

## PLANNING COMMITTEE – 23 FEBRUARY 2023

### PART I - DELEGATED

9. **22/2250/FUL - Subdivision of the site and the construction of 2no. two storey detached dwellings with rooflights and associated accesses, parking, landscaping and ancillary works at NORTH VIEW FARM, BELL LANE, BEDMOND, HERTFORDSHIRE, WD5 0QT (DCES)**

Parish: Abbots Langley  
Ward: Abbots Langley and Bedmond  
Expiry of Statutory Period: 27.02.2023 (Agreed Case Officer: Lauren Edwards  
EoT)

Recommendation: That Planning Permission be Granted subject to the completion of a Section 106.

Reason for consideration by the Committee: The application was called in by three members of the Planning Committee in order to assess the impact of the development on the Metropolitan Green Belt.

#### 1 Relevant Planning History

- 1.1 No relevant Planning History.

#### 2 Description of Application Site

- 2.1 The application site relates to a parcel of land approx. 1030sqm in area and is located on the northern side of Bell Lane, Bedmond. The site is currently enclosed to the front by timber fencing and a metal gate to the access. To the flank boundaries there is closed boarded fencing and to the rear is mature vegetation that separates the application site from a larger parcel of field land to the rear which is within the ownership of the applicant and therefore identified by a blue line on the site location plan. The application site is covered by grass which is relatively well maintained.
- 2.2 To the west of the site is a detached two storey dwelling known as 'The Weald'. This neighbour has accommodation in the roof served by rear dormers, gable ends and single storey projections. Land levels in this part of the street are relatively flat such that the neighbour is on the same level as the application site.
- 2.3 To the east of the site is an area of protected wood land. Beyond the Woodland to the east is a dwelling known as Harefield.
- 2.4 There are also neighbouring properties to the south. The neighbouring dwellings are all of varying scale and design.
- 2.5 There are a line of protected trees across the rear boundary of the site and one individual tree towards the south eastern corner.
- 2.6 The application site is located within the Metropolitan Green Belt.

#### 3 Description of Proposed Development

- 3.1 This application seeks planning permission for the subdivision of the site and the construction of 2no. two storey detached dwellings with rooflights and associated accesses, parking, landscaping and ancillary works.

- 3.2 The existing site would be subdivided to create two residential plots each containing a detached two storey dwelling. Hereafter the Plot to the west will be referred to as 'Plot 1' and the plot to the east at 'Plot 2'. Both dwellings would have 4 bedrooms.
- 3.3 The dwelling at Plot 1 would have a maximum overall depth of 13m and a width of 8.6m. It would be set in a minimum of 1m from the flank boundary towards the rear, increasing to 1.5m towards the front. It would be set back 11.7m from the front boundary. The dwelling would have a maximum height of 8.1m. It would have a ridge running side to side with a two storey front gable projection, gable end to the east and a hipped roof to the west. To the rear there would be a single storey rear projection with a mono pitched roof which would have a depth of 1.5m beyond the main two storey rear elevation, a width of 3.7m and a mono-pitched roof with a maximum height of 3.3m. To the front the property would have a flat roofed front porch and a single storey projection serving the garage which would have a mono pitched roof.
- 3.4 The dwelling at Plot 2 would have a maximum overall depth of 11.3m and a width of 9.4m. It would be set in 6m from the new shared boundary and a minimum of 4m from the eastern flank boundary with spacing increasing to the rear. The dwelling would have a maximum height of 8.3m. This dwelling would have ridge running side to side with a gable end to the west and a hipped roof to the east. It would have a two storey front gable projection and to the rear partial catslide roof feature with a pitched roof two storey feature. The front and rear elevation would both be stepped.
- 3.5 The proposed dwellings would be finished in painted render with facing brick work detailing and grey roof tiles.
- 3.6 To the front two accesses would be created and the frontage would have a carriage driveway section. An access from be retained to the east to provide access to the wider parcel of land to the north. To the front of each dwelling there would be parking for at least 3 cars. To the rear the site would be subdivided by fencing to create two private gardens. Each dwelling would also have a bin store and a bicycle store.
- 3.7 Amended plans have been received in order to omit the previously proposed detached garage, revise the roof of Plot 2 to omit a crown roof and to omit a two storey rear projection serving Plot 1.

## **4 Consultation**

### **4.1 Statutory Consultation**

#### **4.1.1 Abbots Langley Parish Council: [No objection]**

*No objection. Although this development is in the greenbelt, members feel it is a good use of the land for infill dwelling within the greenbelt. The proposed development is in keeping with neighbouring dwellings and members consider the location falls within the curtilage of the village.*

#### **4.1.2 Hertfordshire County Council – Highway Authority: [No objection]**

##### *Recommendation*

*Notice is given under article 22 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission.*

##### *Comments/Analysis*

*It is to be noted HCC does not have the ability to implement policies in the location of the proposed dwellings and new accesses, so these comments are written in an advisory capacity.*

#### *Description of Proposal*

*Subdivision of the site and the construction of 2no. two storey detached dwellings with rooflights and associated accesses, parking, landscaping and ancillary works*

#### *Site and Surroundings*

*Bell Lane is a private route formed by Abbots Langley 067 bridleway which, according to signage, is subject to a 10mph speed limit and is not highway maintainable at public expense. Bell Lane connects with the highway network at High Street, a classified C secondary distributor. The site is located on a residential street within the settlement of Bedmond, approximately 2.6km east of Kings Langley. The nearest bus stop to the site is approximately 190m away and is a stop for the 20 and H19 buses. The local post office and convenience store are located approximately 385m from the site. There is not a footway along Bell Lane however it is a public right of way.*

#### *Access and Parking*

*The application proposes a new vehicular access for each dwelling onto Bell Lane. Due to the lack of footway fronting the site, there is no need for a dropped kerb of any specific size. Furthermore, due to the private nature of Bell Lane, HCC policies and maintenance cannot be implemented. The low speed of the route and the low-lying planting fronting the site means that there is suitable visibility from the accesses. The connection of the accesses within the site forms a carriage driveway which ensures that vehicles can egress the site in forward gear. There have not been any collisions along Bell Lane within the last 5 years, it is noted there has been one collision of slight severity at the junction of Bell Lane and High Street.*

*Ultimately the LPA will have to be satisfied with the parking provision, but HCC would like to comment that there are up to 7 parking spaces at the site according to the Application Form. This parking provision is made up of the driveways, a garage and a carport, as shown on drawing number PL 02. It is noted that garages should measure 3m x 6m in order for them to be considered a suitable parking space as per Manual for Streets and Roads in Hertfordshire: Highway Design Guide 3rd Edition Section 4 – Design Standards and Advice. All parking must be kept within the site as the public right of way should not be blocked at any time. Cycle parking has been shown within the gardens of each dwelling, although due to the number of bedrooms in the dwellings, additional/larger cycle storage is likely to be required. Electric vehicle charging has not been shown within the plans although it is minded that it should be included as part of updated Building Regulations.*

