

10. 19/1180/FUL - Demolition of detached bungalow and garage and erection of a terrace of 4 x 4-bed two storey dwellings with accommodation in the roof space, modified vehicular access, forecourt parking, refuse and cycle storage and amenity space at AVIEMORE, 65 LOWER ROAD, CHORLEYWOOD, WD3 5LA (DCES)

Parish: Chorleywood Parish Council

Ward: Chorleywood South & Maple Cross

Expiry of Statutory Period: 26.08.2019

Case Officer: Scott Volker

Recommendation: That Planning Permission be Granted.

Reason for consideration by the Committee: This application is brought before the Committee as it has been called-in by the Parish Council.

1 Relevant Planning History

1.1 W/3111/73 – Proposed development of 5 terraced houses – Refused September 1973.

1.2 8/317/74 – Re-building of outbuildings as extension to house – Refused August 1974.

1.3 8/639/74 – Extension to dwelling – Permitted November 1974.

1.4 18/2423/FUL – Demolition of existing detached bungalow and garage and erection of a two storey detached building with further accommodation in the roofspace containing 9 apartments (8x2 bed and 1x3 bed), modified vehicular access, forecourt parking, refuse and cycle storage and amenity space – Refused February 2019 for the following reasons:

R1: The proposed development by reason of its siting, scale and design would appear at odds with the prevailing character of the surrounding area and would be a cramped form of development which would have a detrimental impact on the character and appearance of the area. The bulk and massing of the proposed residential block would be further exacerbated by its excessive height and flat roofed design. The development would therefore be contrary to Policies CP1, CP3 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

R2: In the absence of an agreement under the provisions of Section 106 of Town and Country Planning Act 1990, the development would not contribute to the provision of affordable housing. The proposed development therefore fails to meet the requirements of Policy CP4 of the Core Strategy (adopted October 2011) and the Affordable Housing Supplementary Planning Document (approved June 2011).

R3: The proposed development would result in an unneighbourly form of the development by virtue of to the detriment of the residential amenities of the occupiers of Wroxtton and would fail to provide adequate and useable amenity space for future occupiers to the detriment of their residential amenities. The proposed development would therefore be contrary to Policy CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

R4: The proposed development would increase the parking demand for the site and would fail to provide sufficient parking to meet the demands arising from the proposed development. The development would therefore place additional pressure on the existing parking provision serving the area exacerbating parking pressures which would lead to conditions prejudicial to highway safety. It has also not been demonstrated that there would be safe and adequate means of access so as to ensure there would be no harm to the safe movement and free flow of highways users. As such, the proposal would be contrary to Policies CP10 and CP12 of the Core Strategy (adopted October 2011) and Policy DM13

and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

An appeal has been lodged.

- 1.5 19/0337/FUL - Demolition of existing detached bungalow and garage and erection of a two storey detached building with further accommodation in the roofspace containing 7 apartments (7 x 2bed), modified vehicular access, forecourt parking, refuse and cycle storage and amenity space – Refused April 2019 for the following reasons:

R1 The proposed development by reason of its siting, scale and design would appear at odds with the prevailing character of the surrounding area and would be a cramped form of development which would have a detrimental impact on the character and appearance of the area. The bulk and massing of the proposed residential block would be further exacerbated by its excessive height and flat roofed design. The development would therefore be contrary to Policies CP1, CP3 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

R2 The proposed development would increase the parking demand for the site and would fail to provide sufficient parking to meet the demands arising from the proposed development. The development would therefore place additional pressure on the existing parking provision serving the area exacerbating parking pressures to the detriment of residential amenity. The development would therefore be contrary to Policies CP1, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM13 and Appendix 5 of the Development Management Policies document (adopted July 2013).

An appeal has been lodged.

- 1.6 19/1053/CLPD - Certificate of Lawfulness Proposed Development: Single storey side and rear extensions, and provision of front, side and rear dormer windows – Permitted July 2019; not implemented.

2 Description of Application Site

- 2.1 The application site is located on the north east side of Lower Road in Chorleywood, to the rear of the street fronting dwellings and is currently occupied by a detached bungalow and ancillary garage, served by an access track located between 63 and 67 Lower Road (also known as Railway Cottage and St Keyne respectively). The site has an area of approximately 1800sq. metres including the access track.
- 2.2 The bungalow faces towards the south-west and the main part of the bungalow is located 6 metres from the south-east boundary and has a width of 18 metres and depth of 8 metres. The bungalow has a large single storey side project which extends 13 metres beyond the north-west elevation of the main bungalow and is built in close proximity to the embankment.
- 2.3 To the north east of the site is an embankment which rises up steeply and beyond this is a large public car park associated with Chorleywood Railway Station and beyond the car park is the station itself. The site is surrounded by residential properties to the south east, south and north-west. As a result the main part of the site and the bungalow are not visible from Lower Road.
- 2.4 The character of this part of Lower Road leading towards Quickley Lane is varied with a combination of detached, semi-detached and terraced residential properties. Generally the dwellings have a painted white render exterior with the odd exception which are facing brick or pebble dash rendered. Some of the properties have private driveways but most have small front gardens enclosed by low level brick walls, fencing and hedging. Further north along Lower Road the character is a mix of residential and commercial premises and local services including Chorleywood Library.

- 2.5 There are trees located within the application site, however they are not protected. The embankment to the north east has a blanket Tree Preservation Order TPO054. The land levels across the site slope down gradually from the embankment towards the front of the site.

3 Description of Proposed Development

- 3.1 Full planning permission is sought for the demolition of detached bungalow and garage and erection of a terrace of 4 x 4-bed two storey dwellings with accommodation in the roof space, modified vehicular access, forecourt parking, refuse and cycle storage and amenity space.
- 3.2 The row of four terraced properties would face north-west and would be of two storey appearance with accommodation contained within the roofspace served by dormers and rooflights. The footprint of the built form would measure approximately 23 metres in width (each dwelling would have a width of approximately 5.7 metres) and 15.8 metres in depth. The dwellings would have a maximum height of 9.1 metres from ground level, sloping down to an eaves height of 5.5 metres. As a result of the land level changes, the ridge heights of the dwellings would be stepped. Glazing is primarily located within the front and rear elevations of the dwellings, although there is glazing located within the flank roofslopes of the end terrace properties. The dwellings would have a bricked exterior at ground floor level and painted render finish at first floor and red clay tiled roof.
- 3.3 At the front and at its closest point to the south-west boundary, the row of terraces would be set in by approximately 2 metres increasing to 6.5 metres at the rear. The opposing flank would be set in 2 metres from the north-east boundary. The dwellings would be set off the shared boundary with Wroxton by 14.6 metres, with the two storey element of the dwellings set in a further 2 metres.
- 3.4 Each dwelling would contain four bedrooms and would benefit from an individual private amenity space. The amenity spaces would range between 100-240sq. metres in size.
- 3.5 The submitted site plan details that the twelve parking spaces and a separate cycle storage area providing 10 cycle spaces would be provided to serve the dwellings and a bricked bin storage area for the dwellings is proposed adjacent to the access into the site with an additional temporary bin storage area closer to the entrance of the site to be used on collection days.
- 3.6 The bricked bin storage area would measure 2.8 metres in width; 2.4 metres in depth and would have a flat roof form measuring 2.1 metres in height.

