

PLANNING COMMITTEE – 19 JANUARY 2023

PART I - DELEGATED

- 6. 22/1507/FUL - Partial demolition of no.51 and sub-division of rear gardens of no.51 and no.49 and construction of two storey detached dwelling with associated access road and boundary treatment at THE HAWTHORNS, 51 BATCHWORTH LANE, NORTHWOOD, HA6 3HE**

Parish: Batchworth Community Council
Expiry of Statutory Period: 18.10.2022

Ward: Moor Park and Eastbury
Case Officer(s): David Heighton /
Matthew Roberts

Recommendation: That Planning Permission be Refused.

Reason for consideration by the Committee: Called in three members of the Planning Committee regardless of recommendation due to concerns with the impact on the adjacent Grade II listed building, backland development, size, scale, design and massing of the new dwelling and impact on trees.

1 Relevant Planning History of No.49

- 1.1.1 18/1246/FUL: Construction of detached outbuilding to rear. Permitted, not implemented.

1.2 Relevant Planning History of No.51

- 1.2.1 18/1248/FUL: Construction of detached outbuilding to rear. Permitted, not implemented.

1.3 Relevant Planning History combined both Nos.49 and 51

- 1.3.1 21/0254/FUL: Partial demolition of no.51 and subdivision of rear gardens of no.51 and no.49 and construction of two storey detached dwelling, garage and access road including new vehicular crossover. Withdrawn 20.04.2021.
- 1.3.2 21/1839/FUL: Partial demolition of no.51 and subdivision of rear gardens of no.51 and no.49 and construction of two storey detached dwelling, garage and access road including new vehicular crossover. Withdrawn 22.12.2021.

2 Description of Application Site

- 2.1 The application site relates to an 'L' shaped parcel of land incorporating part of No.51 Batchworth Lane (known as The Hawthorns), part of the rear gardens of both No.51 and No.49 Batchworth Lane and part of the adjacent highway including an existing drop kerb. The wider site as enclosed in blue on the Location Plan incorporates the remaining parts of Nos.49 and 52.
- 2.2 No.51 Batchworth Lane is a detached dwelling with an integral garage to the south and a single storey flat roofed extension to the north. The property has a carriage driveway and is bounded by hedging.
- 2.3 No. 49 Batchworth Lane is also a detached dwelling enclosed by mature hedging. It is built on a similar building line to No.51 although due to the topography within the vicinity it is sited on a lower land level than the neighbouring property. There is a natural dip within the garden with the land rising upwards slightly towards the northern boundary.
- 2.4 To the north west of the application site there is a Grade II listed building known as Upland Court which is independently assessed from Batchworth Lane. This building comprises three dwellings (1-3 Upland Court) with a further 4 large detached dwellings (4-7 Upland

Court) located beyond. The access drive for the above properties runs parallel with the north eastern boundary of the application site and is on a slightly higher land level.

- 2.5 The application site including the wider site is covered by a Tree Preservation Order (TPO477).

3 Description of Proposed Development

- 3.1 This application seeks full planning permission for the partial demolition of no.51 and sub-division of rear gardens of no.51 and no.49 and the construction of a two storey detached dwelling with associated access road and boundary treatment.
- 3.2 The proposed new dwelling would be located within the rear gardens of both No.49 and 51, accessed via a new driveway which would utilise the existing drop kerb serving No.51. The new driveway would require the removal of the existing flat roofed single storey extension at No.51 and would run parallel with the north eastern boundary to a point where it would open out onto an area of permeable bound gravel to provide a parking area for the new dwelling with two designated spaces shown. A new gated access at 1.8m in height would also be proposed, set back from the front boundary of No.51 by approximately 20m. A new dwarf wall 1.8m including brick piers and metal railings are proposed on the north eastern boundary close to the gated access serving Uplands Court. To demarcate the driveway of No.51 and the access into the new driveway, concrete edging will be used.
- 3.3 As a result of the new driveway the gardens of No.49 and 51 would be reduced in size and enclosed with 1.8m high slatted timber fencing. The resultant gardens of Nos. 49 and 51 would be approximately 21m (No.51) and 22m (No.49) in depth.
- 3.4 The new dwelling would have a gabled roof design incorporating two storeys of accommodation including an integral garage, two bedrooms and various other common household rooms. The dwelling would have a maximum height of approximately 7m, a maximum depth of 9.4m and a maximum width of 14.8m (excluding 2.2m gabled projection within the southern elevation). The dwelling would be set in from the southern boundary with No.49 by 3.5m and set in from the boundary with No.51 by a minimum of 2.7m (due to gabled projection) and 3.5m. It would be set in from the northern boundary with 1-3 Uplands Court by a minimum of 4.8m increasing to approximately 5m towards the rear.
- 3.5 The dwelling would be finished with brickwork (Heritage Blend) and timber larch cladding with slate tiles applied to the roof. The windows would be dark timber framed with the use of conservation rooflights which are proposed to both roofslopes.
- 3.6 To the south west of the house, there would be a raised patio area (0.5m) and a garden area laid to lawn totalling a depth of 14.5m. New planting is proposed throughout the site.
- 3.7 The application was accompanied by a Design and Access Statement, Heritage Statement, Financial Viability Assessment, Energy Statement and Tree Survey with accompanying tree constraints plan and tree protection plan.
- 3.8 The description of works was amended during the application process removing reference to a proposed garage and new vehicular crossover, neither of which are proposed under this application.
- 3.9 This application follows two previous withdrawn schemes. The key differences between the last withdrawn scheme (21/1839/FUL) and the current development are as follows:
- Removal of detached garage.
 - Change in design of house (removal of crown roof but higher pitched roof).
 - Reduced depth and width.