#### *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 collection location and residents should not carry waste more than 30m to the collection point. These distances are not exceeded at the site and waste storage is shown in the rear gardens of each dwelling.*

#### *Emergency Vehicle Access*

*In accordance with Manual for Streets Paragraph 6.7, the entire footprint of a dwelling must be within 45m from the edge of the highway so an emergency vehicle can gain access. At this site, the footprints of each dwelling are within 45m of the public right of way bridleway, although it is noted that the width of the bridleway would likely make it difficult for a fire tender to turn around.*

## 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 nearby highway and therefore, has no objections on highway grounds to this application. Again, it is to be noted HCC does not have the ability to implement policies in the location of the development, so this response is written in an advisory capacity only.*

4.1.3 Herts Ecology: No response received

4.1.4 Herts Footpath Section: No response received

4.1.5 National Grid: No response received

4.1.6 Landscape Officer: No response received

## 4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 5

4.2.2 No of responses received: 4 objections

4.2.3 Site Notice: Expired 27.01.2023                      Press notice: Expired 03.02.2023

4.2.4 Summary of Responses:

- Loss of light
- Unjust to have Green Belt rules relaxed after neighbour's previous refusals
- Bell Lane is an unmade private road hard to maintain due to increased traffic
- Construction traffic will make road surface worse
- House to plot size ratio not in keeping
- Construction traffic will impact access to pedestrians/horse riders
- Adverse impact on biodiversity
- Green Belt impacts
- Would set precedent for further building (adjacent site in local plan consultation)
- TPOs, woodland and wildlife sites adjacent
- Impact on Chiltern Beechwood SAC

## 5 Reason for Delay

5.1 Committee cycle.

## 6 Relevant Planning Policy, Guidance and Legislation

6.1 Planning applications are required to be determined in accordance with the statutory development plan unless material considerations indicate otherwise as set out within S38 (6) Planning and Compulsory Purchase Act 2004 and S70 of Town and Country Planning Act 1990).

6.2 National Planning Policy Framework and National Planning Practice Guidance

In 2021 the new National Planning Policy Framework was published. This is read alongside the National Planning Practice Guidance (NPPG). The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another. The NPPF is clear that “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework”.

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

### 6.3 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 CP1, CP2, CP3, CP4, CP8, CP9, CP10, CP11 and CP12.

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

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

### 6.4 Other

Affordable Housing Supplementary Planning Document (adopted June 2011).

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

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

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

## 7 **Planning Analysis**

### 7.1 Principle of Development

#### 7.1.1 The proposed development would result in a net gain of two residential dwellings. The site is not identified as a housing site in the Site Allocations document and would be considered as a windfall site. However, as advised in this document, where a site is not identified for

development, it may still come forward through the planning application process where it will be tested in accordance with relevant national and local policies.

7.1.2 Policy CP2 of the Core Strategy advises that in assessing applications for development not identified as part of the District's housing land supply including windfall sites, applications will be considered on a case by case basis having regard to:

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

7.1.3 Further the purposes of the settlement hierarchies as defined within the Core Strategy the application site is only partially included with the defined village settlement boundary. However this would not in itself preclude residential development in these areas. The application site is surrounded by existing residential dwellings which form part of an established residential road. As such the principle of residential development in this location is considered acceptable subject to all other material considerations below.

## 7.2 Housing Mix

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

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

7.2.2 The SHMA and the Core Strategy recognise that these proportions may need to be adjusted taking account of market information, housing needs and preferences and specific site factors. The nature of the proposed development means that it would provide 100% 4 bedroom units which are the second least required within the district and the proposal would not strictly accord with the mix prescribed by Policy CP3 of the Core Strategy. However it is considered that a development of this nature, which proposes an additional two units, would not prejudice the ability of the Council to deliver overall housing targets and the development is therefore considered acceptable in accordance with Policy CP3 of the Core Strategy (adopted October 2011).

## 7.3 Affordable Housing

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

7.3.2 The proposed development would result in a requirement for a commuted sum of £135,750 towards affordable housing based on habitable floor-space of 181sqm multiplied by £750 per sqm which is the required amount in the 'Langleys and Croxley Green' market area.

7.3.3 A draft S106 agreement has been submitted which commits to payment of the required commuted sum amount. As such subject to the completion of a S106 agreement to secure the monies the proposal would comply with Policy CP4 of the Core Strategy (2011).

## 7.4 Green Belt

- 7.4.1 Policy CP11 of the Core Strategy sets out that there is a general presumption against inappropriate development that would not preserve the openness of the Green Belt or which would conflict with the purposes of including land within it. Policy CP11 is supported by Policy DM2 of the Development Management Policies LDD and states that within the Green Belt, except in very special circumstances, approval will not be given for new buildings other than those specified in national policy and other relevant guidance.
- 7.4.2 In respect of the NPPF, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The NPPF states that when considering proposals, Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt and that very special circumstances will not exist unless harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations.
- 7.4.3 Paragraph 149 of the NPPF states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:
- a) buildings for agriculture and forestry;
  - b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
  - c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
  - d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
  - e) limited infilling in villages;**
  - f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
  - g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
    - not have a greater impact on the openness of the Green Belt than the existing development; or
    - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
- 7.4.4 In order to ascertain whether the proposed development would fall within exception (e), it is necessary to firstly consider a) whether the application site falls within a village and b) if the extent of housing proposed is considered 'limited'. In *Wood v Secretary of State for Communities and Local Government* (2014) it was held that whether or not a proposed development constitutes limited infilling in a village is a question of planning judgement, and that this would depend upon their assessment of the position on the ground.
- 7.4.5 The Oxford Dictionary defines a village as a group of houses and associated buildings, larger than a hamlet and smaller than a town, situated in a rural area. It defines a hamlet as a small settlement, generally one smaller than a village, and strictly (in Britain) one without a Church. It is recognised that in the appeal at Land off Tongue Lane, Brown Edge

(APP/B3438/W/18/3211000) the Inspector noted that..."While a Church may have once existed in Ridgeway, there is no Church there now as it has been replaced by a dwelling known as Chapel House. There are also no other associated buildings in Ridgeway that would, in my judgement, mean that Ridgeway is anything more than a hamlet". While the Inspector's comments are noted, it is considered that the existence of a Church is not a conclusive factor as to whether a settlement is a village and thus a greater view is required based on facts on the ground.