4 Consultation

4.1 Statutory Consultation

4.1.1 Chorleywood Parish Council: [Objection]

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

- Overdevelopment mass and bulk of the proposed development.
- The proposed development would be a cramped form of development which would have a detrimental impact on the character and appearance of the area.
- Concerned with the proposed amenity space on the design.
- The application does not comply with CP12, CP10 - there will not be adequate parking for the proposed development.
- The Ingress and egress to this site
- The proposed development is located within a flood risk area DM8

- The proposed development does not meet the requirements of Policy CP4 of the Core Strategy (adopted October 2011) and the Affordable Housing Supplementary Planning Document (Approved June 2011).
- The Committee support London Underground - and are concerned with the proposed development on the site.
- The Committee do not feel that the previous problems of former applications have not been addressed.

4.1.2 Hertfordshire County Council – Highway Authority: [No objection subject to conditions]

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

1. Existing Access - Widened or Improved

Prior to the commencement of the use hereby permitted the vehicular access (indicated for improvement on drawing number 18193-01-114 A) shall be upgraded / widened / re-positioned in accordance with the Hertfordshire County Council construction specification. Prior to use arrangements shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

Reason: To ensure construction of a satisfactory access and in the interests of highway safety, traffic movement and amenity in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018).

2. Provision of Parking and Servicing Areas

Prior to the first use of the development hereby permitted the proposed on-site car and cycle parking and turning areas shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.

Reason: To ensure construction of a satisfactory development and in the interests of highway safety in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018).

3. Electric Vehicle Charging Points

Prior to the use of the development hereby permitted, each residential dwelling shall incorporate an Electric Vehicle-ready domestic charging point.

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

4. Construction Management

The development shall not begin until full details of all proposed construction vehicle access, movements, parking arrangements and wheel washing facilities have been submitted to and approved in writing by the Local Planning Authority. The relevant details should be submitted in the form of a Construction Management Plan and the approved details are to be implemented throughout the construction programme.

Reason: In order to protect highway safety and the amenity of other users of the public highway and rights of way in accordance with Policies 5, 12, 17 and 22 of Hertfordshire's Local Transport Plan (adopted 2018).

Comments / Analysis:

The proposal comprises of the demolition of the existing dwelling and construction of four dwellings at Aviemore, 65 Lower Road, Chorleywood. Lower Road is designated as an

unclassified local distributor road, subject to a speed limit of 30mph and is highway maintainable at public expense.

Access:

The site has an existing vehicle crossover (VXO) / dropped kerb from Lower Road providing access via a private driveway to the existing dwelling. The proposals include upgrading and repositioning the access to create a 5.1m wide carriageway and 1.5m wide pedestrian footway leading to a 4.8m wide shared use access driveway. The width of the access into the site is considered to be acceptable to enable two vehicles to pass one another in accordance with Roads in Hertfordshire: Highway Design Guide. This would be necessary when taking into consideration the size of the proposals and to prevent vehicles having to wait on Lower Road whilst any other vehicles are egressing the site.

Available vehicular visibility splays of 2.4m by 43m are shown on the submitted plans. Whilst it is acknowledged that visibility is somewhat limited by the prevalence of parked cars along Lower Road, the levels of vehicular to vehicular visibility would be considered to be acceptable and in accordance with Roads in Hertfordshire: Highway Design Guide, MfS and MfS2. Pedestrian visibility splays of 1.5m by 1.5m are included as part of proposals, which would be necessary to minimize the number of conflicts between vehicles ingressing and egressing the site and any pedestrians using the highway footway.

The provision for a turning area (swept path analysis / tracking plans have been submitted as part of the Transport Statement - plan numbers 18193-01-112 C) is considered to be sufficient and acceptable although arrangements to keep the turning area free of parked vehicles to ensure the permanent availability of a turning area for delivery, service and emergency vehicles would be needed. All vehicles accessing the site would need to be able to turn around and egress to the local distributor road in forward gear.

Following consideration of the size of the proposals, an amended VXO would be acceptable with a total maximum width of 7.2m (made up of six flats kerbs and two ramped kerbs creating a maximum flat kerb width of 5.4m). There would also need to be at least one full height kerb between the VXO and the neighbouring VXOs. If this is not achievable then five flat kerbs with a width of 4.5m would also be acceptable (creating a total VXO width of 6.3m).

The applicant would need to enter into a Section 278 Agreement with HCC as Highway Authority in relation to the works that would be needed on highway land to amend and improve the existing VXO. Please see the following highway informative:

AN) Construction standards for works within the highway: The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> or by telephoning 0300 1234047.

Parking:

The proposal includes the provision of 12 on-site car parking spaces. The size of the parking bays is acceptable and there would be sufficient space to enable the easy and safe manoeuvring of vehicles and is in accordance with MfS. TRDC is the parking authority for the district and therefore should ultimately be satisfied with the level of parking.

Refuse & Waste Collection:

A refuse / recycling store and separate collection point have been included as part of the proposals - waste collection would be from Lower Road and waste collection vehicles are not proposed to enter the site. HCC as Highway Authority considers that the proposals are acceptable. The arrangements must be confirmed as acceptable by TRDC waste management.

Emergency Vehicle Access:

The access arrangements would enable emergency vehicle access to within 45 metres from all dwellings. A turning area has been included to enable any larger vehicles including Fire Trucks accessing the site to turn around and egress to the highway in forward gear. A swept path analysis has been included as part of the submitted transport assessment (drawing no. 18193-01-106 C). This adheres to guidelines as recommended in MfS, Roads in Hertfordshire; A Design Guide and Building Regulations 2010: Fire Safety Approved Document B Vol 1 - Dwellinghouses.

Conclusion:

HCC as Highway Authority has considered that the proposal would not have an unreasonable or significant impact on the safety and operation of the surrounding highway, subject to the inclusion of the above planning conditions and informative. The applicant will need to enter into a Section 278 Agreement with HCC to cover the technical approval of the design, construction and implementation of the highway works at the access to the site.

4.1.3 Herts and Middlesex Wildlife Trust: [No response]

4.1.4 Herts Ecology: [No response]

4.1.5 London Underground Infrastructure Protection: [No objection subject to condition]

Though we have no objection in principle to the above planning application there are a number of potential constraints on the redevelopment of a site situated close to railway infrastructure. Therefore, it will need to be demonstrated to the satisfaction of LUL engineers that:

- our right of support is not compromised
- the development will not have any detrimental effect on our structures either in the short or long term
- the design must be such that the loading imposed on our structures is not increased or removed
- we offer no right of support to the development or land

Therefore we request that the grant of planning permission be subject to conditions to secure the following:

The development hereby permitted shall not be commenced until detailed design and method statements (in consultation with London Underground) for all of the foundations, basement and ground floor structures, or for any other structures below ground level, including piling (temporary and permanent), have been submitted to and approved in writing by the local planning authority which:

- provide details on all structures
- provide details on the use of tall plant/scaffolding
- accommodate the location of the existing London Underground structures
- demonstrate access to elevations of the building adjacent to the property boundary with London Underground can be undertaken without recourse to entering our land
- demonstrate that there will at no time be any potential security risk to our railway, property or structures
- accommodate ground movement arising from the construction thereof

- mitigate the effects of noise and vibration arising from the adjoining operations within the structures

The development shall thereafter be carried out in all respects in accordance with the approved design and method statements, and all structures and works comprised within the development hereby permitted which are required by the approved design statements in order to procure the matters mentioned in paragraphs of this condition shall be completed, in their entirety, before any part of the building hereby permitted is occupied.