4 Consultation

4.1 Statutory Consultation

4.1.1 Batchworth Community Council: [Objection]

This is the third application submitted, and it is not vastly different from earlier versions although we note the scale of this application has been reduced a little in terms of height. The others, after significant objections from neighbours and other parties led to them being withdrawn. With the lack of significant change in this application BCC objects to this application for the following reasons:

- 1. Fundamentally the nature of this development has to be deemed development of back land and in an environment / location where it is inappropriate. It is still excessive and should be refused. We are aware that other developments of this nature (back land) have been refused by TRDC and Councillors at Full Council.*
- 2. The design does not fit in with the Three Rivers Heritage and Conservation standards and the Arts and Crafts buildings surrounding it.*
- 3. Any development on this land will encroach on the privacy enjoyed for many years of those living in Upland Court and architecturally will not sit favourably alongside the building.*

4.1.2 Conservation Officer: [Objection]

Numbers 49 and 51 Batchworth Lane are located within the setting of the Grade II listed Upland Court (list entry: 1100871). Upland Court was constructed in 1910 and designed by British architect M.H Baillie Scott.

This is the second consultation within this application. The application also follows two previously withdrawn applications for a similar scheme (ref: 21/0254/FUL & 21/1839/FUL) for the partial demolition of no.51 and subdivision of rear gardens of no.51 and no.49 and construction of two storey detached dwelling with associated landscape works.

As previously advised, a new dwelling in this location would result in harm to the listed building by introducing built form to the remaining green buffer between the listed building and later development. The loss of the green space and encroachment of modern development closer to the listed building would have an adverse impact on the listed building's setting. Such concerns have not been addressed.

Previous advice highlighted that the new development had not been shown in the context of the listed building. The streetscene provided demonstrates that the proposal would be clearly visible from the private access driveway to the listed building. The ridge of the proposed dwelling would sit higher than the first-floor windows of the listed building; Not only would this have an adverse impact on the otherwise verdant approach to the listed building, but the development would also likely be visible from the listed building and Batchworth Lane. I acknowledge that there is some existing tree screening, but this does not mitigate the visual impact and cannot be guaranteed in perpetuity.

Notwithstanding in principle concerns, the proposed form and appearance poorly relates to local character and distinctiveness. There is limited information on the material detail of the proposed dwelling so I cannot provide fully informed feedback on this aspect. Given the scale and appearance of the proposed dwelling the proposed dwelling would not appear as an ancillary building to Number 51.

The proposal would be contrary to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as well as paragraph 197c, 202 and 206 of the NPPF.

4.1.3 Landscape Officer: [No objection]

The site is covered by a Tree Preservation Order (TPO477) which protects all trees within the area A1. The plans submitted are sufficient to establish that protected trees will not be removed or harmed as a result of the proposed development. However, a condition should be applied that requires the applicant to follow the submitted tree protection method statement, and implement the proposed remedial landscaping plan, including new tree and shrub planting, prior to occupation of the new dwellings.

4.1.4 Hertfordshire County Council Highways Authority (HCC): [No objection, informative recommended in the event of an approval]

Comments/Analysis

It is noted that a previous application with a similar layout was responded to by HCC as the Highway Authority under reference 21/1839/FUL

Site and Surroundings

Batchworth Lane is an unclassified local distributor road subject to a 30mph speed limit which is highway maintainable at public expense. The closest bus stop is located approximately 150m from the site on Sandy Lane and is a stop for 832 and 833 buses to South Oxhey or Garston in the other direction. The nearest train station is an approximate 2.25km walk from the site and is served by the Metropolitan Line to Aldgate, Amersham, Chesham and Watford. Therefore, the Highway Authority are satisfied the site is in a sustainable location enough for an increase by a single dwelling, which is in line with the principles set out in HCC's Local Transport Plan 4 (LTP4).

Access and Parking

The application proposes the access to the new dwelling use an existing dropped kerb which is currently a part of the driveway of 51 Batchworth Lane. This existing access has a suitable visibility splay of 2.4m x 43m, as outlined in Roads in Hertfordshire: Highway Design Guide 3rd Edition Section 4 – Design Standards and Advice. The demolition of the annex at 51 Batchworth Lane creates a driveway for the new dwelling which is 3.2m wide at its smallest, this width is suitable for a car to use the driveway. The gate within the driveway is also set back far enough, minimum 5.5m, from the back edge of highway so that vehicles will not be waiting in the highway for it to open. There have been no collisions close to the existing access within the last 5 years. Ultimately the LPA will have to be satisfied with the parking provision, but HCC would like to comment that the proposed parking provision at the site is for two parking spaces with an additional space being available within a garage. The proposed garage measures approximately 3.3m x 6m, it is noted that for garages to be considered an appropriate parking space, as part of the provision at the site, they should measure a minimum of 3m x 6m. One cycle parking space has been provided within the garage. An electric vehicle charging point has also been included at the site, any electric vehicle charging should be in line with new building regulations and TRDC emerging standards.

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 for more than 30m to the collection point. It is noted that the 30m carry distance is exceeded at this site considerably, ultimately TRDC as the waste collection authority will have to be satisfied with the waste collection arrangements at the site.

Emergency Vehicle Access

In accordance with Manual for Streets Paragraph 6.7, the entirety of a dwelling must be within 45m from the edge of the highway so an emergency vehicle can gain access. This distance is exceeded at the site. However, in a previous application at the site, ref. 21/1839/FUL, Herts Fire and Rescue was consulted on a dwelling in the same location and

suggested the use of sprinklers and a 20m reversing distance into the site. As the site plan does not differ greatly from the previous application, it is assumed that Fire and Rescue would still be satisfied with this arrangement as written within the Design and Access Statement. The width of the driveway, approximately 3.7m, is the minimum width a fire vehicle requires to operate, and the 3.2m width of the gate is the absolute minimum pinch point for an emergency vehicle to get through.