- 7.4.6 Turning first to the question of whether the application site is located within a village. The application site only partial falls within the boundary of a village as designated by the settlement hierarchy as set out within the Core Strategy however the NPPF does not specify that a village must be specifically defined as such within the development plan. Neither does the NPPF specify what the limits of a village should be. Having regard to appeal decisions, it is accepted that the definition of a village is a matter of planning judgement and even if a site falls outside a designated settlement boundary, this is not definitive as to whether a site falls within a village or not.
- 7.4.7 Whilst the application site is only partly covered by the village boundary as defined by Core Strategy this would not preclude a judgement that the site is located within a village for the purposes of the Green Belt exceptions. The village boundary bounds the site to the east, south and west. Additionally the application site is within a 5 minute (0.3 mile walk) of Bedmond Village stores and the other local services which are contained within Bedmond. Whilst Bell Lane itself is an unlit private road the walking route is still relatively direct. Bell Lane is accessible to pedestrians with most of the walk being along the lit footpath along 'High Street'. As such it is concluded that the application site can be considered as being within a village for the purposes of Paragraph 149 (e) of the NPPF.
- 7.4.8 It is also noted that the LPA has also received appeal decisions for a site further away from a village centre than proposed in this case. For example 'Notley Croft' (APP/P1940/W/17/3187494) was considered to be within the village of Bedmond despite it being slightly further away (0.4 miles vs 0.3miles) from the village centre.
- 7.4.9 It also needs to be ascertained whether the proposed development is 'limited infilling'. As with the village factor of this exception the NPPF does not define limited infilling therefore this is also a matter of planning judgement. It is generally considered to be a "small gap" having regard to both the scale and form of the development, interpreted in the context of the overall aims of the Green Belt.
- 7.4.10 The proposed dwellings fit comfortably with the application site and two dwellings is considered to be limited both in the context of the size of the site and within the streetscene as a whole.
- 7.4.11 The last exercise of the exception is to determine whether the proposed development is 'infilling'. It is noted that the application site is absent of built form to the north. However to the south and west the application site does sit within a linear pattern of built form. It is noted that there is not an immediate neighbouring dwelling to the east however there is a dwelling further along Bell Lane known as 'Harefield'. It is accepted therefore that the proposed dwellings would not sit within a gap between continuous ribbon of built form. However it is bound to a degree on three sides of the site by established patterns of residential development. The application site is only separated from 'Harefield' to the east by a protected woodland which provides a forced break to the line of built form on this side of Bell Lane and contains the application site. When considered in relation to the built form evidenced on the ground the proposed two units would 'infill' a gap at the end of a line of dwellings and between the continuous line of dwellings to the south. Additionally when viewed in the wider context of Bell Lane would infill between existing built form albeit more sporadic towards the east. Overall when considering the site circumstances it is considered that the proposal would comprise infilling for the purposes of the exception as set out at Paragraph 149 (e) of the NPPF.



7.4.12 In light of the above the development would not be inappropriate development in the Green Belt and would be consistent with the aims and objectives of the Framework and Policy CP11 of the Three Rivers Local Development Framework Core Strategy (2011) and Policy DM2 of the Three Rivers Local Plan Development Management Policies Local Development Document (2013).

## 7.5 Impact on Character and Street Scene

7.5.1 Policy CP1 of the Core Strategy (adopted October 2011) seeks to promote buildings of a high enduring design quality that respect local distinctiveness and Policy CP12 of the Core Strategy (adopted October 2011) relates to design and states that in seeking a high standard of design the Council will expect development proposals to 'have regard to the local context and conserve or enhance the character, amenities and quality of an area'. Development should make efficient use of land but should also respect the 'distinctiveness of the surrounding area in terms of density, character, layout and spacing, amenity, scale, height, massing and use of materials'; 'have regard to the local context and conserve or enhance the character, amenities and quality of an area' and 'incorporate visually attractive frontages to adjoining streets and public spaces'.

7.5.2 In terms of new residential development, Policy DM1 of the DMLDD advises that the Council will protect the character and residential amenity of existing areas of housing from forms of 'backland', 'infill' or other forms of new residential development which are inappropriate for the area. Development will be 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 The proposal would not constitute tandem development nor would it be served by an awkward access. The uplift of two units is not considered to generate excessive levels of traffic (highways considerations are discussed in detail below) and would not result in the loss of any existing residential amenity (impact on amenity discussed in detail below).

7.5.4 The overall character of Bell Lane is mixed both in relation to the scale and design of dwellings. However the prevailing character is of detached dwellings. There are examples of many roof forms which are largely traditional in nature, various materials and differing sizes of properties including bungalows and two storey dwellings with loft accommodation.

7.5.5 The proposed plots would be of a size and shape which responds to the overall character of the streetscene, particularly to the northern side of Bell Lane where plots are slightly shorter and wider. The proposed dwellings would have a stepped front building line which responds positively to the building line along the northern side of Bell Lane which is more sporadic than on the southern side where front building lines are more linear. The proposed dwellings would also front the road with parking and soft landscaping to the frontage which reflects the overall layout of plots within the locality.

7.5.6 Appendix 2 of the DMP LDD outlines that 1.2m spacing should be retained between site boundaries and first floor flanks. The dwelling at Plot 1 would be set in a minimum of 1.2m from the boundary at first floor level towards the rear with spacing increasing towards the frontage. The dwellings would both be set in over 4m from the new shared boundary and the dwelling at Plot 2 would be set in a minimum of 4m from the eastern boundary. As such

the proposed development would retain adequate spacing to the boundaries which would respond the character of the streetscene.

- 7.5.7 The proposed dwellings would each be two storey with two storey front gable features and a combination of hipped and gabled roofs. Each would have traditional roof forms. Overall the proposed dwellings would not appear at odds in their size, height and form within the mixed nature of dwelling within Bell Lane.
- 7.5.8 Further details of the proposed materials will be required by condition however the principle of render with facing brickwork and grey tiles would not be incongruous within the streetscene where a variety of material palettes are evident.
- 7.5.9 The proposal also includes the provision of cycle stores and bin stores. Both of which are set back from the highway and would not appear as incongruous features within the residential setting of the application site. However elevations of the bin store have not been submitted and thus would be required by condition.
- 7.5.10 In summary, subject to further details of the proposed materials, the proposed new dwellings would not appear unduly prominent or incongruous within the streetscene so as to result in demonstrable harm to the character of the locality. Therefore would be acceptable in accordance with Policies CP1 and CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies LDD

## 7.6 Impact on amenity 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'.
- 7.6.2 Policy DM1 and Appendix 2 of the Development Management Policies document set out that development should not result in loss of light to the windows of neighbouring properties nor allow overlooking, and should not be excessively prominent in relation to adjacent properties.
- 7.6.3 Appendix 2 of the DMP LDD outlines that two storey rear extensions should not generally intrude a 45 degree splay line drawn across the rear from the point on the boundary level with the rear wall of the adjacent property. This principle is dependent on the spacing and relative positions of properties and consideration will be given to the juxtaposition of properties, land levels and positions of windows and development on neighbouring properties.
- 7.6.4 The proposed dwelling at Plot 1 would intrude a 45 degree splay line with 'The Weald' when taken from the point on the boundary level with the two storey rear elevation of this neighbour by approx. 2.3m. However Appendix 2 outlines that where there is a single storey rear projection the 45 degree line can be taken from the point on the boundary level with this element. When taken from the point on the boundary level with the neighbour's single storey rear projection would not intrude. Additionally there would be spacing both to the boundary and between the two main flanks of the dwellings such that the two storey flank of dwelling 1 would be separated by approx. 4.9m from the single storey rear projection of the neighbour. Additionally the roof form of the main dwelling would be hipped away from the boundary to the side closest to the neighbour and the single storey rear projection would also have a mono pitched roof. The deepest point of the proposed dwelling would not extend beyond the single storey rear projection of the neighbour. When considering the design of the proposed dwelling, siting and separation distances it is not considered the proposed development would result in an unacceptable overbearing impact or loss of light to this neighbour so as to result in demonstrable harm to the amenity of this neighbour.

