers.gov.uk/eqcl-page/supplementary-planning-documents>
4. South West Hertfordshire Strategic Housing Market Assessment (January 2016)
<http://www.threerivers.gov.uk/eqcl-page/shma-and-economic-study-for-future-review-of-local-plan>
5. Office of National Statistics Housing Data 2002-19
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

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