Reason: To ensure that the development does not impact on existing London Underground transport infrastructure, in accordance with London Plan 2015 Table 6.1, draft London Plan policy T3 and 'Land for Industry and Transport' Supplementary Planning Guidance 2012.

We also ask that the following informative is added:

The applicant is advised to contact London Underground Infrastructure Protection in advance of preparation of final design and associated method statements, in particular with regard to: demolition; drainage; excavation; construction methods; tall plant: scaffolding: security.

4.1.6 Affinity Water: [No response]

4.1.7 National Grid: [No response]

4.1.8 Landscape Officer: [No objection subject to conditions]

The current application does not vary significantly, in respect to trees, from previous applications, and therefore I have no objections. Again, I would request that the tree report and associated tree protection plan are listed as approved documents to ensure compliance with the contents and methods of work.

4.1.9 Thames Water: [No response]

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 48

4.2.2 No of responses received: 8 objections, 0 letters of support

4.2.3 Site Notice: Posted 10.07.2019 Expired 31.07.2019

4.2.4 Summary of Responses:

- Loss of trees
- Loss of light
- Increase in flood risk
- Loss of privacy
- Inadequate parking
- Inadequate access
- Plans are inadequately scaled/detailed
- Out of keeping with the context of the area
- Impact on neighbouring property values
- Risk of a landslip from embankment
- Significant intensification of the site
- Inadequate provision for servicing and waste management
- Detrimental impact on neighbouring amenity, character and environment
- Increase in traffic congestion and pollution

- Boundary dispute – Destruction of shared vegetation/hedgerow
- Access is a danger to pedestrian safety
- Increase in noise pollution
- Impact on wildlife
- Compromised safety and stability of the site
- Overbearing form of development

5 Reason for Delay

5.1 None.

6 Relevant Planning Policy, Guidance and Legislation

6.1 National Planning Policy Framework and National Planning Practice Guidance

In 2019 the new National Planning Policy Framework was published. This is read alongside the National Planning Practice Guidance (NPPG). The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another. The NPPF is clear that “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework”.

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

6.2 The Three Rivers Local Development Plan

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

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies PSP2, CP1, CP2, CP3, CP4, CP8, CP9, CP10 and CP12.

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

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

6.3 Other

Affordable Housing Supplementary Planning Document (adopted June 2011).

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

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

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

7 Planning Analysis

7.1 Principle of Development

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

7.1.2 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.

7.1.3 The application site is within Chorleywood which is identified as a Key Centre in the Core Strategy. The Spatial Strategy of the Core Strategy advises that new development will take place on previously developed land and appropriate infilling opportunities within Key Centres. Policy PSP2 indicates that the Key Centres including Chorleywood will provide approximately 60% of the District's housing requirements over the plan period.

7.1.4 The application site is not considered to be previously developed land but would be development on garden land and spreads beyond the footprint of the existing dwelling, however, given the location of the site within the Key Centre of Chorleywood, there are no in principle objections to the addition of residential development on the application site subject to compliance with the Policies set out in the Core Strategy (adopted October 2011) and the Development Management Policies LDD (adopted July 2013) and subject to assessment against all other material considerations.

7.2 Housing Mix

7.2.1 Policies CP1 and CP3 of the Core Strategy (adopted October 2011) require new development to contribute a range of house types and sizes to reflect needs, Policy CP3 also seeks to cater for a range of housing needs which should include provision of housing for the elderly and supported and specialist accommodation.

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

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

4+ bedrooms 23.0% of dwellings

7.2.3 The proposed development would provide 100% 4-bed units. The proposed development does not provide a mix of bedroom numbers and as such would not accord with CP3 of the Core Strategy in this respect.

7.2.4 Whilst the proposed mix would not strictly accord with Policy CP3, it is not considered that a development of this form would prejudice the ability of the Council to deliver overall housing targets and the development is therefore considered acceptable in accordance with Policy CP3 of the Core Strategy (adopted October 2011).

7.3 Affordable Housing

7.3.1 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. 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.

7.3.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications to be determined in accordance with the adopted development plan subject to material considerations otherwise. The Courts are clear that:

- (a) the weight to be given to such considerations is a matter for the decision maker.
- (b) policy (however absolutely it is stated) cannot displace that – the decision must always be taken with regard: *“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”*.¹
- (c) The Framework *“is no more than ‘guidance’ and as such a ‘material consideration’ for these purposes. “It cannot, and does not purport to, displace the primacy given by the statute and policy to the statutory development plan.”*²

7.3.3 Officers consider that the correct approach is to:

- (1) Consider the starting point under the development plan policies
- (2) Give significant weight to the Framework policies
- (3) Have regard to current evidence of local housing need as a material consideration in deciding whether Framework policy should outweigh the breach of the adopted development plan policy.
- (4) consider whether there is evidence of viability justification for failing to provide affordable housing, which would satisfy Policy CP4.

Policies should not be applied rigidly or exclusively when material considerations may indicate that it would not be in the interests of good planning to do so.

¹ Source: Court of Appeal in *West Berkshire Council v SSCLG* [2016] 1 W.L.R. 3923 – citing statements made to the High Court on behalf of the Secretary of State at paragraph 26 and confirming them at paragraph 29

² Source: *Supreme Court in Hopkins Homes Ltd v SSCLG and Anor and Cheshire East Borough Council v SSCLG and Anor* [2017] 1 W.L.R. 1865 at paragraph 21 per Carnwarth LJ

- 7.3.4 Following the issue of a WMS in Nov 2014 which stated that financial contributions towards affordable housing should no longer be sought on sites of 10 units or less and the amendment of the PPG in May 2016 to reflect this, the Council undertook an analysis of up to date evidence of housing needs in the Council's area (The Needs Analysis). The Council considers that the local evidence of housing need in the Needs Analysis:
- (a) confirms that housing stress has increased since the Core Strategy was adopted;
 - (b) underlines the continuing relevance and importance of Policy CP4 (and the weight to be given to such local housing need for the purposes of Section 38(6)).
- 7.3.5 The Council resolved on 1st September 2017 to treat the Needs Analysis as a consideration of significant weight when considering the relationship between Policy CP4 and the WMS and PPG 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.
- 7.3.6 Following the publication of the 2018 NPPF the Council undertook a further Needs Analysis in July 2018 titled: "Evidence for Re-Instating the Affordable Housing Threshold in Core Strategy Policy CP4: Affordable Housing." This document concluded that whilst the Framework is a material consideration, breaches of Policy CP4 should not, in light of ongoing evidence of housing need be treated as outweighed by the Framework. This conclusion was 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 plan policy does not impose burdens where they would render schemes unviable.