- 7.6.5 Some oblique views could be had towards the garden of 'The Weald' however these would not be direct nor atypical for a residential location such that unacceptable levels of overlooking would occur. The proposed first floor flank windows would both be conditioned to be obscure glazed and top level opening only.
- 7.6.6 There is no immediate neighbour to the rear or eastern side of the application site. The neighbours to the south are separated from the proposed dwellings by the road and it is not considered that the proposed front windows would afford unacceptable views towards these properties which are not generally expected in a residential location.
- 7.6.7 The proposal is therefore considered to be acceptable in this regard in accordance with Policy CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies document.
- 7.7 Quality of accommodation and amenity space for future occupants
- 7.7.1 Policy CP12 of the Core Strategy states that development should take into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space and specific standards for provision of amenity space are set out in Appendix 2 of the Development Management Policies LDD. These standards set out that a four bedroom dwelling should provide 105sqm.
- 7.7.2 Both dwellings would benefit from in excess of 105sqm of amenity space. Therefore would comply with Appendix 2 of the DMP LDD in this respect. Additionally both dwellings would be of a good size proving good quality of accommodation to future occupiers. The proposed rear gardens would not be overlooked to any degree which would not be expected in a residential setting. Owing to the separation distances between the proposed dwellings they would not have an undue impact upon each other however the facing flank windows would be conditioned to be obscure glazed and top level opening only.
- 7.8 Wildlife and Biodiversity
- 7.8.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive.
- 7.8.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of applications in accordance with Policy CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the DMLDD. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications that may be affected prior to determination of a planning application.
- 7.8.3 The application has been submitted with a Biodiversity Checklist and a Preliminary Ecology Assessment.
- 7.8.4 Firstly it is noted that the application site is located within the Zone of Influence (ZOI) for the Chilterns Beechwoods Special Area of Conservation (SAC). The location of the site within the ZOI is a material consideration, however it is acknowledged that the site, and Three Rivers District is at the outer edge of the ZOI, and the District has been identified as generating less than 2% of the visits to the SAC. Taking this into account, it is considered that material harm would be unlikely to be caused to the SAC as a result of this development, and no compensatory measures are required in respect of this matter.
- 7.8.5 Turning to the submitted Preliminary Ecology Assessment it is noted that this report pertains to not only the application site but the wider land to the rear. However its findings are still considered to be relevant.

7.8.6 In relation to badgers the recommendations of the assessment is that further surveys should be undertaken prior to the commencement of development to confirm the presence of setts. These can be carried out at any time of the year. In respect of bats the assessment identifies one tree with moderate potential however this tree is sited on the other side of the parcel of land to the rear of the application site and therefore would not be impacted and further surveys are therefore not required. The assessment does not identify that any other surveys are required with the exception of the Badger Sett survey. As such a condition will be added in respect of the Badger Setts as well as an informative regarding nesting birds. A full hard and soft landscaping scheme will also be required prior to the commencement of works.

## 7.9 Trees and Landscaping

7.9.1 Policy DM6 of the Development Management Policies LDD (adopted July 2013) states that development proposals on sites which contain existing trees and hedgerows will be expected to retain as many trees and hedgerows as possible, particularly those of local amenity or nature conservation value. Policy DM6 further states that development proposals should demonstrate that existing trees, hedgerows and woodlands will be safeguarded and managed during and after development.

7.9.2 Paragraph 131 of the NPPF outlines that trees make an important contribution to the character and quality of urban environments. Paragraph 174 further adds that planning decisions should contribute to the natural and local environments and should recognise the benefits of trees and woodland.

7.9.3 The application has been accompanied by a Tree Survey and Arboricultural Impact Assessment (AIA). Plot 2 will be constructed within the RPA of T3 however the submitted AIA outlines methods for investigation works and suggested mitigation measures. The AIA also includes a methodology for the works as a whole including ground and barrier protection measures. As such subject to a condition requiring the development to be carried out in accordance with the submitted report it is not considered that the development would result in harm to the on-site and adjacent protected trees. Additionally a full hard and soft landscaping scheme would be required by condition.

## 7.10 Highways, Access and Parking

7.10.1 Core Strategy Policy CP10 requires development to provide a safe and adequate means of access to make adequate provision for all users, including car parking. Appendix 5 of the Development Management Policies document sets out parking standards for developments within the District.

7.10.2 Appendix 5 of the DMP LDD requires that 4 bedroom dwellings should provide 3 on-site parking spaces. Each dwelling would have at least 3 parking spaces to the frontage and therefore would comply with Appendix 5 in this respect.

7.10.3 Bell Lane does not form part of the adopted highways network and therefore the comments of the Highways Officer are offered in an advisory capacity. The Highways Officer has raised no objections to the proposed accesses or parking arrangements, commenting that vehicles would be able to enter and exit in a forward gear.

7.10.4 It is noted that road surface of Bell Lane is in a state of some disrepair. The comments of neighbours are also acknowledged in relation to the impact of construction vehicles and additional residents cars upon the gradual further deterioration of the road. However Bell Lane is a private road and therefore the impact on its surface is not a material planning consideration. It is also not reasonable to require development to improve an existing situation. Nevertheless it is considered reasonable to require the submission of a construction management plan to minimise the disturbance of the proposed development to the single track road.

## 7.11 Sustainability

- 7.11.1 Paragraph 93 of the NPPF states that “Planning plays a key role in helping to shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure”.
- 7.11.2 Policy CP1 of the Core Strategy requires the submission of an Energy and Sustainability Statement demonstrating the extent to which sustainability principles have been incorporated into the location, design, construction and future use of proposals and the expected carbon emissions.
- 7.11.3 Policy DM4 of the DMLDD requires applicants to demonstrate that development will produce 5% less carbon dioxide emissions than Building Regulations Part L (2013) requirements having regard to feasibility and viability. This may be achieved through a combination of energy efficiency measures, incorporation of on-site low carbon and renewable technologies, connection to a local, decentralised, renewable or low carbon energy supply. The policy states that from 2016, applicants will be required to demonstrate that new residential development will be zero carbon. However, the Government has announced that it is not pursuing zero carbon and the standard remains that development should produce 5% less carbon dioxide emissions than Building Regulations Part L (2013) requirements having regard to feasibility and viability.
- 7.11.4 The application has been accompanied by an Energy Statement prepared by this outlines an energy saving of 40.43% compared with the requirements of Part L therefore exceeds Policy DM4 by 35.43%. A condition will be added to ensure the development is carried out in accordance with the submitted details.

