

PLANNING COMMITTEE – 25 April 2019

PART I – NOT DELEGATED

- 5. 18/2283/FUL: Demolition of garages and change of use of land to accommodate 2 residential park homes with associated works to boundary treatment and parking areas at HIGH VIEW CARAVAN PARK, TOMS LANE, KINGS LANGLEY HERTFORDSHIRE WD4 8NP (DCES)**

Parish: Abbots Langley
Expiry of Statutory Period: 16 January 2019
(extension agreed to 30 April 2019)

Ward: Gade Valley
Case Officer: Suzanne O'Brien

Recommendation: That Planning Permission be Granted following the completion of a Section 106 to secure an Affordable Housing Commuted Sum.

Reason for consideration by the Committee: The application site is adjacent to a District Councillor's house.

1 Relevant Planning History

- 1.1 W/2385/72 - Block of 6 garages - Permitted 29.08.1972.
- 1.2 8/199/81 - Mobile home between 19-23 Grosvenor Avenue - Permitted 17.09.1981.
- 1.3 8/200/81 - Mobile home, adjacent 26 Belgrade Drive - Permitted 17.09.1981.
- 1.4 8/201/81 - Mobile home adjacent 2 Shaftesbury Way – Refused 17.09.1981. [The development would result in the extension of the area occupied by the mobile home units into land set aside for recreation purposes and would, as such, represent additional development within the Metropolitan Green Belt, where it is policy of the Local Planning Authority as set out in the Approved Hertfordshire County Structure Plan and the Three Rivers District Plan not to allow development unless it is required for agricultural or other essential purposes. No such need has been proved.]
- 1.5 8/202/81 - Mobile home adjacent 1 Shaftesbury Way - Permitted 17.09.1981.
- 1.6 8/720/84 - Formation of car park – Refused 23.05.1985. [The site of the proposed new car park is within the Metropolitan Green Belt wherein it is the policy of the Local Planning Authority as set out in the Hertfordshire County Structure Plan and the Three Rivers District Plan not to allow development unless it is essential for the purposes of agriculture or other uses appropriate to the rural area. The proposed car park would extend the operational activities of the existing mobile home park onto additional land within the Green Belt not previously used for such purposes, whereas such needs should be met within the existing area occupied by the mobile home park]. Appeal Allowed.
- 1.7 8/101/88 - 1 Mobile home - Permitted 28.04.1988.
- 1.8 8/102/88 - 2 Mobile homes - Permitted 28.04.1988.
- 1.9 8/533/90 - Lighting to access road and carpark, Highview Caravan Park. - Permitted 14.02.1991.
- 1.10 95/0637 - Change of use of existing gas compound for stationing of Park Homes (residential caravans) - Permitted 16.11.1995.

- 1.11 97/0571 - Variation of condition 4 of planning permission W/620/51 and condition 1 of planning permission W/207/53 (stationing of seven additional residential caravans) – Refused 23.10.1997. Appeal Dismissed.
- 1.12 98/0990 - Siting of residential mobile home in replace of existing workshop - Permitted 19.02.1999.
- 1.13 15/0630/FUL - Demolition of garages and change of use of land to accommodate six residential park homes - Refused 16.06.2015 for the following reasons:
- R1 The proposed development would result in a greater impact on the openness of the site and Green Belt and would constitute inappropriate development within the Metropolitan Green Belt. No very special circumstances exist to outweigh the harm to the Green Belt by virtue of its inappropriateness and the impact of the development and the proposal is contrary to Policies CP11 and CP12 of the Core Strategy (adopted October 2011), Policies DM2 and DM7 of the Development Management Policies LDD (adopted July 2013) and the NPPF.
 - R2 The proposed development, by virtue of the loss of parking, would fail to provide sufficient parking spaces to serve existing residents of High View Caravan Park to the detriment of the amenity of existing residents. The proposed development would also fail to provide a safe and adequate means of access to the proposed retained parking area. The proposed development would therefore be contrary to Policy CP10 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).
 - R3 The proposed change of use of the land, by virtue of the siting of the proposed caravans close to the rear boundaries of properties in Toms Lane, would result in an imposing feature and would detract from the privacy of those properties. The proposed development would therefore result in demonstrable harm to the residential amenities of occupiers of neighbouring properties in Toms Lane 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).
- 1.14 16/0370/FUL - Demolition of garages and change of use of land to accommodate four residential park homes with associated works to boundary treatment and parking areas – Refused 11.05.2016 for the following reasons (subsequent appeal dismissed).
- R1 The proposed development would result in a greater impact on the openness of the site and Green Belt and would constitute inappropriate development within the Metropolitan Green Belt. No very special circumstances exist to outweigh the harm to the Green Belt by virtue of its inappropriateness and the development is contrary to Policies CP11 and CP12 of the Core Strategy (adopted October 2011), Policies DM2 and DM7 of the Development Management Policies LDD (adopted July 2013) and the NPPF.
 - R2 The proposed development, by virtue of the loss of parking, would fail to provide sufficient parking spaces to serve existing residents of High View Caravan Park to the detriment of the amenity of existing residents. The proposed development would also fail to provide a safe and adequate means of access to the proposed retained parking area. The proposed development would therefore be contrary to Policies CP10 and CP12 of the Core Strategy (adopted October 2011) and Policies DM2, DM7, DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).
 - R3 The proposed development fails to meet the requirements of Policy CP4 of the Core Strategy (adopted October 2011) and SPD: Affordable Housing (approved June 2011) in that the scheme is for market dwelling and no contribution has been made towards the provision of affordable housing.