Conclusion

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

Officer comment: The Highway Officer clarified that the Fire and Rescue comments are likely to be the same for the current application; however, they advised that they would seek further clarification. Any additional comments received will be verbally updated.

4.1.5 National Grid: [No comments received. Any comments received will be updated verbally]

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 15 No of responses received: 7 (objections)

4.2.2 Site Notice: Expired 26.01.23 (affects setting of listed building)

Press Notice: Expired 03.02.23 (affects setting of listed building)

4.2.3 Summary of responses:

- Impact upon green surroundings
- Impact heritage asset
- Overdevelopment
- Set a precedent of more backland developments
- Further removal of trees required
- Request that tree line boundary maintained
- Excess traffic generation
- Highway safety
- TPOs already lost
- Overlooks Grade II listed building
- Security risk

4.2.4 The above objections are considered within the following analysis section.

5 Relevant Planning Policy, Guidance and Legislation

5.1 Legislation

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

5.1.2 S66(1) of Planning (Listed Buildings and Conservation Areas) Act 1990 requires LPAs to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.

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

- 5.1.4 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.

5.2 National Planning Policy Framework and National Planning Practice Guidance

On 20 July 2021 the revised NPPF was published, to be read alongside the online National Planning Practice Guidance. The 2021 NPPF is clear that "existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework.

The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits.

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.

5.3 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 PSP3, CP1, CP2, CP3, CP4, CP9, CP10 and CP12.

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

6 **Planning Analysis**

6.1 Principle of Development

- 6.1.1 The proposed development would result in a net gain of a single dwelling. The application site is not identified as a housing site in the Site Allocations LDD (SALDD) (adopted November 2014); 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 planning policies.
- 6.1.2 Policy CP2 of the Core Strategy (adopted October 2011) advises that in assessing applications for development not identified as part of the District's housing land supply, including windfall sites, applications will be considered on a case by case basis having regard to:
- i. The location of the proposed development, taking into account the Spatial Strategy.
 - ii. The sustainability of the development and its contribution to meeting local housing needs.
 - iii. Infrastructure requirements and the impact on the delivery of allocated housing sites.

- iv. Monitoring information relating to housing supply and the Three Rivers housing targets.

6.1.3 The application site falls within a Secondary Centre as defined by the Core Strategy's Place Shaping Policy, PSP3. Policy PSP3 states that development in Secondary Centres will focus development predominantly on sites within the urban area, on previously developed land. Whilst the application site falls outside of the definition of previously developed land within the NPPF, it falls within an existing residential environment and would aid delivery towards the Council's housing supply. As such, there is no in-principle objection to a new dwelling in this location subject to compliance with other material planning considerations.

6.1.4 As the Council currently cannot demonstrate a five year supply of housing paragraph 11 of the NPPF is engaged meaning that planning permission should be granted unless either a) the application of policies in this Framework (NPPF) that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or, b) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

6.2 Affordable Housing

6.2.1 In view of the identified pressing need for affordable housing in the District, Policy CP4 of the Core Strategy seeks provision of around 45% of all new housing as affordable housing and requires development resulting in a net gain of one or more dwellings to contribute to the provision of affordable housing. This policy requirement and associated evidence is set out further at **Appendix A** of this report. Developments resulting in a net gain of between one and nine dwellings may meet the requirement to provide affordable housing through a financial contribution. Details of the calculation of financial contributions in lieu of on-site provision of affordable housing are set out in the Affordable Housing Supplementary Planning Document. The proposed development would result in a net gain of one dwelling as such a monetary contribution would be required to be sought unless viability demonstrates otherwise.

6.2.2 As part of the previous withdrawn application 21/1839/FUL, a viability appraisal was submitted and reviewed by the Council's Independent Viability Consultant in October 2021. On the basis that the current application was validated less than 1 year since the previous report it was agreed that no further assessment was required. The previous assessment had concluded that the scheme, which is not dissimilar to the current proposal, was unable to support an off-site affordable housing payment and remain viable. Since, October 2021 there has been significant inflation rises and the continued increase in material costs.

6.2.3 The proposed development has therefore demonstrated that it would not be viable to provide a contribution towards affordable housing and thus meets the requirements of Policy CP4 of the Core Strategy and the Affordable Housing Supplementary Planning Document (approved June 2011).

6.3 Design, impact on Heritage assets and character of area

6.3.1 Policy CP1 of the Core Strategy seeks to promote buildings of a high enduring design quality that respect local distinctiveness and Policy CP12 of the Core Strategy states that development should 'have regard to the local context and conserve or enhance the character, amenities and quality of an area'.

6.3.2 Policy DM1 and Appendix 2 of the Development Management Policies document set out that development should not have a significant impact on the visual amenities of an area.

6.3.3 Policy DM3 of the Development Management Policies document states that the Council will preserve the District's listed buildings and will only support applications where any extension or alteration would not adversely affect its character as a building of special

architectural or historical interest or its wider setting. Whilst this policy is specific to extensions and/or alterations, it is considered appropriate to use when considering the merits of this application and on the basis that part (a) of Policy DM3 makes reference to applications only being supported where the significance, character and setting of the asset is conserved or enhanced.