## 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 Bin stores have been shown on the submitted block plan which would serve each dwelling. Both have a suitable access onto the site frontage where bins can be collected from the highway as per the existing arrangements for neighbouring houses. Notwithstanding this the plans do not show elevations of the proposed bin stores and as such this will be required by condition.

## 7.13 Conclusion

- 7.13.1 For the reasons set out above, subject to conditions and the completion of a S106 agreement the proposed development is considered acceptable. The proposal would comprise appropriate development in the Green Belt and no other harm has been identified. As such Paragraph 11 of the NPPF is not engaged. Nevertheless the benefits of the scheme providing two new dwellings which achieve policy compliance, including a policy compliant affordable housing contribution, is to be noted particularly in light of the lack of the Council's current ability to demonstrate a 5 year housing land supply.

## 8 **Recommendation**

8.1 That PLANNING PERMISSION BE GRANTED subject to the following conditions and subject to the completion of a Section 106 Agreement:

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

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

C2 The development hereby permitted shall be carried out in accordance with the following approved plans: PL 01A, PL 02A, PL 03B, PL 04B and PL 05

Reason: For the avoidance of doubt and in the proper interests of planning, to safeguard the openness of the Green Belt and in the interests of the visual amenities of the locality and the residential amenity of neighbouring occupiers, in accordance with Policies CP1, CP2, CP3, CP4, CP8, CP9, CP10, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM2, DM4, DM6, DM8, DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013).

C3 Before any building operations above ground level hereby permitted are commenced, samples and details of the proposed external materials shall be submitted to and approved in writing by the Local Planning Authority and no external materials shall be used other than those approved.

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

C4 Prior to the commencement of the development hereby permitted the additional Badger Setts surveys as recommended by the submitted Preliminary Ecology Appraisal prepared by James Blake Associates shall be undertaken in accordance with the suggested methodology. The findings shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development hereby permitted. Any required mitigations measurements shall be carried out in accordance with the approved details.

Reason: This condition is a pre commencement condition to ensure to ensure that Badgers are safeguarded and to meet the requirements of Policies CP1, CP9 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

C5 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 AIA prepared by Bartlett ref GD/220496/R1/sh.

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

The development hereby approved shall thereafter be implemented only in accordance with the methodology as set out in the Arboricultural Report prepared by Bartlett ref GD/220496/R1/sh.

Reason: To prevent damage 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).

- C6 No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of hard and soft landscaping, which shall include the location of all existing trees and hedgerows affected by the proposed development, and details of those to be retained, together with a scheme detailing measures for their protection in the course of development.

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

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

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

Reason: This condition is required to ensure the completed scheme has a satisfactory visual impact on the character and appearance of the area. It is required to be a pre commencement condition to enable the LPA to assess in full the trees to be removed and the replacement landscaping requirement before any works take place, and to ensure trees to be retained are protected before any works commence in the interests of the visual amenity of the area in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

- C7 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:

- i. parking of vehicles of site operatives and visitors
- ii. construction of access arrangements including the routing of vehicles
- iii. loading and unloading of plant and materials
- iv. storage of plant and materials used in constructing the development
- v. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- vi. wheel washing facilities
- vii. measures to control the emission of dust and dirt during construction

The approved Construction Method Statement shall be adhered to throughout the construction period.

Reason: This condition is a pre commencement condition in the interests of highway safety and convenience in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011) and Policy DM10 of the Development Management Policies LDD (adopted July 2013).

- C8 Prior to the first occupation of the development hereby permitted the proposed boundary fencing shall be installed in accordance with the details as shown on the

approved plans. The boundary treatment shall be maintained in accordance with the approved details thereafter.

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

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

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

- C10 The development shall not be occupied until a scheme for the separate storage and collection of domestic waste has been submitted to and approved in writing by the Local Planning Authority. Details shall include siting, size and appearance of refuse and recycling facilities on the premises. The development hereby permitted shall not be occupied until the approved scheme has been implemented and these facilities should be retained permanently thereafter.

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

## 8.2 **Informatives:**

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

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

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

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



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.

- I2 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.
- I3 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The development maintains/improves the economic, social and environmental conditions of the District.
- I4 The applicant is reminded that this planning permission is subject to either a unilateral undertaking or an agreement made under the provisions of Section 106 of the Town and Country Planning Act 1990

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

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

### Background

- 1.1 In November 2014, the Minister of State for Housing and Planning issued a Written Ministerial Statement (WMS) setting out changes to national planning policy. The WMS stated that financial contributions towards affordable housing should no longer be sought on sites of 10 units or less and which have a maximum combined gross floor area of 1,000sqm. National Planning Practice Guidance (NPPG) was amended to reflect this. However on 31<sup>st</sup> July 2015 the High Court held (*West Berkshire Council v SSCLG* [2015]) that the policy expressed through the WMS was unlawful and the NPPG was changed to reflect this. On 11<sup>th</sup> May 2016 the Court of Appeal reversed the High Court decision. The NPPG was subsequently amended to reflect the WMS on 19<sup>th</sup> May 2016.
- 1.2 In light of the above developments, between November 2014 and August 2015 and May 2016 and 1<sup>st</sup> September 2017 the Council gave greater weight to the WMS policy and associated NPPG guidance in it than to adopted Policy CP4 of its Core Strategy in respect of development proposals for 10 dwellings or less and which had a maximum combined gross floor area of 1000 sq metres. However, having undertaken an analysis of up to date evidence of housing needs (**The Needs Analysis**), officers advised in 2017 that when considering the weight to be given to the WMS in the context of breaches of the adopted development plan policy, the local evidence of housing need contained in the Needs Analysis should generally be given greater weight. On 1<sup>st</sup> September 2017 the Council resolved to have regard to the Needs Analysis as a consideration of significant weight when considering the relationship between Policy CP4 and the WMS for the purposes of Section 70(2) Town and Country Planning Act 1990 and Section 38(6) Planning and Compulsory Purchase Act 2004 in respect of development proposals of 10 dwellings or less.