General House Price Affordability in Three Rivers

- 7.3.7 As set out in more detail in the Council's document: Evidence for Re-Instating the Affordable Housing Threshold in Core Strategy Policy CP4: Affordable Housing, data published by the Office for National Statistics (ONS) demonstrated that in 2016 Three Rivers was the seventh most expensive local authority area in England and Wales (excluding London) out of a total of three hundred and fifty local authority areas. The lowest quartile house price in Three Rivers was £325,000.00. This represents a worsening of the position since 2011. The general house price affordability position has grown worse since 2016. According to ONS data for the third quarter of 2017, the lowest quartile house price in Three Rivers as of September 2017 was £355,000, making it now the sixth most expensive local authority area in England and Wales (excluding London).
- 7.3.8 Lowest quartile earnings in Three Rivers in 2016 were £24,518.00, 13.3 times [less than] the lowest quartile house prices (ratio of lower quartile house prices to lower quartile gross annual, residence based earnings). That worsened to £24,657.00 in 2017 (14.4 times [less]). It is clear from this data 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 2016 to have a deposit of £239,694.00, or (without such a deposit) to earn £92,857.00 per annum to get onto the lowest/cheapest rung of the property ladder. An additional £6,250.00 Stamp Duty payment would also have been due. The position is even more serious when the median affordability ratio for Three Rivers compared to the rest of England and Wales is considered: the median quartile income to median quartile house price affordability ratio is 13.82, the fifth worst affordability ratio in England and Wales.

Affordable Housing Requirements in Three Rivers

7.3.9 The Council's Strategic Housing Market Assessment (2010) which assessed current and future housing markets and needs found that:

- (1) the requirement for affordable housing in and around the Three Rivers area remained exceptionally high. This is largely as a result of very high house prices and rents, a constricted supply of suitable sites for all housing types and losses from the existing affordable stock through 'Right To Buy' sales,
- (2) **all** future housing supply in the district to 2021 would need to be affordable to satisfy affordable housing requirements. This represented the highest requirement amongst the six authorities within the London Commuter Belt.
- (3) The South West Hertfordshire Strategic Housing Market Assessment (January 2016) SHMA looked into newly-arising (projected future) need within the District, which was accepted as arising from newly forming households and existing households falling into this need. In South West Herts, the SHMA estimated a need totalling 2,760 new households per annum from 2013-2036. 15% of this need falls within Three Rivers, which equates to an estimated level of affordable housing need in the District from newly forming households of 419 per annum. With these figures in mind, the SHMA calculated the net affordable housing need within Three Rivers as being 617 units per annum or 14,191 units over the same 23 year period.

Affordable Housing Provision in Three Rivers

7.3.10 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. Since the start of the plan period from 1 April 2001 to 31st March 2017 (the latest date where the most recent completion figures are available), 3,736 gross dwellings were completed. From this, 843 were secured as affordable housing, a total of 22.6%. This percentage is significantly below the Core Strategy target of 45% which means there was a shortfall of 836 affordable housing units or 22.4% in order to fulfil the 45% affordable housing requirement up to 31 March 2017. This existing shortfall only exacerbates the already pressing need for small sites to contribute towards the provision of affordable housing and as such there is a high importance that small sites deliver to affordable housing contributions.

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

7.3.11 Between 1st May 2016 and 12th April 2017, seventy nine planning applications for residential development involving a net gain of dwellings were determined by the Council. Of those, forty seven applications (60%) were for schemes which proposed a net gain of 1-9 units. This demonstrates the importance of small sites to the overall delivery of housing in the district. Having a large number of small sites is an inevitable consequence of the District being contained within the Metropolitan Green Belt.

7.3.12 During the latest 2016/2017 monitoring period, there were a total of 164 gross dwelling completions within the District, of which 0% were affordable. All of those completions related to planning permissions granted for 10 or less dwellings with a combined floorspace of less than 1000 sq metres. The above data emphasises the importance of small sites to the delivery of housing within Three Rivers.

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

7.3.13 Since the adoption of its Core Strategy in 2011, Three Rivers has received small site affordable housing contributions amounting to over £2.1million. Utilising those monies, development is currently underway which will deliver 21 units of affordable housing, with

the remaining monies to be utilised as a contribution towards the delivery of a further 17 affordable dwellings. It is clear that, its policy has delivered a significant contribution towards the delivery of much needed affordable housing in the district, without disrupting supply.

Relevant Appeal Decisions

- 7.3.14 On any view of the local housing need position, there is a serious planning issue. The Council's position is that it deserves significant weight, consistent with the decisions in similar situations where the 'exception' is a function of weight. Whilst some decisions pre-date the NPPF, paragraph 63 of the NPPF is fundamentally the same as the WMS and PPG. It is also noted that there have been more recent appeal decisions that post-date the NPPF which also support the Council's approach.

The fact that the adopted plan policy does not impose burdens where they would render schemes unviable

- 7.3.15 Policy CP4 states *“in assessing affordable housing requirements including the amount, type and tenure mix, the Council will treat each case on its merits, taking into account site circumstances **and financial viability.**”* It is clear that the operation of CP4 does not act as any form of brake on small scale development.
- 7.3.16 This stance has also been tested in recent appeals at 9 Lapwing Way, Abbots Langley (APP/P1940/W/18/3213370), 4 Scots Hill, Croxley Green (APP/P1940/W/19/3219890) and The Swallows, Shirley Road, Abbots Langley (APP/P1940/W/19/3221363), which all proposed the net gain of one additional unit. In the case of 9 Lapwing Way, as with that subject to the current application, the proposal did not propose any monetary contributions by the payment of a commuted sum in lieu of onsite affordable housing provision. The appeal inspector outlined that ‘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.’
- 7.3.17 The Inspector reviewed the Council's case as outlined above and concluded that ‘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.’ It was further considered that ‘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.’
- 7.3.18 In the case of 4 Scots Hill, the appellant provided a Unilateral Undertaking, to secure a commuted sum, during the course of the appeal and this was agreed by the LPA. The Inspector agreed that the Council were correct in their approach to secure affordable housing contributions on small sites, commenting that;

“In its letter dated 21 February 2019 the Council has provided a detailed justification for seeking financial contributions towards affordable housing for schemes of 10 dwellings or less, which is supported by a needs analysis.

Consequently, having regard to TRCS 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. As the UU is fairly and reasonably related in scale and kind to the development proposed, is directly related to it, and is necessary to make the development acceptable, it meets the policy requirements at paragraph 56 of the National Planning Policy Framework ('Framework'), and the tests in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010".

In respect of the appeal at The Swallows, Shirley Road the Inspector gave substantial weight to the Council's local evidence and stated that *'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.'*

- 7.3.19 With regard to this current application, the proposed development would result in a requirement for a commuted sum of £601,875 towards affordable housing based on a habitable floorspace of 481.5sq. metres multiplied by £1250 per sq. metres which is the required amount in 'Highest Value Three Rivers' market area.
- 7.3.20 However, Policy CP4 acknowledges that applications will be considered on a case-by-case basis to allow individual site circumstances to be reflected which may take account of development viability and the National Planning Policy Framework is clear that requirements should not prejudice development viability.
- 7.3.21 The applicant submitted information with the application indicating that it would not be possible for the development to contribute to the provision of affordable housing as a result of development viability. This information is currently under review by an independent viability assessor.