- 6.3.4 The application site is located within a built up suburban environment characterised by large detached dwellings within a sylvan setting. That said, within relatively close proximity to the application site there are a number of backland developments which comprise detached dwellings positioned behind houses fronting Batchworth Lane such as Portland Heights and Farrington Place. Further infill residential development has also occurred such as Upland Court and the redevelopment of Valency Drive. As a result, the existence of long access drives and noticeable dwellings behind those fronting Batchworth Lane is very apparent and thus informs the current character of the area.
- 6.3.5 Policy DM1 of the Development Management Policies states 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. Importantly, this policy does not prevent backland development from occurring, only 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 dwellings and streetscape features.
- 6.3.6 It is recognised that the development would be regarded as tandem development, as the new dwelling would be positioned behind Nos.49 and 51. It therefore fails to meet part (i) above. That said, the same policy also refers to the layouts of development subject to maintaining the particular character of the area, thereby allowing a degree of flexibility. In this instance and as highlighted above, there are many examples of tandem developments within the immediate locality which informs the character of the area. Whilst it is acknowledged that eastwards of Farrington Place there is no tandem development, the character of the area is more widely considered and should not be restricted so finely. As highlighted above, the wider area is characterised by detached dwellings including the presence of dwellings behind houses fronting Batchworth Lane with various long driveways evident. The proposal would therefore follow this pattern of development and be in keeping with the character of the area with regards to plot size and layout. Whilst a new access drive would be evident there would be no alterations to the existing highway with the new driveway and associated gate set back considerably from the front boundary with the highway. Whilst the new access would be visible and read in conjunction with the existing access to Upland Court, given its set back relative to the highway and proposed close boarded fencing between the two driveways it would not appear as a conspicuous feature. Whilst a softer boundary treatment would be preferred adjacent to the front of the access with Uplands Court, the brick pier and railings would not be out of character.
- 6.3.7 Its terms of the dwelling's design and appearance, it would be in keeping with the wider area which comprises a variety of architectural styles.
- 6.3.8 Due to the introduction of the new dwelling and its associate curtilage, the gardens serving Nos.49 and 51 would be reduced in size. Nevertheless, their resultant size would be comparable with other properties in the locality and thus would still be in-keeping.
- 6.3.9 Parts (ii), (iii) and (iv) are considered further later within the report.

- 6.3.10 Notwithstanding the above, the proposed dwelling would sit to the immediate south of Upland Court, a Grade II listed building of Arts and Craft style attributed to M.H Baillie Scott. Due to past modern infill developments, such as 4-7 Upland Court, the listed building is enclosed to the north closely by modern detached dwellings which have eroded its setting, albeit they are sited to the rear of the listed building which mitigates their overall impact. Whilst a relatively dense tree screen exists between the listed building and the application site, this would not screen the proposed dwelling from view from both the listed building and from neighbouring vantage points, especially from the rear garden of No.49 whereby the listed building is highly evident. From within the circulation space to the south of the listed building the absence of substantial built form is highly noticeable and thus provides a green buffer. Whilst the outbuilding within the garden of No.51 is evident, it is a low key ancillary structure. The new dwelling would introduce a far more prominent development, with a tall gabled roof design which would erode the green buffer and appear as an incongruous feature from within and surrounding the listed building.
- 6.3.11 The dwelling would also be highly prominent upon the approach to the listed building from its associated access road by virtue of its size and gabled design. Due to the scale and roof design of the dwelling and its siting relative to the listed building, this would exacerbate the incongruous nature of the development which would ultimately detract from the setting of the listed building. The proposed building would also obscure views of the listed building from Batchworth Lane, which can be glimpsed. When taking the above into account which is supported by the Conservation Officer, it is considered that the scale of the building in conjunction with its design harms the setting of the Grade II listed building and therefore is contrary to Policy DM3 of the Development Management Policies LDD.
- 6.3.12 The development is considered to result in less than substantial harm when applied to paragraph 202 of the NPPF (2021). Whilst the proposed development would result in a new dwelling, it is not considered that this, given the level of harm, would result in sufficient public benefit to outweigh the identified harm.
- 6.3.13 In summary, whilst the development would respond to the character of the area, it would detract from the setting of the Grade II listed building and therefore fails to accord with Policy DM3 of the Development Management Policies LDD and the NPPF (2021).

6.4 Impact on amenity of neighbours

- 6.4.1 Policy CP12 of the Core Strategy states that development should 'protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space'. Policy DM1 and Appendix 2 of the Development Management Policies document set out that 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.
- 6.4.2 Due to the location of the dwelling and its relationship with adjacent neighbouring properties it would not result in any loss of light. To the north of the dwelling are the rear gardens of the dwellings forming Upland Court; however, due to the presence of mature protected trees, it is not considered that the dwelling would result in any unacceptable overshadowing.
- 6.4.3 In terms of prospect, the Design Criteria as set out in Appendix 2 states that where the rear of a building looks onto the side of another the distance between them must be sufficient to avoid the flank wall having an overbearing effect. The southern elevation of the proposed dwelling would be separated from the rear building line of No.49 in excess of 24m and a minimum of 23m from No.51. Whilst the dwelling would be on slightly higher ground the design of the flank with a sloping pitched roof, along with the distances are considered to be acceptable as mitigation to avoid the dwelling from appearing unduly prominent to the neighbouring properties.