- 1.3 On 24<sup>th</sup> July 2018 a new version of the National Planning Policy Framework<sup>1</sup> (the Framework) was published with immediate effect for development management purposes. Paragraph 63 of the Framework advises that *“Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer).”* Annex 2 of the NPPF defines *“major development”* as *“for housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more.”*
- 1.4 The Council's current affordable housing policy is set out in Policy CP4 of the Core Strategy (adopted in October 2011) and establishes that :
- a) *“...All new development resulting in a net gain of one or more dwellings will be expected to contribute to the provision of affordable housing.”*
  - e) *“In most cases require affordable housing provision to be made on site, but in relation to small sites delivering between one and nine dwellings, consider the use of commuted payments towards provision off site. Such payments will be broadly equivalent in value to on-site provision but may vary depending on site circumstances and viability.”*
- 1.5 The supporting text to Policy CP4 summarises the justification for it:
- Average house prices in Three Rivers are some of the highest in the country outside of London. As a result, many local people have difficulty accessing housing on the open market.
  - A Housing Needs Study estimated that 429 affordable dwellings would be needed each year to satisfy need. Such provision would exceed the total number of all housing types provided in the District in any year.
  - The 2010 Strategic Market Housing Assessment (SMHA) found that the requirement for affordable housing in and around the Three Rivers area remains exceptionally high.
  - In order to completely satisfy affordable housing requirements, **all** future housing in the district to 2021 would need to be affordable.
- 1.6 This policy remains the legal starting point for the consideration of planning applications under Section 38(6) PCPA 2004, which requires that the Council determines applications in accordance with the adopted development plan unless material considerations indicate otherwise. Revised NPPF 63 is a material consideration. The weight to be given to it is a matter for the decision maker when determining each planning application. This note explains the advice from the Head of Planning Policy & Projects and Head of Regulatory Services on the weight that they recommend should be given to NPPF 63 for these purposes in light of the Needs Analysis.
- 1.7 Since the adoption of its Core Strategy in 2011 and as of 31 December 2021, Three Rivers has received small site affordable housing contributions amounting to over **£2.4 million**. Utilising those monies, development is has funded the delivery of 21 units of affordable housing, with the remaining monies utilised as a contribution towards the delivery of a further 17 affordable dwellings. It is clear that Three Rivers' policy has already delivered a significant contribution towards the delivery of much needed affordable housing in the district.

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

- 1.8 In addition to the £2.4 million already received, small scale (1-9 unit) schemes have secured to date a further **£2.7million to £4.0million**<sup>2</sup> of affordable housing contributions in respect of unimplemented but current planning permissions. All of those schemes were agreed to be viable with those sums secured. The Council has several large scale future residential developments planned which will aim to deliver substantial quantities of further affordable housing in the District in the medium term future, utilising those additional affordable housing contributions as and when they are received.
- 1.9 Policy CP4 makes it clear that a requirement for a scheme to contribute towards the provision of affordable housing is subject to viability considerations and is therefore consistent with paragraph 122 of the Framework. The application of CP4, which includes this in built viability allowance, cannot properly be said to be a barrier to delivery. Indeed between 1 October 2011 and 31 March 2021, 250 planning permissions were granted for minor residential developments which contribute a net dwelling gain. Of those only 13 have been permitted to lapse which is only 5.2% of all such schemes<sup>3</sup>.
- 1.10 Current evidence of housing need in the District is noted below at 2.4 to 2.11. It confirms that the needs underlying the adopted development plan policy remain pressing.

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

- 1.11 It is important to acknowledge the percentage of residential development schemes which tend to come forward in the District which propose the delivery of less than 10 dwellings: from 1 April 2017 to 31 March 2021, 215 planning applications for residential development involving a net gain of dwellings were determined<sup>4</sup> by the Council. Of these, 191 applications (89%) were for schemes which proposed a net gain of 1-9 units. Having a large number of small sites is an inevitable consequence of the District being contained within the Metropolitan Green Belt. The contribution to both market housing supply and affordable housing supply are therefore both material to overall identified needs and adopted development plan objectives. This is dealt with in more detail below.
- 1.12 If the weight to be given to the Framework is greater than the adopted development plan, this large proportion of Three Rivers' expected new housing delivery will contribute nothing towards affordable housing. This would compromise Three Rivers' ability to deliver its objectively assessed need for affordable housing.

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

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

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

<sup>4</sup> Includes refused and approved applications. Excludes prior approval developments.

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 the determination of planning applications the effect of the new national policy is that although it would normally be inappropriate to require any affordable housing or social infrastructure contributions on sites below the threshold stated, local circumstances may justify lower (or no) thresholds as an exception to the national policy. It would then be a matter for the decision maker to decide how much weight to give to lower thresholds justified by local circumstances as compared with the new national policy"***

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

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

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

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

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

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

2.5 Due to the District's close proximity to London, Three Rivers has traditionally been situated within a high house price area. According to data published by the Office of National Statistics (ONS) in the third quarter of 2016<sup>5</sup>, the lowest quartile house price in Three Rivers in 2016, representing the cheapest properties in the District was £325,000.00, making it the **fifth**<sup>6</sup> most expensive local authority area in England and Wales (excluding London), out of a total of three hundred and three local authority areas (see table 1 below).

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

**Table 1.**

Since the publication of the above ONS data in 2016, the general house price affordability position has grown worse. According to data published by the Office of National Statistics (ONS), the lowest quartile house price in Three Rivers in September 2020 was £365,000<sup>7</sup>. The lowest quartile house price of £365,000 places Three Rivers as the **fourth** most expensive local authority area in England and Wales (excluding London), out of a total of three hundred and three local authority areas (see table 2 below). The lowest quartile house price has risen by £40,000 from 2016 to 2020, demonstrating a worsening affordability position.

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

**Table 2.**

<sup>5</sup> ONS (2021) *Dataset: House price to residence-based earnings ratio Table 6a*  
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

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

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

Lowest quartile earnings in Three Rivers in 2016 were £24,518.00 and £26,983.00 in 2020, 13.3 times worsening to 13.5 below the lowest quartile house prices (ratio of lower quartile house prices to lower quartile gross annual, residence based earnings<sup>8</sup>). In a mortgage market where lenders are traditionally willing to lend 3.5 times a person's income, clearly a lending requirement at over 13 times such an income means that most first time buyers are simply unable to purchase a dwelling in the District. Such a lending ratio would have required a first time buyer in 2020 to have a deposit of £270,560.00, or (without such a deposit) to earn £94,440.00 per annum to get onto the lowest/cheapest rung of the property ladder. An additional Stamp Duty payment would also have been due (subject to COVID related temporary relaxation).

When one considers the median affordability ratio<sup>9</sup> for Three Rivers compared to the rest of England and Wales, the position is even more serious: in 2016, the median quartile income to median quartile house price affordability ratio was 13.77, the fourth<sup>10</sup> worst affordability ratio in England and Wales (excluding London), as set out in table 3 below, again when compared against three hundred and three local authorities.