7.4 Impact on Character and Street Scene

- 7.4.1 Policy CP1 of the Core Strategy (adopted October 2011) seeks to promote buildings of a high enduring design quality that respect local distinctiveness and Policy CP12 of the Core Strategy (adopted October 2011) relates to design and states that in seeking a high standard of design the Council will expect development proposals to 'have regard to the local context and conserve or enhance the character, amenities and quality of an area'. Development should make efficient use of land but should also respect the 'distinctiveness of the surrounding area in terms of density, character, layout and spacing, amenity, scale, height, massing and use of materials'; 'have regard to the local context and conserve or enhance the character, amenities and quality of an area' and 'incorporate visually attractive frontages to adjoining streets and public spaces'.
- 7.4.2 In terms of new residential development, Policy DM1 of the DMLDD advises that the Council will protect the character and residential amenity of existing areas of housing from forms of 'backland', 'infill' or other forms of new residential development which are inappropriate for the area. Development will be only be supported where it can be demonstrated that the proposal will not result in:
- i. Tandem development;
 - ii. Servicing by an awkward access drive which cannot easily be used by service vehicles;
 - iii. The generation of excessive levels of traffic;
 - iv. Loss of residential amenity;
 - v. Layouts unable to maintain the particular character of the area in the vicinity of the application site in terms of plot size, plot depth, building footprint, plot frontage width, frontage building line, height, gaps between buildings and streetscape features (e.g. hedges, walls, grass verges etc.)

- 7.4.3 In terms of design, Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013) set out that new residential development should not be excessively prominent in relation to the general street scene and should respect the character of the street scene, particularly with regard to the spacing of properties, roof form, positioning and style of windows and doors and materials.
- 7.4.4 The Design Criteria at Appendix 2 of the Development Management Policies LDD state that in order to prevent a terracing effect and maintain appropriate spacing between properties in character with the locality, development at first floor level should be set in a minimum of 1.2 metres from flank boundaries, although this distance must be increased in low density areas.
- 7.4.5 The prevailing character of the southern part of Lower Road, North Road and Quickley Lane is semi-detached, detached and terraced two storey dwellings set within roughly rectangular shaped plots with street facing frontages, linear front building lines and amenity space to the rear. Whilst there is some variation, generally the properties have painted white render exteriors and are roughly uniform in terms their size and scale. In the wider area, particularly to the north, the character of the area is mixed with examples of flatted developments such as St Christopher's Court and commercial premises with residential above up towards Chorleywood shopping parade.
- 7.4.6 The proposed development given its siting to the rear of several properties along Lower Road would not be tandem development (the placing of one dwelling behind another in a single plot), however, it would constitute back land development. Notwithstanding this, the application site is currently in residential use containing a single bungalow (to be demolished) and has an existing access from Lower Road.
- 7.4.7 The submitted proposed site plan indicates that the dwellings would be set in from the flank boundaries with the dwellings along Lower Road to the south-west and the embankment to the north-east by a minimum of 2 metres which would exceed the 1.2m guidance detailed within Appendix 2 and ensure that sufficient spacing is maintained and avoid the development from appearing cramped.
- 7.4.8 Unlike the previous two refused applications 18/2423/FUL and 19/0337/FUL which proposed 9 and 7 unit flatted developments respectively, this current scheme proposes a row of four terraced properties of more traditional design which would be more in keeping with the character of the immediate vicinity of the site. The dwellings would face north-west onto front gardens and a courtyard parking area reflecting the street facing frontages of those properties on Lower Road. In addition, they would be of uniform size set generally in rectangle shaped plots with front gardens and private amenity spaces to the rear. The proposed dwellings would have a pitched roof forms with the outside terraced properties having hipped roofs along the flanks to reduce the bulk of the built form. The proposed heights of the dwellings are considered modest and the stepped ridge heights to reflect the land level changes across the site would be similar in relationship as the dwellings on North Road and would not lead to the built form becoming significantly prominent within the site. The appearance of the proposed dwellings with bricked lower ground floor and painted render above and tiled roof would also accord with the general appearance of the dwellings in the area. The dwellings would contain dormer windows within the front roofslope and flank roofslope facing the embankment which are considered to be subordinate features within the roof and would accord with the Design Criteria at Appendix 2. Amended plans were received during the course of the application to remove the dormer windows proposed within the rear roofslope and replace them with rooflights and to alter the roof forms of the hipped roof rear projection.
- 7.4.9 In conclusion, is not considered that the proposed development would not be out of character with the built form within the vicinity of the application site. It is therefore considered that the proposed development has overcome previous reasons for refusal to redevelop the site under applications 18/2423/FUL and 19/0337/FUL. The development is

considered acceptable in accordance with Policies CP1 and CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies document.

7.5 Impact on amenity of neighbours

- 7.5.1 Policy CP12 of the Core Strategy states that development proposals should protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space.
- 7.5.2 The Design Criteria at Appendix 2 of the Development Management Policies document states that extensions should not be excessively prominent in relation to adjacent properties and not result in loss of light to the windows of neighbouring properties nor allow overlooking.
- 7.5.3 The Design Criteria at Appendix 2 of the Development Management also state that two storey development should not intrude into a 45 degree splay line drawn across the rear garden from a point on the joint boundary, level with the rear wall of the adjacent property. This principle is dependent on spacing and relative positions of the dwellings and consideration will also be given to the juxtaposition of properties, land levels and the position of windows and extensions on neighbouring properties.
- 7.5.4 The Design Guidelines at Appendix 2 also outlines that distances between buildings should be sufficient so as to prevent overlooking, particularly from upper floors. An indicative figure of 28 metres should be achieved between the faces of single or two storey buildings backing onto each other with this distance increased with additional floors. Where garden length alone is relied upon to provide privacy a minimum length of 14 metres should be achieved.
- 7.5.5 With regards to overlooking, windows of habitable rooms at first floor level should not generally be located in flank elevations. Flank windows of other rooms should be non-opening, below 1.7 metres (from internal floor level) and obscure glazed. High level windows with a cill height of 1.7 metres or more may be acceptable where a secondary light source is necessary. Ground floor windows should be located away from flank boundaries. Where flank windows to ground floor habitable rooms have to be incorporated, the boundary must be satisfactorily screened by a fence, wall or evergreen hedge.
- 7.5.6 Given the siting of the development in relation to surrounding neighbouring properties, the proposed building would not intrude on a 45 degree splay line in relation to any neighbouring dwelling. The properties along Lower Road have uniform original front and rear building lines, although some have been extended to the rear which are not indicated on the submitted block plan such as 69 Lower Road which has benefited from a 3 metre deep rear extension. Notwithstanding this, there would be separation distances ranging between 17-22 metres between the proposed end terrace properties flank elevation and the rear elevations of properties along Lower Road. The proposed dwellings would be stepped to reflect the land level changes however the separation distances would be increase between the dwellings on higher land level so to prevent them from being overbearing. In addition, there are no first floor windows proposed within the flank elevation of the end terrace and although there are three rooflights located within the roofslope of this dwelling they are shown to be fitted with obscure glazing. A condition would be attached to ensure that these rooflights are obscured and also non-opening below 1.7 metres from the internal floor level.
- 7.5.7 As such, it is not considered that the proposed dwellings would result in any loss of light, become significantly overbearing or cause unacceptable levels of overlooking towards these neighbours on Lower Road. Concerns were raised with regards to overlooking towards the private amenity spaces of those properties on Lower Road however the fenestration within the proposed dwellings would be primarily overlooking the private amenity spaces of the proposed new plots and the communal parking area to the front. Amended plans were received to remove the dormers within the rear roofslope of the proposed dwellings to reduce the perception of overlooking.