- 1.15 16/2337/FUL – Use of land for siting mobile unit for residents’ meeting room on land to side of parking area – Refused 19.01.2017 for the following reason:

R1 The development would result in the use of the land and introduction of a new building that would not fall within the exceptions as set out in paragraph 89 of the NPPF. The proposed development would therefore constitute inappropriate development which, by definition would be harmful to the Green Belt. The siting and scale of the building would also result in the spread of development, encroachment of built form into the countryside and result in an intrusive and prominent feature within the landscape resulting in harm to the openness of the Green Belt and would conflict with one of the purposes of including land in Green Belt. No very special circumstances exist to outweigh the harm arising from the proposed development by virtue of its inappropriateness and actual harm. The proposed development would therefore be contrary to Policy CP11 of the Core Strategy (adopted October 2011), Policies DM2 and DM7 of the Development Management Policies LDD (adopted July 2013) and the NPPF.

- 1.16 17/0780/FUL - Demolition of garages and change of use of land to accommodate 3 residential park homes with associated works to boundary treatment and parking areas. Refused 27 June 2017 for the following reason (subsequent appeal dismissed):

The proposed development would result in a greater impact on the openness of the site and Green Belt and would constitute inappropriate development within the Metropolitan Green Belt. No very special circumstances exist to outweigh the harm to the Green Belt by virtue of its inappropriateness and the development is contrary to Policy CP11 of the Core Strategy (adopted October 2011) and the National Planning Policy Framework.

2 Description of Application Site

- 2.1 The application site consists of a piece of land sited within the curtilage of High View Caravan Park. The site includes the vehicular access from Toms Lane and contains a number of single storey garages which are in an ‘L’ shape layout and an area of concrete hardstanding which provides parking serving the existing residents within the caravan park.
- 2.2 High View Caravan Park contains approximately 119 residential units. The vehicular access is via Toms Lane and leads to a one way system. The parking provision serving the units is communal and sited to the south and east of the caravan plots. Parking is not characteristically sited within the individual plots. An area of open space is sited in the south eastern corner of the caravan park which is open and rural in character.
- 2.3 Two storey residential dwellings fronting Toms Lane are sited to the south of the caravan park and vegetation screens are sited between the residential properties and caravan park.
- 2.4 The application site is located within the Metropolitan Green Belt.

3 Description of Proposed Development

- 3.1 This application seeks planning permission for the demolition of 15 existing garages (two whole blocks, and part of a third) and the change of use of the land (part of which currently contains 28 surface car parking spaces) to accommodate two residential park homes with associated works to boundary treatments and car parking areas.
- 3.2 The garage blocks to be demolished are to the west of the car parking area which abuts the first park homes to the west of the access road. The part block is to the south of these, and north of the rear boundaries of Nos. 79-83 Toms Lane. Two park homes would be installed, each measuring 12.2 metres in width, 6.4 metres depth and 3 metres high. The homes

would be 6 metres apart, with the southernmost home being 8.6 metres from the southern boundary of the application site.

- 3.3 Six surface car parking spaces would be provided for residents/visitors to the immediate west of the proposed Park Homes. To the north of the homes, 9 parking spaces would be provided. Additional soft landscaping is proposed between and around the homes. The existing access and egress arrangements serving the existing car park would be retained.

4 Consultation

4.1 Statutory Consultation

4.1.1 Abbots Langley Parish Council: [Object]

Members object to this application despite the reduction in the number of units from the previous refused application 17/0780/FUL. They still have concerns about the loss of parking for existing residents and visitors and the detrimental effect on the green belt.