- 6.4.4 In terms of safeguarding privacy and preventing overlooking, the Design Criteria states distances between buildings should be sufficient so as to prevent overlooking, particularly from upper floors. As an indicative figure, 28m should be achieved between the faces of single or two storey buildings backing onto each other or in other circumstances where privacy needs to be achieved.
- 6.4.5 The proposed window at first floor level serving the guest bedroom within the north eastern facing gabled elevation would face towards the central and rear part of the rear garden serving No.55 Batchworth Lane. The western boundary of No.55 comprises mature trees which are afforded protection via TPO477 which provide a level of certainly over their longevity. Whilst vegetation should not solely be relied upon, given the separation distance between the dwelling and the boundary of No.55 of approximately 20m coupled with the relationship with the neighbouring dwelling and existing vegetation, it is considered that no unacceptable level of overlooking would arise.
- 6.4.6 Within the proposed southern roofslope facing the gardens of Nos.49 and 51 a number of rooflights are proposed serving first floor level accommodation. These rooflights could, in the event of an approval, be conditioned to be positioned above an internal floor height of 1.7m to prevent unacceptable levels of overlooking. Nevertheless, these rooflights would be viewed in conjunction with a roof projecting gable with an obscurely glazed first floor window serving a void and stairwell. Whilst this window is shown to be obscurely glazed, it would directly face the rear garden of No.51. Consequently, whilst no direct overlooking would arise, it is considered that the presence of this first floor window so close to the boundary at this elevated level would give rise to an unacceptable level of perceived overlooking whereby the privacy levels of the occupiers of No.51, both current and future, would be unacceptably eroded to their detriment.
- 6.4.7 To the northern roofslope, a significant number of rooflights are proposed, both serving ground and first floor level accommodation. It is considered that a condition requiring the first floor level rooflights to be inserted above an internal floor height of 1.7m would be acceptable to prevent overlooking. The ground level rooflights by virtue of their siting would not give rise to overlooking.
- 6.4.8 The proposed first floor level window within the western gabled elevation would face the associated rear garden and the very rear of the garden serving Kirklands, No.47 Batchworth Lane. It is not considered that this relationship would result in an unacceptable level of overlooking.
- 6.4.9 To the rear of the dwelling is a decking patio area which would be approximately 0.5m above the garden level. The patio area would however be set in significantly from the boundary with the proposed boundary treatments of close boarded fencing ensuring that no overlooking would occur. The adjacent garden serving 2 Upland Court is also on a higher land level.
- 6.4.10 Policy DM9 of the Development Management Policies LDD states that planning permission will not be granted for development which has an unacceptable adverse impact on the indoor and outdoor acoustic environment of existing or planned development. On the basis that the development would only result in a net gain of one dwelling it is not considered that the level of activity would result in an unacceptable noise impact on adjacent neighbouring properties through noise and disturbance.
- 6.4.11 For the reasons set out above, the proposed first floor level obscurely glazed window within the southern elevation of the new dwelling would give rise to an unacceptable level of perceived overlooking to the occupants of No.51, contrary to Policy DM1 of the Development Management Policies LDD.

6.5 Trees and Landscaping

- 6.5.1 Policy CP12 of the Core Strategy expects development proposals to 'have regard to the character, amenities and quality of an area', to 'conserve and enhance natural and heritage assets' and to 'ensure the development is adequately landscaped and is designed to retain, enhance or improve important existing natural features'.
- 6.5.2 Policy DM6 of the Development Management Policies document sets out that development proposals should seek to retain trees and other landscape and nature conservation features, and that proposals should demonstrate that trees will be safeguarded and managed during and after development in accordance with the relevant British Standards.
- 6.5.3 The application site and wider site is covered by a tree preservation order (TPO477). The submitted Tree Survey identifies that the development will require the removal of category C trees; Cyprresses found in groups G1 and G2. The Cypress trees forming G1 would be removed to facilitate the new driveway while G2 can be found towards north western corner of the application site and would make way for the new parking area/driveway. The removal of these trees is not considered to be unacceptable as they offer little amenity value. To compensate their loss, replacement planting is proposed and specific details regarding their specie type, initial girth height and location could be secured by a planning condition in the event of an approval.
- 6.5.4 The mature line of red Cedars (referred to as G3) is also proposed to be pruned back by 1-1.5m to make space for the building and scaffolding, if permission is granted. The Tree Survey also identifies that the footprint of the proposed building would encroach the root protection area of G3 by a limited amount, although it is recognised that the area close to the trees has a small retaining wall, paths and a concrete slab beneath the outbuilding, all of which would be removed. Therefore, whilst there is a slight incursion of the root protection area of G3, this would not be deemed harmful to the longevity of the trees. The proposed dwelling would be set in by a sufficient distance from the line of trees to prevent future pressure for pruning, whilst also noting that the roof is hipped away from the trees.
- 6.5.5 A tree works application (17/2189/TPO) had previously granted consent to fell 2 dead western red Cedars (referred to as G3 to the rear of No.51), a Hawthorne and 7 Orchard trees in the garden of No.49.
- 6.5.6 The submitted tree protection plan highlights that protective fencing and ground protection would be erected/laid to safeguard the line of red Cedars throughout construction and the mature trees within the north western corner of the new dwelling's garden. These details are considered acceptable and would be conditioned in the event of an approval.
- 6.5.7 In light of the above, subject to conditions relating to replacement planting and tree protection in the event of an approval, the development would not have an unacceptable impact on trees.

6.6 Highways, Access and Parking

- 6.6.1 Core Strategy Policy CP10 requires development to provide a safe and adequate means of access and to make adequate provision for all users, including car parking. Policy DM13 and Appendix 5 of the Development Management Policies document set out parking standards and advise that a four or more bedroom dwelling should provide parking for three vehicles.
- 6.6.2 The new dwelling would utilise the existing drop kerb access onto Batchworth Lane which is one of two existing access points serving No.51. No changes are proposed to the drop kerb access which is shared with the access serving Upland Court. The Highway Authority have confirmed that the current access has suitable visibility splays.
- 6.6.3 Concerns have been raised regarding the impact on highway safety; however, it is not considered that the development would materially increase vehicular activity to such an

extent that would give rise to any highway safety issues, especially when considering the current access serves a large detached dwelling.

6.6.4 Due to the nature of the access, the location of the dwelling would exceed the recommended distance of 45m to enable an emergency vehicle to gain access. However, Herts Fire and Rescue have confirmed that an emergency vehicle would be able to progress 20m down the access with the dwelling fitted with a sprinkler system. This arrangement was considered acceptable under a previous application. The Highway Authority have sought to clarify whether this is still acceptable and comments will be verbally updated when received.