- 7.5.8 There are no residential properties located directly north-east of the application site that would be affected by the proposed development and as such the proposed dormer and rooflights within the flank roofslope of the end of terrace dwelling would not give rise to any overlooking. As previously mentioned, the glazing proposed within the front elevation of the dwellings including the dormers within the roof would primarily overlook the frontage of the site and the forecourt parking. Whilst the private amenity space of 63 Lower Road is beyond the forecourt parking there is a minimum distance of 23 metres retained and this part of amenity space is not considered this neighbour's 'private zone' which is located further away. As such, it is not considered that the proposed development would result in any detrimental impact on the residential amenities of this neighbour.
- 7.5.9 With regards to the neighbour to the south (Wroxton) this neighbour does include a window at both ground and first floor level and is set off the shared boundary by 5 metres. There would be a minimum separation distance of 14.5 metres from the ground floor rear elevation of the proposed dwellings increasing to 16.5 metres at first floor and above to the respective rear boundaries of the dwellings. Given the spacing it is not considered that the proposed terrace properties would cause any loss of light or become an overbearing form of development towards the residential amenities of Wroxton.
- 7.5.10 The glazing proposed within the rear elevation of the proposed dwellings would overlook the private amenity spaces of each new plot. In addition, the glazing within the first floor rear elevation of the dwellings is set approximately 16.5 metres in from the boundary which is considered to be sufficient distance. Amended plans were received to remove the dormer windows within the rear roofslope to reduce the perception of overlooking towards Wroxton. Finally, whilst it cannot be solely relied upon it is there is some existing trees and hedging which provide some screening of this neighbour.
- 7.5.11 As such, it is not considered that the proposed development would result in any significant adverse impact on neighbouring amenity and the development would be acceptable in accordance with Policy CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

7.6 Amenity Space Provision for future occupants

- 7.6.1 Policy CP12 of the Core Strategy states that development should take into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space. Amenity space standards for residential development are set out in Appendix 2 of the Development Management Policies LDD where it is stated that 105sq metres of amenity space should be provided to serve a 4 bedroom dwelling.
- 7.6.2 Each of the four dwellings would benefit from an individual rear private amenity space ranging between 100-240sq. metres. Whilst the smallest size would be below the provision stated above, the short fall is not considered significant and the allocated provision is sufficient to satisfactorily serve the proposed dwellings. In addition, whilst they would not be private, each dwelling would benefit from front gardens which would provide some additional amenity space and would enhance the setting of the dwellings.

7.7 Wildlife and Biodiversity

- 7.7.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive.
- 7.7.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of applications in accordance with Policy CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the DMLDD. National Planning Policy requires

Local Authorities to ensure that a protected species survey is undertaken for applications that may be affected prior to determination of a planning application.

7.7.3 The application is supported by an Ecological Assessment and Preliminary Bat Roost Assessment prepared by Tyler Grange dated March 2019 and a Local Biodiversity Checklist. Both Herts Ecology and Herts & Middlesex Wildlife Trust were consulted on the application. Neither consultees provided a response for the application however it is noted that Herts Ecology provided a response to application 19/0337/FUL and raised no objections to the that scheme subject to conditions requiring further follow-up surveys. Given that the current proposal includes the demolition of the original bungalow and the same supporting information was provided, it is considered appropriate to attach the same conditions as requested by Herts Ecology for application 19/0337/FUL.

7.7.4 As such, subject to conditions, the proposed development would be acceptable in accordance with Policy CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

7.8 Trees and Landscaping

7.8.1 Policy DM6 of the Development Management Policies LDD sets out that development proposals should seek to retain trees and other landscape and nature conservation features, and that proposals should demonstrate that trees will be safeguarded and managed during and after development in accordance with the relevant British Standards.

7.8.2 The application site contains some trees however none of which are protected by a Tree Preservation Order. The site is located beside an embankment owned by Transport for London and is covered by a blanket Tree Preservation Order TPO054. An Arboricultural Method Statement prepared by GHA Trees dated November 2018 has been submitted with the application. The Landscape Officer was consulted on the submitted details and they raised no objections to the trees highlighted for removal and the level of protection proposed. They therefore raised no objection.

7.8.3 As such, subject to conditions, the proposal would be acceptable in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

7.9 Highways and Access

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

7.9.2 As existing the application site benefits from an access located within the north-western corner of the site. The proposals include upgrading and realigning the access. The Highways Officer was consulted on the application and considered that the proposal would not have an unreasonable or significant impact on the safety and operation of the surrounding highway. The applicant will need to enter into a Section 278 Agreement with HCC to cover the technical approval of the design, construction and implementation of the highway works at the access to the site.

7.9.3 The Highways Officer suggested a condition requiring each residential dwelling to incorporate Electric Vehicle domestic charging point. Whilst this suggested condition is noted the council does not currently have policy in place requiring the provision of electric charging points. Whilst the applicant is encouraged to include charging points it is not considered reasonable to require them by condition on this occasion.

7.10 Parking

- 7.10.1 Policy DM13 of the DMP LDD requires development to make provision for parking in accordance with the parking standards set out at Appendix 5 of the same document. Appendix 5 states that 4-bed dwellings should benefit from three off-street parking spaces (3 assigned).
- 7.10.2 The proposal would result in the construction of four 4-bed dwellings and would therefore require 12 assigned spaces
- 7.10.3 The proposed development would provide 12 off-street parking spaces within the forecourt parking. As such, the proposed development would meet the required parking provision to adequately serve the proposed dwellings. No parking management plan has been submitted to indicate how the spaces will be allocated. As such, a condition is suggested requiring a Parking Management Plan to be submitted prior to occupation of the proposed development.
- 7.10.4 Appendix 5 also sets out cycle parking standards and requires 1 space per dwelling. The development proposes a 10 space cycle store which would exceed the adopted standards. It is suggested that the Parking Management Plan also include details of the allocation of cycle parking.

7.11 Sustainability

- 7.11.1 Paragraph 148 of the NPPF states that “Planning plays a key role in helping to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure”.
- 7.11.2 Policy CP1 of the Core Strategy requires the submission of an Energy and Sustainability Statement demonstrating the extent to which sustainability principles have been incorporated into the location, design, construction and future use of proposals and the expected carbon emissions.
- 7.11.3 Policy DM4 of the DMLDD requires applicants to demonstrate that development will produce 5% less carbon dioxide emissions than Building Regulations Part L (2013) requirements having regard to feasibility and viability. This may be achieved through a combination of energy efficiency measures, incorporation of on-site low carbon and renewable technologies, connection to a local, decentralised, renewable or low carbon energy supply. The policy states that from 2016, applicants will be required to demonstrate that new residential development will be zero carbon. However, the Government has announced that it is not pursuing zero carbon and the standard remains that development should produce 5% less carbon dioxide emissions than Building Regulations Part L (2013) requirements having regard to feasibility and viability.
- 7.11.4 The application is supported by an Energy Statement prepared by C80 Solutions dated June 2019 which states that the development would achieve a 25% reduction in CO2 emissions overall compared to Part L 2013. The proposed development would include Photovoltaics however no further details have been provided. A condition will be attached to any consent requiring further details of the location of the solar panels.