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

**Table 3.**

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

Number	Local Authority Name	Median quartile house price affordability ratio <sup>1</sup> (2020)
1	Mole Valley	16.84
2	Elmbridge	14.17
3	Epsom and Ewell	13.26
<b>4</b>	<b>Three Rivers</b>	<b>12.92</b>

**Table 4.**

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

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

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

<sup>8</sup> Office for National Statistics (2020) *Dataset: House price to residence-based earnings ratio Table 6b*

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

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

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

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

*Affordable Housing Need - To Rent*

- 2.7 The South West Hertfordshire Local Housing Needs Assessment (LHNA) (August 2020) found that at that time there were approximately 1,276 households within Three Rivers that were situated in unsuitable housing. Unsuitability is based on the numbers of homeless households and in temporary accommodation, households in overcrowded housing, concealed households and existing affordable housing tenants in need. 57% of these households are estimated to be unable to afford market housing without subsidy, which means the revised gross need is reduced to 727 households<sup>11</sup>.
- 2.8 In addition to needs arising from those in unsuitable housing, the LNHA also analyses affordable need to rent arising from newly-forming households within the District. The LNHA estimates 800 new households forming per annum in Three Rivers over the period 2020 to 2036. 45% of these newly-forming households are estimated to be unable to afford market housing (to rent) resulting in 360 new households with a need for affordable housing to rent each year over the period 2020 to 2036<sup>12</sup>.
- 2.9 The LNHA also considers newly arising need for affordable rent from existing households (i.e. households residing in market accommodation now requiring affordable housing). The LNHA estimates an additional 77 existing households falling into need for affordable rent per year over the period 2020 to 2036<sup>13</sup>.
- 2.10 Taking into account the figures of need noted above and the supply of affordable housing to rent through re-lets, the LNHA calculates the annual affordable housing need to rent over the period 2020 to 2036 as 350 in Three Rivers<sup>14</sup>. This need involves households who cannot afford anything in the market without subsidy and is equivalent to 55% of the District's total local housing need requirement calculated by the standard methodology. This indicates the substantial scale of need for this type of affordable housing.

*Affordable Housing Need - To Buy*

- 2.11 In addition, the LNHA estimates a need of 162 units for affordable home ownership per annum<sup>15</sup> over the period 2020 to 2036, although this is a need which is formed by households identified as being able to afford to rent privately without subsidy.

*Total Affordable Housing Need*

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

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

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

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

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



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

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

2.13 Core Strategy CP4 requires around 45% of all new housing in the District to be affordable. As stated previously, prior to the WMS, all new developments that had a net gain of one or more dwellings would, subject to viability, be expected to contribute towards this.

2.14 Since the start of the plan period from 1 April 2001 to 31st March 2021 (the latest date where the most recent completion figures are available), 4,965 gross dwellings were completed. From this, 1,128 were secured as affordable housing, a total of 22.7%. This percentage is significantly below the Core Strategy target of 45% which means there was a shortfall of 1,107 or 22.3% in order to fulfil the 45% affordable housing requirement up to 31 March 2021. This shortfall only exacerbates the already pressing need for small sites to contribute towards the provision of affordable housing.

2.15 In the latest monitoring period of 2020/21 (financial year), 26 sites<sup>16</sup> delivered a net gain of one or more dwellings and would therefore be required to contribute to affordable housing under Policy CP4 (either through an on-site or off-site contribution). These were made up of four major developments (15%) and 22 minor developments (86%). 17 of the 26 schemes contributed to affordable housing provision whilst nine of the 26 schemes did not contribute:

- Four out of the 26 sites provided viability justification, in line with CP4 policy, for the absence of affordable housing provision.
- Four of the applications were determined during the 2014/15 and 2016/17 periods noted at 1.2 above (when the Council was dealing with applications on the basis that the WMS should be given overriding effect regardless of the viability position on specific schemes). Affordable housing provision was forgone on them on this basis, which is now reflected in the low affordable provision as they are built out.
- Of the 17 schemes which did contribute, nine made contributions via commuted sums towards off-site provision; all nine schemes were minor developments, demonstrating the important role of small sites in collecting financial payments to be spent on affordable housing provision. Of the remaining eight schemes which contributed via on-site provision in 2020/21, three were major developments and five were minor developments, with four of the five minor developments delivered by Registered Providers (17/2077/FUL, 17/2606/FUL – Three Rivers District Council; 17/0883/FUL – Thrive Homes; 14/1168/FUL – Watford Community Housing Trust). This reflects the pattern of on-site delivery from large schemes, with commuted sums from minor developments, unless delivered by Registered Providers.

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

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<sup>16</sup> Sites with completions in 2020/21

- 2.16 In 2017/2018 (financial year), there were 67 planning applications determined<sup>17</sup> for net gain residential schemes, of which 57 were small site schemes (85%). In 2018/19 (financial year), there were 50 planning applications determined for net gain residential schemes, of which 46 were small site schemes (92%). In 2019/20 (financial year), there were 60 planning applications for net gain residential schemes determined, of which 55 were small sites schemes (92%). In 2020/21 (financial year), there were 38 planning applications for net gain residential schemes determined, of which 33 were small site schemes (87%). It is therefore clear that a high proportion of small site schemes have been proposed in the District, equating to 89% of applications over the past four financial years.
- 2.17 In terms of numbers of completed dwellings proposed by those small site schemes, between 2011-2021 (financial years) some 384 net dwellings were completed which equates to 38 net dwellings per annum and to 22.2% over the 2011-2021 period. 22.2% is a significant proportion of the overall supply. Whilst such numbers are significant, it is acknowledged that major developments, whilst far less frequent, provided significantly greater quantities of housing. However CP4(e) does not generally require small site schemes to provide on-site affordable housing (small-scale piecemeal development is unattractive to RP's). Instead commuted sums in lieu of on- site provision are required and thus it is the sums of money secured and the contribution those make towards the provision of additional much needed affordable housing in the District which the policy should be tested against. This has been acknowledged by Planning Inspectors on appeal, as referred to at paragraph 2.21 below: APP/P1940/W/19/3230999, 27 Gable Close, Abbots Langley: *"It also identifies the importance of small sites in providing affordable housing with contributions from small sites amounting to over £2.1 million since 2011 being spent towards the delivery of 38 affordable dwellings."*

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

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

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

- 2.19 As set out at paragraph 1.9 above, Policy CP4 makes it clear that a requirement for a scheme to contribute towards the provision of affordable housing is subject to viability considerations and is therefore consistent with paragraph 122 of the Framework. The application of CP4, which includes this in built viability allowance, cannot properly be said to be a barrier to delivery. The Council accepts that if, properly tested, viability cannot be

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<sup>17</sup> Includes refused and approved applications. Excludes prior approval developments.

established on current day costs and values then a scheme should not currently be required to provide or contribute to affordable housing delivery. Between 1 October 2011 and 31 March 2021 there were 250 planning permissions granted for minor (net gain) residential developments in the District. Of those only 13 have lapsed (5.2%)<sup>18</sup>. This demonstrates that the application of CP4 has not acted as a brake on small scale residential developments.