4.1.2 Hertfordshire County Council – Highway Authority: [Comment]

- 4.1.2.1 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.

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

AN) Road Deposits: It is an offence under section 148 of the Highways Act 1980 to deposit mud or other debris on the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 123404.

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

- 4.1.2.3 COMMENTS / ANALYSIS: The application comprises of the demolition of the existing garages and construction of two residential homes with associated works at High View Mobile Home Park, Toms Lane, Kings Langley. The site is accessed via a private road to the mobile home park, which is not highway maintainable at public expense.
- 4.1.2.4 VEHICLE ACCESS & PARKING: The site is accessed via a private road to the mobile home park, which is not highway maintainable at public expense. The site is approximately 130m from the nearest highway on Toms Lane. The access to the site is acceptable when taking into consideration the size of the proposals.
- 4.1.2.5 The proposed dwellings are on an existing car parking area. The proposals include the provision of three parking spaces for the proposed dwelling with an overall net loss of 13

parking spaces for the site as whole. HCC as Highway Authority's main concern would be any negative effect the proposal would have on the free and safe flow of traffic in the vicinity of the site and on Toms Lane. It is unlikely that any effects from parking would be significant enough to recommend refusal from a highway point of view, particularly when taking into consideration that the access road is a private and consideration of the details as outlined in the submitted Car Parking Assessment and Planning Statement.

- 4.1.2.6 REFUSE / WASTE COLLECTION: No specific details have been provided as part of the application. Provision should be made for an on-site bin-refuse store within 30m of the dwelling and within 25m of the collection point. The collection method must be confirmed as acceptable by Three Rivers District Council waste management.
- 4.1.2.7 EMERGENCY VEHICLE ACCESS: The access arrangements would enable emergency vehicle access to within 45 metres from all dwellings. 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*.
- 4.1.2.8 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 nearest highway. HCC has no objections or further comments on highway grounds, subject to the inclusion of the above informatives.

4.1.3 Herts Ecology: [Comment]

4.1.3.1 The Hertfordshire Environmental Records Centre does not have any habitat or species data for the application site, which includes flat roofed garages, hardstanding (parking and access road), and some limited amenity grassland, bordering trees and bushes.

4.1.3.2 I consider the site to be of limited ecological value. The flat roofed garages and any young trees will be sub-optimal for bats to use for roosting. However, there is likely to be potential for nesting birds in trees and shrubs.

4.1.3.3 Birds: In this instance, I have no reason to request any ecological surveys in connection with this proposal. Notwithstanding, although the application form indicates that no trees or hedges will influence the development (i.e. be impacted by the development), if any future felling or significant works is proposed, this should of course avoid the nesting bird season if possible. I advise the following Informative is added to any consent granted:

“Any vegetation and building clearance should be undertaken outside the nesting bird season (March to August inclusive) 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 2 days in advance of vegetation clearance by a competent Ecologist and if active nests are found, works should stop until the birds have left the nest.”

4.1.3.4 Bats in trees: If any mature trees will be affected by the proposal, they should be assessed for their potential to support roosting bats prior to determination

4.1.3.5 Native planting: I understand landscaping is proposed and would ideally like to see this include native tree species (such as English oak, Hornbeam, Small Leaved-lime for specimen trees; and Field Maple, Hazel, Crab Apple, Elder, Hawthorn, Blackthorn for general and hedgerow planting). These should be shown on a Landscape Plan, with any proposed biodiversity enhancements – see below.

4.1.3.6 Biodiversity enhancements: The planning system should aim to deliver overall net gains for biodiversity where possible as laid out in the National Planning Policy Framework and other planning policy documents. Simple biodiversity enhancements that could be incorporated into the development proposal include: bat and bird boxes in trees, integrated bat roost units (bricks and tubes) in buildings, specific nest boxes for swifts, swallows and martins,

hedgehog nest boxes, gaps under fencing to allow free movement of small mammals (e.g. hedgehogs) and amphibians, native tree, shrub and hedgerow planting, and fruit tree or even orchard planting. Any biodiversity enhancements should be considered at an early stage to avoid potential conflict with any external lighting plans.

4.1.3.7 External lighting: If external lighting is planned, it should be designed to minimise light spill, in particular directing light away from the boundary vegetation to ensure dark corridors remain for use by wildlife as well as directing lighting away from potential roost / nesting sites.