6.6.5 In terms of parking, Appendix 5 of the Development Management Policies LDD states that a 2 bed dwelling should have 2 spaces per dwelling, one of which should be assigned. The submitted plans show 2 designated parking spaces and a further integral garage space. As such, the development would provide an acceptable level of on-site parking in accordance with Appendix 5.

6.6.6 The development would therefore accord with Policy DM10 and Appendix 5 of the Development Management Policies LDD.

6.7 Amenity Space

6.7.1 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 section 3 (Amenity Space) of Appendix 2 of the Development Management Policies document states that a two bedroom dwelling should provide 63sqm of amenity space.

6.7.2 The associated garden of the new dwelling would far exceed the requirement level of amenity space.

6.7.3 The resultant gardens serving Nos.49 and 51 would both exceed 360sqm of amenity space and thus exceed the required levels of amenity space.

6.8 Wildlife and Biodiversity

6.8.1 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.

6.8.2 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.

6.8.3 The application has been submitted with a Biodiversity Checklist, which states that no protected species or biodiversity interests will be affected as a result of the application.

6.8.4 New soft landscaping is proposed to compensate the loss of trees along with additional hedging. Such measures are considered acceptable and would be secured by condition in the event of an approval.

6.9 Sustainability

6.9.1 Paragraph 157 of the NPPF states that in determining planning applications, local planning authorities should expect new development to comply with any development plan policies on local requirements for decentralised energy supply.

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

6.9.3 The application has been supported by an Energy Statement which sets out that the development would comply with Policy CP4 by incorporating an air source heat pump, enhanced insulation measures with low thermal mass and enhanced thermal bridging detailing. A condition is recommended to be attached to any grant of planning permission to require the dwelling to incorporate the sustainability measures as set out within the Energy Statement prior to occupation.

6.10 Waste Management

6.10.1 Policy DM10 of the Development Management Policies LDD states 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 development 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 amenities
- ii) Waste/recycling areas can be easily accessed (and moved) by occupiers and local authority/private waste providers
- iii) There would be no obstruction of pedestrian, cyclists or driver sight lines

6.10.2 Due to the backland nature of the development and the access arrangements, the future occupants would be required to leave all refuse and recycling bins close to the highway, as per the current arrangement at No.51. This would mean transferring bins/rubbish a considerably distance, in excess of 50m. However, no alternative arrangement can be achieved due to the site circumstances. Whilst not ideal, it is not considered that the proposed arrangement would be unacceptable in planning terms and would accord with Policy DM10.

6.11 Summary of assessment against Policy DM1, part (a)

6.11.1 The above assessment concluded that whilst the proposal would result in tandem development, it would maintain the layout in terms of areas character and thus be acceptable in this regard. The dwelling would not be served by an awkward access and can be accessed by emergency vehicles. However, there would be a loss of residential amenity as a result of the first floor level opening. The development would therefore not comply fully with part (a) of Policy DM1 of the Development Management Policies LDD.

6.12 Tilted balance

6.12.1 As highlighted above, due to the Council's housing delivery status decisions should apply a presumption in favour of sustainable development as set out by paragraph 11 of the NPPF. The above assessment has concluded that the development would harm the setting of a Grade II listed building, a designated heritage asset. As this is deemed an asset of particular importance and provides a clear reason for refusing the development, the tilted balance is not engaged. It should be noted that other harm has been identified in respect of the unacceptable level of perceived overlooking to No.51.

6.12.2 It is recognised that the development, if granted, would contribute towards the Council's housing supply and result in additional minor economic benefits through its construction and from future occupiers contributing to the local economy. These factors would only attract minor weight in favour of the scheme and would not outweigh the identified harm.

7 Recommendation

- 7.1 That the decision be delegated to the Director of Community and Environmental Services to consider any representations received and that **PLANNING PERMISSION BE REFUSED** for the following reasons:

R1: The proposed dwelling by virtue of its siting, design and scale would appear as an incongruous form of development which would unacceptably erode the open and green setting of the Grade II listed building (Upland Court). This harm would constitute less than substantial harm when applied to paragraph 202 of the NPPF (2021) however no public benefits of sufficient weight are considered to exist to outweigh the harm. The development is therefore contrary to Policy DM3 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2021).

R2: The proposed first floor level window within the southern elevation would give rise to an unacceptable level of perceived overlooking to the current and future occupiers of No.51 Batchworth Lane which would adversely affect their private enjoyment of the property. The development would therefore fail to accord with Policy DM1 of the Development Management Policies LDD (adopted July 2013).

8.2 Informative:

- 11 In line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has considered, in a positive and proactive manner, whether the planning objections to this proposal could be satisfactorily resolved within the statutory period for determining the application. Whilst the applicant and/or their agent and the Local Planning Authority engaged in pre-application discussions, the proposed development fails to comply with the requirements of the Development Plan and does not maintain/improve the economic, social and environmental conditions of the District.