7.12 Flood Risk and Drainage

- 7.12.1 Concerns have been received with regards to the potential impact of the proposed development on local flooding.
- 7.12.2 The application site is not located within an area of flood risk and a Flood Risk Assessment would not generally be required for development of the scale proposed. It is not considered that the development would have an adverse impact on areas at risk of flooding or would be subject to unacceptable risk of flooding and would be acceptable in accordance with

Core Strategy Policy CP1 and Policy DM8 of the Development Management Policies document, however an informative would highlight the need to ensure that development does not result in flooding.

7.13 Refuse and Recycling

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

7.13.2 The submitted plans indicate that a bin storage area would be located adjacent to the parking spaces within the site and an additional temporary storage area used on collection days would be located closer to the entrance into the site. The Highways Officer raised no objection to the proposed waste collection/storage provisions and are considered acceptable in accordance with Policy CP1 of the Core Strategy (adopted October 2011) and Policy DM10 of the Development Management Policies LDD (adopted July 2013).

7.14 Infrastructure Contributions

7.14.1 Core Strategy Policy CP8 requires development to make adequate contribution to infrastructure and services. The Three Rivers Community Infrastructure Levy (CIL) came into force on 1 April 2015. The levy applies to new dwellings and development comprising 100sq. metres or more of floorspace (net gain), including residential extensions, although exemptions/relief can be sought for self-build developments and affordable housing. The Charging Schedule sets out that the application site is within 'Area A' within which the charge per sq. metre of residential development is £180.

7.15 Tilted Balance

7.16 The LPA cannot demonstrate a 5 year housing land supply, and therefore paragraph 11 of the NPPF (2019) is engaged. Paragraph 11 and footnote 7 clarifies that in the context of decision-taking “the policies which are most important for determining the application are out-of-date when the LPA cannot demonstrate a five year supply of deliverable housing sites”. The most important policies for determining a housing application are considered to be Policies CP2 (Housing Supply) and Policy CP3 (Housing Mix and Density). Paragraph 11 continues, “Plans and decisions should apply a presumption in favour of sustainable development... where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: a) the application of policies in this Framework 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 the Framework taken as a whole”.

7.17 The NPPF identifies that there are three dimensions to sustainable development; social, economic and environmental. The social benefits of the scheme would include a small contribution towards making up the shortfall in housing in the district therefore facilitating the Government’s aim of boosting the supply of housing. The economic benefits of the scheme includes the ability for the future occupiers to support the local economy by using the amenities in Chorleywood. In terms of the environmental benefits, the principle of residential development is acceptable in this location and the site does not reside within an area of particular importance (i.e. Green Belt, ANOB – see footnote 6 of the NPPF).

- 7.18 Notwithstanding the above, it is considered that the development complies with paragraph 11 of the NPPF; however, if an alternative recommendation is reached, consideration will be required as to whether any identified adverse impacts would significantly and demonstrably outweigh the benefits of the development.

8 Recommendation

- 8.1 That PERMISSION BE GRANTED subject to the following conditions:

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

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

- C2 The development hereby permitted shall be carried out in accordance with the following approved plans: 131 P.01, 132 P.01, 133 P.01, 151 P.02, 201 P4.01, 201 P4.04, 301 P4.01, 302 P4.02, 303 P4.04, 401 P4.02, 402 P.04, 403 P.04, 501 P4.03, 502 P4.03 and Tree Protection Plan REV-D June 2019.

Reason: For the avoidance of doubt and in the proper interests of planning and in accordance with Policies PSP2, CP1, CP2, CP3, CP4, CP8, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM4, DM6, DM10, DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013).

- C3 Prior to the commencement of the development hereby permitted, 1 dusk emergence / dawn re-entry survey should be undertaken of the building between May to August (inclusive) to determine with confidence whether bats are roosting. Should roosting bats be found, the outline bat mitigation strategy (ref: Preliminary Ecological Appraisal and Preliminary Bat Roost Assessment, Tyler Grange, 13 March 2019) should be modified as appropriate based on the results and then be submitted to the Local Planning Authority for written approval. Thereafter the development shall be carried out in accordance with these approved details.

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

- C4 The development shall not begin until full details of all proposed construction vehicle access, movements, parking arrangements and wheel washing facilities have been submitted to and approved in writing by the Local Planning Authority. The relevant details should be submitted in the form of a Construction Management Plan and the approved details are to be implemented throughout the construction programme.

Reason: This is a pre commencement condition to minimise danger, obstruction and inconvenience to users of the highway in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

- C5 Prior to the commencement of the use hereby permitted the vehicular access (indicated for improvement on drawing number 18193-01-114 A) shall be upgraded / widened / re-positioned in accordance with the Hertfordshire County Council construction specification. Prior to use arrangements shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

Reason: This is a pre commencement condition to ensure construction of a satisfactory access and in the interests of highway safety, traffic movement and amenity in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

- C6 The development shall not commence until there has been submitted to and approved in writing by the Local Planning Authority a scheme of hard and soft landscaping, which shall include the location of all existing trees and hedgerows affected by the proposed development, and details of those to be retained, together with a scheme detailing measures for their protection in the course of development.

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

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

- C7 Prior to the commencement of development, a Biodiversity and Landscape Plan should be submitted to the Local Planning Authority, detailing how it is planned to incorporate biodiversity as part of the development. It should show the location of any habitat boxes, and specify tree/boundary/hedgerow species, including any native species.

Reason: To ensure that biodiversity objectives for net gain are realised and to meet the requirements of Policies CP1, CP9 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

- C8 Before the building operations above ground level hereby permitted are commenced, samples and details of the proposed external materials shall be submitted to and approved in writing by the Local Planning Authority and no external materials shall be used other than those approved.

Reason: To ensure that the external appearance of the buildings are acceptable having regard to the local context in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C9 Prior to the commencement of development hereby permitted, plans and details of the photovoltaic panels shall be submitted to and approved in writing by the Local Planning Authority. The approved details and energy saving measures detailed within the submitted Energy Statement shall be implemented prior to occupation of the development and permanently maintained thereafter.

Reason: This condition is a pre commencement condition to ensure that the development meets the requirements of Policy CP1 of the Core Strategy (adopted October 2011) and Policy DM4 of the Development Management Policies LDD

(adopted July 2013) and to ensure that the development makes as full a contribution to sustainable development as possible.

C10 The development hereby permitted shall not be commenced until detailed design and method statements (in consultation with London Underground) for all of the foundations, basement and ground floor structures, or for any other structures below ground level, including piling (temporary and permanent), have been submitted to and approved in writing by the Local Planning Authority which:

- provide details on all structures
- provide details on the use of tall plant/scaffolding
- accommodate the location of the existing London Underground structures
- demonstrate access to elevations of the building adjacent to the property boundary with London Underground can be undertaken without recourse to entering our land
- demonstrate that there will at no time be any potential security risk to our railway, property or structures
- accommodate ground movement arising from the construction thereof
- mitigate the effects of noise and vibration arising from the adjoining operations within the structures

The development shall thereafter be carried out in all respects in accordance with the approved design and method statements, and all structures and works comprised within the development hereby permitted which are required by the approved design statements in order to procure the matters mentioned in paragraphs of this condition shall be completed, in their entirety, before any part of the building hereby permitted is occupied.

Reason: To ensure that the development does not impact on existing London Underground transport infrastructure, in accordance with Policy CP10 of the Core Strategy (adopted October 2011).