4.1.3.8 Hedgehogs: Finally, due to the location, there may be potential for hedgehogs to use the development footprint. Hedgehogs are protected under Schedule 6 of the Wildlife and Countryside Act (WCA) 1981, which prohibits killing and trapping by certain methods. They are also a UK Priority species under the NERC Act (SEC.41) 2006. The species is therefore considered one of the UK's target species to avoid further population decline. If close boarded fencing, or similar, is proposed as boundary treatment to the development, I would like to see use of hedgehog-friendly fencing which has holes or tunnels suitable for hedgehogs to pass through. The following Informative should be added to any permission granted:

“To avoid killing or injuring of hedgehogs it is best practice for any brash piles to be cleared by hand. Any trenches on site should also be covered at night or have mammal ramps to prevent and avoid hedgehogs being trapped during construction – this is particularly important if the holes fill with water. It is also possible to provide enhancements for hedgehogs by making small holes within any boundary fencing. This allows foraging hedgehogs to be able to pass freely throughout a site.”

4.1.4 National Grid: [Comment]

4.1.4.1 There is apparatus in the vicinity of your site (Low or Medium pressure gas pipes and associated equipment).

4.1.5 Landscape Officer: [No objections]

4.1.5.1 I have no objections to the proposed tree removals and am satisfied that the remaining trees should not be significantly impacted. The development proposes to exchange one type of hard surface for another type. I therefore have no objections to the proposed development.

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 150.

4.2.2 No of responses received: 14 objections

4.2.3 Site Notice: Expired 18.12.2018

4.2.4 Summary of objections received:

- At present there is not enough car parking space available and the loss of parking will cause hardship for elderly residents. Few residents can walk to local facilities so rely on cars.
- Insufficient parking is shown for the new homes.
- Unclear whether new homes can be served by fire appliance or dust cart.
- Any further development will change the environment to a cramped, busy, overcrowded space.

5 Reason for Delay

5.1 Review into affordable housing provision.

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

The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM1, DM2, DM4, DM6, DM7, DM9, DM10, 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

Open Space, Amenity and Children's Playspace Supplementary Planning Document (December 2007).

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 Background

- 7.1.1 As noted at section 1 above, the application site has a detailed history. The current application has been submitted following the recent refusal of three planning applications, two of which were dismissed at appeal. The most recent planning application at the site, reference 17/0780/FUL, proposed the change of use of part of the site for the installation of three park homes, with works to a parcel of land to the east of the site to provide an additional car parking area.
- 7.1.2 The layout of the three homes proposed as part of that application is different to that proposed as part of the current application, with homes 1 and 2 oriented north-to-south whilst in the current application both are oriented east-to-west. That application was refused by the Local Planning Authority on the grounds that the proposal would result in a greater impact on the openness of the site and Green Belt and would constitute inappropriate development within the Green Belt with no very special circumstances demonstrated.
- 7.1.3 That decision was appealed by the applicant, and the appeal was dismissed in August 2018. In dismissing the appeal, the Inspector made the following comments which are considered by Officers to be important in the consideration of the current application.
- 7.1.4 At paragraph 6 of their decision, the Inspector notes that paragraph 145 of the NPPF states the construction of new buildings in the Green Belt would be inappropriate subject to a number of exceptions. She continues “In this context the term ‘building’ refers to any structure or erection. This appeal relates to the change of use of land to accommodate park homes, the main parties consider park homes to be mobile homes, rather than ‘buildings’.”, therefore concluding that the proposed park homes are not ‘buildings’.
- 7.1.5 At paragraph 7 the Inspector notes that paragraph 146 of the NPPF allows certain other forms of development to be deemed not inappropriate in the Green Belt provided they preserve the openness of the Green Belt. Material changes in the use of land are one of these exceptions. On the matter of Green Belt, the Inspector concludes “the appeal proposal would not be inappropriate development in the Green Belt subject to consideration of the impact on openness and the purposes of including land within the Green Belt”.
- 7.1.6 In assessing the openness of the Green Belt, the Inspector had regard to the amount of development proposed including the floor areas proposed and the visual impact of the proposal. For this particular appeal, the Inspector noted that 21 garages would be demolished, of which 15 were in the area for the proposed change of use, and that 11 appeared to be in use at the time of the site visit. The Inspector identifies that the footprint of the proposed park homes would be smaller than the built footprint to be lost, whilst the volume of built form would be slightly increased. The Inspector noted that the proposed homes would have pitched roofs which would be a contrast to the flat roofs of the garages, and the proposal would introduce one park home into the eastern portion of the site that currently contains no built development. As a result of these factors, the Inspector concluded “it is likely that overall the appeal proposal would have a materially greater effect on openness. This greater effect, in my judgement, would be both visually and spatially as a consequence of a layout which would see the appeal site more intensively developed across its entirety. The likely increase in height would also contribute to the loss of feeling of space that is currently experienced”.
- 7.1.7 Moving to other considerations, the Inspector noted that there would be no limitation of occupancy being to meet the needs of the elderly or disabled, and that the land is previously developed. In respect of car parking, the Inspector noted that car parking would be displaced to elsewhere in the park and whilst this may not be convenient to some, it would be more so for others.