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

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

Background

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

- 1.3 On 24th July 2018 a new version of the National Planning Policy Framework¹ (the Framework) was published with immediate effect for development management purposes. Paragraph 63 of the Framework advises that *“Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer).”* Annex 2 of the NPPF defines *“major development”* as *“for housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more.”*
- 1.4 The Council's current affordable housing policy is set out in Policy CP4 of the Core Strategy (adopted in October 2011) and establishes that :
- a) “...All new development resulting in a net gain of one or more dwellings will be expected to contribute to the provision of affordable housing.”
 - e) “In most cases require affordable housing provision to be made on site, but in relation to small sites delivering between one and nine dwellings, consider the use of commuted payments towards provision off site. Such payments will be broadly equivalent in value to on-site provision but may vary depending on site circumstances and viability.”
- 1.5 The supporting text to Policy CP4 summarises the justification for it:
- Average house prices in Three Rivers are some of the highest in the country outside of London. As a result, many local people have difficulty accessing housing on the open market.
 - A Housing Needs Study estimated that 429 affordable dwellings would be needed each year to satisfy need. Such provision would exceed the total number of all housing types provided in the District in any year.
 - The 2010 Strategic Market Housing Assessment (SMHA) found that the requirement for affordable housing in and around the Three Rivers area remains exceptionally high.
 - In order to completely satisfy affordable housing requirements, **all** future housing in the district to 2021 would need to be affordable.
- 1.6 This policy remains the legal starting point for the consideration of planning applications under Section 38(6) PCPA 2004, which requires that the Council determines applications in accordance with the adopted development plan unless material considerations indicate otherwise. Revised NPPF 63 is a material consideration. The weight to be given to it is a matter for the decision maker when determining each planning application. This note explains the advice from the Head of Planning Policy & Projects and Head of Regulatory Services on the weight that they recommend should be given to NPPF 63 for these purposes in light of the Needs Analysis.
- 1.7 Since the adoption of its Core Strategy in 2011 and as of 31 December 2021, Three Rivers has received small site affordable housing contributions amounting to over **£2.4 million**. Utilising those monies, development is has funded the delivery of 21 units of affordable housing, with the remaining monies utilised as a contribution towards the delivery of a further 17 affordable dwellings. It is clear that Three Rivers' policy has already delivered a significant contribution towards the delivery of much needed affordable housing in the district.

¹ 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**² 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 schemes³.
- 1.10 Current evidence of housing need in the District is noted below at 2.4 to 2.11. It confirms that the needs underlying the adopted development plan policy remain pressing.

Importance of Small Sites to Three Rivers

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

2 Development Plan Policies and the WMS

² 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

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

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

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 2016⁵, the lowest quartile house price in Three Rivers in 2016, representing the cheapest properties in the District was £325,000.00, making it the **fifth**⁶ most expensive local authority area in England and Wales (excluding London), out of a total of three hundred and three local authority areas (see table 1 below).

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

Table 1.

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

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

Table 2.

Lowest quartile earnings in Three Rivers in 2016 were £24,518.00 and £26,983.00 in 2020, 13.3 times worsening to 13.5 below the lowest quartile house prices (ratio of lower quartile

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

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

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

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

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

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

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

Table 3.

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

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

Table 4.

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

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

Affordable Housing Requirements in Three Rivers

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

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

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

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

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

Affordable Housing Need - To Rent

- 2.7 The South West Hertfordshire Local Housing Needs Assessment (LNHA) (August 2020) found that at that time there were approximately 1,276 households within Three Rivers that were situated in unsuitable housing. Unsuitability is based on the numbers of homeless households and in temporary accommodation, households in overcrowded housing, concealed households and existing affordable housing tenants in need. 57% of these households are estimated to be unable to afford market housing without subsidy, which means the revised gross need is reduced to 727 households¹¹.
- 2.8 In addition to needs arising from those in unsuitable housing, the LNHA also analyses affordable need to rent arising from newly-forming households within the District. The LNHA estimates 800 new households forming per annum in Three Rivers over the period 2020 to 2036. 45% of these newly-forming households are estimated to be unable to afford market housing (to rent) resulting in 360 new households with a need for affordable housing to rent each year over the period 2020 to 2036¹².
- 2.9 The LNHA also considers newly arising need for affordable rent from existing households (i.e. households residing in market accommodation now requiring affordable housing). The LNHA estimates an additional 77 existing households falling into need for affordable rent per year over the period 2020 to 2036¹³.
- 2.10 Taking into account the figures of need noted above and the supply of affordable housing to rent through re-lets, the LNHA calculates the annual affordable housing need to rent over the period 2020 to 2036 as 350 in Three Rivers¹⁴. This need involves households who cannot afford anything in the market without subsidy and is equivalent to 55% of the District's total local housing need requirement calculated by the standard methodology. This indicates the substantial scale of need for this type of affordable housing.

Affordable Housing Need - To Buy

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

Total Affordable Housing Need

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

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

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

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

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

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

Affordable Housing Provision in Three Rivers

- 2.13 Core Strategy CP4 requires around 45% of all new housing in the District to be affordable. As stated previously, prior to the WMS, all new developments that had a net gain of one or more dwellings would, subject to viability, be expected to contribute towards this.
- 2.14 Since the start of the plan period from 1 April 2001 to 31st March 2021 (the latest date where the most recent completion figures are available), 4,965 gross dwellings were completed. From this, 1,128 were secured as affordable housing, a total of 22.7%. This percentage is significantly below the Core Strategy target of 45% which means there was a shortfall of 1,107 or 22.3% in order to fulfil the 45% affordable housing requirement up to 31 March 2021. This shortfall only exacerbates the already pressing need for small sites to contribute towards the provision of affordable housing.
- 2.15 In the latest monitoring period of 2020/21 (financial year), 26 sites¹⁶ delivered a net gain of one or more dwellings and would therefore be required to contribute to affordable housing under Policy CP4 (either through an on-site or off-site contribution). These were made up of four major developments (15%) and 22 minor developments (86%). 17 of the 26 schemes contributed to affordable housing provision whilst nine of the 26 schemes did not contribute:
- Four out of the 26 sites provided viability justification, in line with CP4 policy, for the absence of affordable housing provision.
 - Four of the applications were determined during the 2014/15 and 2016/17 periods noted at 1.2 above (when the Council was dealing with applications on the basis that the WMS should be given overriding effect regardless of the viability position on specific schemes). Affordable housing provision was forgone on them on this basis, which is now reflected in the low affordable provision as they are built out.
 - Of the 17 schemes which did contribute, nine made contributions via commuted sums towards off-site provision; all nine schemes were minor developments, demonstrating the important role of small sites in collecting financial payments to be spent on affordable housing provision. Of the remaining eight schemes which contributed via on-site provision in 2020/21, three were major developments and five were minor developments, with four of the five minor developments delivered by Registered Providers (17/2077/FUL, 17/2606/FUL – Three Rivers District Council; 17/0883/FUL – Thrive Homes; 14/1168/FUL – Watford Community Housing Trust). This reflects the pattern of on-site delivery from large schemes, with commuted sums from minor developments, unless delivered by Registered Providers.