C11 Prior to any work affecting Tree T1, a bat endoscope inspection of potential roosting features supported by this tree should be undertaken to accurately classify the roosting bat potential and determine the presence or likely absence of roosting bats. Depending on the results, further emergence / re-entry survey effort may be required during May – August inclusive, to determine presence / absence of roosting bats and/or provide mitigation if needed. Should roosting bats be found, the outline bat mitigation strategy (ref: Preliminary Ecological Appraisal and Preliminary Bat Roost Assessment, Tyler Grange, 13 March 2019) should be modified as appropriate based on the results and then be submitted to the Local Planning Authority for written approval. Thereafter the development shall be carried out in accordance with these approved details.

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

C12 The development shall be undertaken in full compliance with the construction methods detailed in the Arboricultural and Planning Integration Report prepared GHA Trees dated 20th June 2019 and Tree Protection Plan REV-D June 2019 forming part of this application.

No operations shall commence on site in connection with the development hereby approved (including tree felling, pruning, demolition works, soil moving, temporary access construction, or any other operation involving the use of motorised vehicles or

construction machinery) until the tree protection works required by the approved scheme are in place on site.

The fencing or other works which are part of the approved scheme shall not be moved or removed, temporarily or otherwise, until all works including external works have been completed and all equipment, machinery and surplus materials removed from the site, unless the prior approval of the local planning authority has first been sought and obtained.

Reason: To ensure that the protected trees are not affected during construction of the development hereby permitted, in the interests of visual amenity and in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

- C13 The submitted Landscape Maintenance Plan prepared by John Davies Landscape shall be carried out and implemented following the occupation of the proposed development hereby approved.

Reason: In order to ensure that the approved landscaping is satisfactorily maintained, in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

- C14 Prior to the first use of the development hereby permitted the proposed on-site car and cycle parking and turning areas shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.

Reason: To ensure construction of a satisfactory development and in the interests of highway safety in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

- C15 The rooflights hereby permitted within the flank roofslope facing towards the properties along Lower Road shall be fitted with obscure glazing and shall be positioned at a minimum internal cill height of 1.7m above the internal floor level.

Reason: To safeguard the amenities of the occupiers of neighbouring residential properties in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C16 The rooflights within the rear roofslope hereby permitted shall be positioned at a minimum internal cill height of 1.7m above the internal floor level.

Reason: To safeguard the amenities of the occupiers of neighbouring residential properties in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C17 Prior to first occupation of the development hereby permitted, a plan indicating the positions, design, materials and type of boundary treatment to be erected on the site shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be erected prior to occupation in accordance with the approved details and shall be permanently maintained as such thereafter.

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

- C18 A parking management plan, including details of the allocation of vehicle parking spaces and cycle storage spaces within the development and long term management responsibilities and maintenance schedules for all communal parking areas, shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development hereby approved. The parking management plan shall be carried out in accordance with the approved details thereafter.

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

- C19 The development shall not be occupied until a scheme for the separate storage and collection of domestic waste has been submitted to and approved in writing by the Local Planning Authority. Details shall include siting, size and appearance of refuse and recycling facilities on the premises. The development hereby permitted shall not be occupied until the approved scheme has been implemented and these facilities should be retained permanently thereafter.

Reason: To ensure that satisfactory provision is made, in the interests of amenity and to ensure that the visual appearance of such provision is satisfactory in compliance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM10 and Appendix 2 of the Development Management Policies document (adopted July 2013).

- C20 Immediately following the implementation of this permission, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any other revoking and re-enacting that order with or without modification) no development within the following Classes of Schedule 2 of the Order shall take place.

Part 1

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

Class B - enlargement consisting of an addition to the roof

Class C - alteration to the roof

Class D - erection of a porch

Class E - provision of any building or enclosure

Class F - any hard surface

Part 2

Class A - erection, construction, maintenance or alteration of a gate, fence, wall or other means of enclosure

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

Reason: To ensure adequate planning control over further development having regard to the limitations of the site and neighbouring properties and in the interests of

the visual amenities of the site and the area in general, in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

8.2 **Informatives:**

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

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

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

Community Infrastructure Levy (CIL) - Your development may be liable for CIL payments and you are advised to contact the CIL Officer for clarification with regard to this. It is a requirement under Regulation 67 (1), Regulation 42B(6) (in the case of residential annexes or extensions), and Regulation 54B(6) (for self-build housing) of The Community Infrastructure Levy Regulations 2010 (As Amended) that a Commencement Notice (Form 6) is submitted to Three Rivers District Council as the Collecting Authority no later than the day before the day on which the chargeable development is to be commenced. DO NOT start your development until the Council has acknowledged receipt of the Commencement Notice. Failure to do so will mean you will lose the right to payment by instalments (where applicable), lose any exemptions already granted, and a surcharge will be imposed.

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

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

- 12 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority suggested modifications to the development during the course of the application and the applicant submitted amendments which result in a form of development that maintains/improves the economic, social and environmental conditions of the District.
- 13 The applicant is reminded that the Control of Pollution Act 1974 allows local authorities to restrict construction activity (where work is audible at the site boundary). In Three Rivers such work audible at the site boundary, including deliveries to the site and running of equipment such as generators, should be restricted to 0800 to 1800

Monday to Friday, 0900 to 1300 on Saturdays and not at all on Sundays and Bank Holidays.

14 Highway Informative:

Construction standards for new / altered vehicle access: Where works are required within the public highway to facilitate the new vehicular access, the Highway Authority require the construction of such works to be undertaken to their satisfaction and specification, and by a contractor who is authorised to work in the public highway. If any of the works associated with the construction of the access affects or requires the removal and/or the relocation of any equipment, apparatus or structures (e.g. street name plates, bus stop signs or shelters, statutory authority equipment etc.) the applicant will be required to bear the cost of such removal or alteration.

Before works commence the applicant will need to apply to the Highway Authority to obtain their permission, requirements and for the work to be carried out on the applicant's behalf. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/changes-to-your-road/dropped-kerbs/dropped-kerbs.aspx> or by telephoning 0300 1234047.

15 London Underground Informative:

The applicant is advised to contact London Underground Infrastructure Protection in advance of preparation of final design and associated method statements, in particular with regard to: demolition; drainage; excavation; construction methods; tall plant; scaffolding; security.

16 Biodiversity Informatives:

Bats are protected under domestic and European legislation where, in summary, it is an offence to deliberately capture, injure or kill a bat, intentionally or recklessly disturb a bat in a roost or deliberately disturb a bat in a way that would impair its ability to survive, breed or rear young, hibernate or migrate, or significantly affect its local distribution or abundance; damage or destroy a bat roost; possess or advertise/sell/exchange a bat; and intentionally or recklessly obstruct access to a bat roost.

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

The UK Bat Helpline: 0845 1300 228

Natural England: 0300 060 3900

Herts & Middlesex Bat Group: www.hmbg.org.uk

or an appropriately qualified and experienced ecologist.

(As an alternative to proceeding with caution, the applicant may wish to commission an ecological consultant before works start to determine whether or not bats are present. A list of bat consultants can be obtained from Hertfordshire Ecology on 01992 555220).

Vegetation and building clearance should be undertaken outside the nesting bird season (March to August inclusive [Natural England]) to protect breeding birds, their nests, eggs and young. If this is not practicable, a search of the area should be made no more than 3 days in advance of vegetation clearance and if active nests are found, works should stop until the birds have left the nest.