7.1.8 The current application differs from the previous scheme which was dismissed at appeal in the following way:

- The previous application proposed a change of use to provide three park homes, whilst the current proposes only two park homes. The maximum height of the homes is reduced from 3.6m to 3m with flat roofs. The site layout has changed, with both proposed park homes to be located to the west of park homes 2-4. The application site is smaller in size than previously proposed.

7.1.9 It is therefore necessary for this report to assess whether the changes made since the previous application was refused by the LPA and dismissed at appeal are sufficient to overcome the previous reasons for refusal.

7.2 Impact on the Green Belt

7.2.1 As noted by the Appeal Inspector, The NPPF sets out at paragraph 145 that LPAs should regard the construction of new buildings as inappropriate in the Green Belt. Park homes are considered to be 'mobile homes' and therefore would not constitute buildings. This position has been adopted by the LPA and agreed by Planning Inspectors on this site previously. Paragraph 146 sets out that certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. Clause e) notes that one of these other forms is material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds). The previous Inspector concluded that this is a list of examples and not an exhaustive list. On this basis the proposed material change of use would not be inappropriate development in the Green Belt, subject to the consideration of the impact on openness and the purposes of including land within the Green Belt.

7.2.2 In relation to the impact on openness, the applicant's Planning Statement explains that the 15 garages to be demolished have a floor space of approximately 204 square metres, and a height of 2.3 metres. This results in a total volume of 645 cubic metres. The proposed park homes would have a footprint of 149 square metres, and a volume of approximately 447 cubic metres. Therefore, the proposal would result in a considerable reduction in built footprint and volume on the site. Additional soft landscaping would also be proposed on the existing car parking area which would further benefit the visual amenities of the site.

7.2.3 In addition to a reduction in built area and volume when compared to the previous application, the overall height of the proposed park homes has been reduced from 3.6 with pitched roofs, to 3 metres with a flat roof which would reflect the flat roofs of the existing garages. In addition, whilst the previous height of 3.6 metres did not take into account that the homes would be elevated above the floor level by approximately 0.9 metres (therefore having a maximum height above ground of 4.5 metres, the current proposed height of 3 metres height is from the ground level.

7.2.4 Whilst the current scheme would still result in the introduction of a park home into the eastern portion of the site which is not currently developed, this home would be of a reduced height to that previously proposed and in an area currently occupied by hard surfacing. Existing garage blocks would be removed, with an overall reduction in built volume in this part of the site and the Green Belt. The proposed heights would only be some 0.7 metres above the flat roof of the existing garages and considerably less than those forming part of the previous scheme. Having regard overall to the loss of the existing garage structures, that only two park homes are proposed, the low height and flat roofed scale of the homes and the proposed landscaping, it is not considered that the proposal would adversely affect the openness of the Green Belt. Given that the park homes would be within an established site, and positioned between existing built form, the proposal is not considered to conflict with the purposes of including land within the Green Belt.

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.
- 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

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

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 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 £24,518.001, 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 31 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 1 May 2016 and 12 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 The applicant has submitted an affordable housing viability appraisal with this application, which concludes that the proposal can viably afford to pay a commuted sum of £14000 toward affordable housing. The viability appraisal is still being independently assessed at the time of writing the report. Hopefully the response will be received by the time of the Committee meeting of which Members will be verbally updated of the outcome. In the event that no comments have been received a dual recommendation is proposed. One recommendation for planning permission to be delegated back to the Director to issue provided that the £14000 proposed affordable housing sum is acceptable or an alternative sum is agreed, and an alternative recommendation for refusal to be delegated back to the Director if the viability appraisal is considered to be unacceptable and a commuted sum cannot be agreed.