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

- 2.16 In 2017/2018 (financial year), there were 67 planning applications determined¹⁷ for net gain residential schemes, of which 57 were small site schemes (85%). In 2018/19 (financial year), there were 50 planning applications determined for net gain residential schemes, of which 46 were small site schemes (92%). In 2019/20 (financial year), there were 60 planning

¹⁶ Sites with completions in 2020/21

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

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 established on current day costs and values then a scheme should not currently be required to provide or contribute to affordable housing delivery. Between 1 October 2011 and 31 March 2021 there were 250 planning permissions granted for minor (net gain) residential developments in the District. Of those only 13 have lapsed (5.2%)¹⁸. This

¹⁸ See footnote 3.

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."*¹⁹
- 2.25 It is clear therefore that the Planning Inspectorate considered that although the WMS (and now the Framework) was a material consideration, this should be balanced against the policies within a plan along with any further evidence that supports a Local Planning Authority's application of the policy.

¹⁹ Paragraph 7, Planning Inspectorate Letter, March 2017.

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: 21st June 2019:**
"The Council has however provided robust evidence to demonstrate high affordable housing need locally and that affordability in the District continues to deteriorate. Indeed, needs analysis carried out by the Council highlights the importance of small sites in addressing shortfall and the lack of affordability that exists in the District. I apply substantial weight to this local evidence due to its recentness and the clear conclusions that can be drawn from it. Policy CP4 makes it clear that site circumstances and financial viability will be taken into account when seeking affordable housing provision."
- **APP/P1940/W/19/3221363, The Swallows, Shirley Road, Abbots Langley Decision date: 27th June 2019:**
"The Council has however provided robust evidence to demonstrate high affordable housing need locally and that affordability in the District continues to deteriorate. Indeed, needs analysis carried out by the Council highlights the importance of small sites in addressing shortfall and the lack of affordability that exists in the District. I apply substantial weight to this local evidence due to its recentness and the clear conclusions that can be drawn from it."
- **APP/P1940/W/19/3225445, 6 Berkely Close, Abbots Langley Decision date 5th August 2019:**
"The Council has provided robust evidence of high affordable housing need in the District, and in line with the findings of other appeal decisions cited by the Council, I attribute substantial weight to that need as a consequence and consider that a contribution towards the provision of affordable housing is necessary."
- **APP/P1940/W/19/3230999, 27 Gable Close, Abbots Langley Decision Date: 1st November 2019:**
*"The Council has provided detailed evidence of acute affordable housing need locally: a Needs Analysis was undertaken in May 2016 after the publication of the Written Ministerial Statement which introduced the affordable housing thresholds now included in the Framework. Based on the Needs Analysis, the Council's evidence highlights the issue of general house price affordability in the District, plus an exceptionally high need for affordable housing exacerbated by a significant shortfall in supply. It also identifies the importance of small sites in providing affordable housing with contributions from small sites amounting to over £2.1 million since 2011 being spent towards the delivery of 38 affordable dwellings.
A further Needs Analysis following publication of the revised Framework in July 2018 demonstrated that housing stress had increased since 2016. The Council has therefore revisited its position following the update to national policy. There is no evidence before me that affordable housing contributions are acting as a brake on development. Rather, the evidence is that contributions from small sites collected since the policy was adopted in 2011 are delivering affordable housing on the ground. Due to its recentness and the clear conclusions that can be drawn from it, I give this local evidence substantial weight. It underpins the approach in Policy CP4 as an exception to national policy."*
- **APP/P1940/W/19/3230911, 67 & 69 St Georges Drive, Carpenders Park, Decision date 22nd October 2019:**

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

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

Decision date 11th October 2019:

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

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

Decision Date 22nd May 2019:

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

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

Decision Date 5th May 2019:

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

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

Decision Date 16th August 2019:

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

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

Decision Date 10th December 2019

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

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

Decision Date 9th March 2020

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

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

Decision Date 7th May 2020

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

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

Decision Date: 21st October 2020

“The Framework at paragraph 63 sets out that the provision of affordable housing should not be sought for residential developments that are not major developments other than in designated rural areas where policies may set out a lower threshold of 5 units or fewer. That said, there is clear evidence to suggest that there is an acute need for affordable housing in the Three Rivers District and there have been several appeal decisions which supported this view... I agree that there are special

circumstances which justify the provision of affordable housing below the Framework's suggested threshold... As a result, the proposal would be contrary to Policy CP4 of the CS which amongst other matters seeks to increase the provision of affordable homes including by means of a commuted sum payment for sites of between one and nine dwellings... I have also had regard to the obvious benefits in relation to the provision of a much-needed new dwelling. However, the benefits of this are outweighed by the lack of provision for affordable housing"

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

Decision Date 8th February 2021

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

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

Decision Date 18th February 2021

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

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

Decision Date 4th March 2021

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

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

Decision Date 15th June 2021

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

Conclusion

- 2.27 Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Having regard to the Framework as a material consideration of significant weight, officers' view is that the local evidence of affordable

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

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

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

Sources Used:

1. Core Strategy (October 2011)
<http://www.threerivers.gov.uk/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