### **Relevant Appeal Decisions**

- 2.20 There have been a number of appeal decisions since the WMS was upheld by the High Court in May 2016. As an example, the Planning Inspectorate has dismissed appeals that were submitted against the decisions made by Elmbridge Borough Council (appeal no: 3146699), Reading Borough Council (appeal ref: 315661), South Cambridgeshire District Council (appeal ref: 3142834) and Islington Borough Council (3154751, 3164313, 3174582, 3177927 and 3182729). These were for small scale housing schemes where those Councils had attached greater weight to their affordable housing policy than to the WMS as a consequence of local evidence of substantial affordable housing need. Copies of these three appeals are attached to Appendix 1. The Council considers these appeal decisions to be of continuing relevance post the new Framework.
- 2.21 The Inspectors appointed to determine these appeals stated that the WMS needed to be addressed alongside existing Local Plan policy. Within each case, the Inspectors found that there was substantial evidence of a pressing need for affordable housing within these three local authority areas. On this basis, it was considered that local policy had significant weight and there was strong evidence to suggest that these issues would outweigh the WMS within these three cases.
- 2.22 In March 2017 the Planning Inspectorate issued a response to a letter from Richmond and Wandsworth Councils regarding the perceived inconsistency of approach by the inspectorate in relation to a further five appeal decisions made in 2016, regarding the weight that was made to the WMS. A copy of this letter is attached to Appendix 2.
- 2.23 Out of these five decisions, the Planning Inspectorate considered that three appeal decisions were reasonable, and fairly reflected the Court of Appeal's decision that although great weight should be attached to the WMS as a material circumstance; planning applications must be decided in accordance with the development plan, unless material considerations indicate otherwise.
- 2.24 However, the Planning Inspectorate considered that the decision taken on the two remaining appeals which stated that lesser weight was afforded to local policies because they were now, in part, inconsistent with national policy, was not appropriate. The seventh paragraph in the response from the Inspectorate, summarised the approach that the Inspectorate acknowledges should be taken:

*"...an Inspector to start with the development plan and any evidence presented by the LPA supporting the need for an affordable housing contribution, establish whether the proposal is in conflict with those policies if no contribution is provided for, and, if there is conflict, only then go on to address the weight to be attached to the WMS as a national policy that post-dates the development plan policies."*<sup>19</sup>

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<sup>18</sup> See footnote 3.

<sup>19</sup> Paragraph 7, Planning Inspectorate Letter, March 2017.

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

2.26 The Council's stance has been tested on appeal on numerous occasions (26 decisions as at the date of this document) and the Planning Inspectorate have repeatedly concluded (that whilst the NPPF carries considerable weight, it does not outweigh CP4 of the Councils development plan given the acute and substantial need for affordable housing in the District and the important contribution small sites make towards addressing this shortfall. Below are extracts from a few of those decisions:

- **APP/P1940/W/19/3222318, Eastbury Corner, 13 Eastbury Avenue, Northwood, Decision date: 21<sup>st</sup> June 2019:**  
*"The Council has however provided robust evidence to demonstrate high affordable housing need locally and that affordability in the District continues to deteriorate. Indeed, needs analysis carried out by the Council highlights the importance of small sites in addressing shortfall and the lack of affordability that exists in the District. I apply substantial weight to this local evidence due to its recentness and the clear conclusions that can be drawn from it. Policy CP4 makes it clear that site circumstances and financial viability will be taken into account when seeking affordable housing provision."*
- **APP/P1940/W/19/3221363, The Swallows, Shirley Road, Abbots Langley Decision date: 27<sup>th</sup> June 2019:**  
*"The Council has however provided robust evidence to demonstrate high affordable housing need locally and that affordability in the District continues to deteriorate. Indeed, needs analysis carried out by the Council highlights the importance of small sites in addressing shortfall and the lack of affordability that exists in the District. I apply substantial weight to this local evidence due to its recentness and the clear conclusions that can be drawn from it."*
- **APP/P1940/W/19/3225445, 6 Berkely Close, Abbots Langley Decision date 5<sup>th</sup> August 2019:**  
*"The Council has provided robust evidence of high affordable housing need in the District, and in line with the findings of other appeal decisions cited by the Council, I attribute substantial weight to that need as a consequence and consider that a contribution towards the provision of affordable housing is necessary."*
- **APP/P1940/W/19/3230999, 27 Gable Close, Abbots Langley Decision Date: 1<sup>st</sup> November 2019:**  
*"The Council has provided detailed evidence of acute affordable housing need locally: a Needs Analysis was undertaken in May 2016 after the publication of the Written Ministerial Statement which introduced the affordable housing thresholds now included in the Framework. Based on the Needs Analysis, the Council's evidence highlights the issue of general house price affordability in the District, plus an exceptionally high need for affordable housing exacerbated by a significant shortfall in supply. It also identifies the importance of small sites in providing affordable housing with contributions from small sites amounting to over £2.1 million since 2011 being spent towards the delivery of 38 affordable dwellings.  
A further Needs Analysis following publication of the revised Framework in July 2018 demonstrated that housing stress had increased since 2016. The Council has therefore revisited its position following the update to national policy. There is no evidence before me that affordable housing 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, Carpenters Park, Decision date 22<sup>nd</sup> October 2019:**

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

- **APP/P1940/W/19/3230458, 19 Lynwood Heights, Rickmansworth, Decision date 11<sup>th</sup> October 2019:**

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

- **APP/P1940/W/18/3213370: No.9 Lapwing Way, Abbots Langley. Decision Date 22<sup>nd</sup> May 2019:**

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

*affordable housing against national policy. My approach is consistent with these decisions.”*

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

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

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

- **APP/P1940/W/19/3229274: 101 Durrants Drive, Croxley Green**

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

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

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

**Decision Date 10<sup>th</sup> December 2019**

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

- **APP/P1940/W/19/3238285: Bell Public House, 117 Primrose Hill, Kings Langley**

**Decision Date 9<sup>th</sup> March 2020**

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

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

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

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

- **APP/P1940/W/20/3249107: 2 Church Cottages, Old Uxbridge Road, West Hyde**

**Decision Date: 21<sup>st</sup> October 2020**

*“The Framework at paragraph 63 sets out that the provision of affordable housing should not be sought for residential developments that are not major developments*

*other than in designated rural areas where policies may set out a lower threshold of 5 units or fewer. That said, there is clear evidence to suggest that there is an acute need for affordable housing in the Three Rivers District and there have been several appeal decisions which supported this view... I agree that there are special circumstances which justify the provision of affordable housing below the Framework's suggested threshold... As a result, the proposal would be contrary to Policy CP4 of the CS which amongst other matters seeks to increase the provision of affordable homes including by means of a commuted sum payment for sites of between one and nine dwellings... I have also had regard to the obvious benefits in relation to the provision of a much-needed new dwelling. However, the benefits of this are outweighed by the lack of provision for affordable housing"*

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

**Decision Date 8<sup>th</sup> February 2021**

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

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

**Decision Date 18<sup>th</sup> February 2021**

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

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

**Decision Date 4<sup>th</sup> March 2021**

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

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

**Decision Date 15<sup>th</sup> June 2021**

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

## **Conclusion**

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

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

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

## **Sources Used:**

1. Core Strategy (October 2011)  
<http://www.threerivers.gov.uk/eqcl-page/core-strategy>
2. Annual Monitoring Report 2020/2021 (December 2021)  
<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 Local Housing Needs Assessment (August 2020)  
<https://www.threerivers.gov.uk/eqcl-page/new-local-plan-evidence-base>
5. Office of National Statistics Housing Data 2002-20  
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

**February 2022**