7.4 Impact on Character and Street Scene

- 7.4.1 No objections were raised in the previous application by the LPA or the Appeal Inspector in respect of the impact of the proposal on the character of the street scene or the area. The proposal would reflect the character and appearance of its immediate surroundings, and is considered to integrate satisfactorily with its surroundings. On this basis, no objections are raised in the current application to the impact on the character of the area.
- 7.4.2 The development would include the insertion of 1.8m high close boarded fencing along the west of the proposed plots where it would adjoin the car park. As this would be sited where there are existing garage it is not considered the fencing would result in any demonstrable harm to the visual amenities of the site or surroundings.

7.5 Impact on amenity of neighbours

- 7.5.1 No objections were raised by the LPA or the Inspector in the previous application in respect of the impact of the proposal on any neighbouring property. Since the previous application, the height of the proposal has been reduced. Having regard to the height, the distance from the nearest neighbouring properties and the intervening landscaping and boundary treatments, it is not considered that the proposal would result in an adverse impact on the amenities of the occupants of any neighbouring property. The plans indicate that a door and two windows would be sited within the interested along the southern elevation of Plot 2. As the building would not be elevated above the ground it is not considered that the fenestration to be inserted along the southern elevation would result in overlooking of the neighbouring properties. The proposal would result in the loss of existing garages to the south west of the proposed plots. A condition requesting details of replacement boundary treatment will be attached to any planning permission to ensure that the amenities of the neighbouring properties fronting Toms Lane will be unaffected by the proposed development.

7.6 Amenity Space Provision for future occupants

- 7.6.1 No objections were raised by the LPA or the Inspector in the previous application in respect of the quality of the proposed accommodation or the amenity space. The units would be served by private amenity areas which meet the minimum requirements set out in Appendix

2 and therefore no objections are raised in the current application in respect of amenity space provision.

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 has been submitted with a Biodiversity Checklist and no further information is required. Herts Ecology have confirmed they are satisfied with the submitted information subject to a number of Informatives being included.

7.8 Trees and Landscaping

7.8.1 No objections were raised to the previous application by the LPA or Appeal Inspector in relation to trees. No trees are proposed to be removed as part of the proposed development. Additional soft landscaping is shown on the submitted plans and this can be secured by condition. Subject to this, no objections are raised on tree or landscape grounds.

7.9 Highways, Access and Parking

7.9.1 No objections were raised by the LPA or the Planning Inspector in the previous application in relation to the impact of the proposal on the free flow of traffic or highway safety, or in respect of car parking provision. The current application proposes one fewer park home than the previous application and would retain the existing access arrangements to the main parking area and on this basis it is not considered that any adverse impact would result on highway safety. Hertfordshire Highways have not raised any objections to the proposal.

7.9.2 Whilst the development would result in a change of use, the proposal would introduce additional residential units within the site and as such new residential development would be required to accord with current parking standards, especially due to the isolated nature of the site.

7.9.3 The proposed park homes would each contain two bedrooms, and in accordance with Appendix 5 of the DMP LDD should provide two parking spaces each. Each unit would have one single assigned car parking space, with resident and visitor spaces available elsewhere within the site.

7.9.4 The proposed development would however result in the loss of a total of 43 parking spaces consisting of 28 open spaces and 15 garages. As part of the proposal 15 spaces would be provided. Three would be provided to serve existing plots 2-4 located to the east of the site, two would be provided to serve the proposed development and 10 resident and visitor spaces would be provided. The scheme would result in a net loss of 28 parking spaces.

7.9.5 The net loss of parking within the caravan site was considered by the Planning Inspectorate in relation to planning application 16/0370/FUL which was refused based on insufficient parking. Planning application 16/0370/FUL proposed a net loss of 44 parking spaces. The Planning Inspector in relation to this appeal considered that sufficient parking would be provided on site to serve existing and proposed residents stating 'each park home would

have at least one space with capacity for visitors' and 'there would be sufficient capacity to accommodate demand from existing residents'.

7.9.6 The current application would only result in a net loss of 28 parking spaces in comparison to the 44 proposed to be lost in relation to the two previous applications where no objections to the overall parking provision serving existing and proposed occupants were raised. The resultant parking provision would provide parking to the south of the site and existing eastern parking area would remain unaltered. The parking area to the south would also retain the existing entry and exit arrangements which were proposed to be removed as part of the previous applications. As such, no objections are raised to the proposed parking arrangements.

7.10 Refuse and Recycling

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

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

7.10.2 No objections were raised by the LPA or Appeal Inspector in the previous application in respect of refuse and recycling. The application site is within a residential area and supports an existing residential development and the proposed development is unlikely to impact on the current waste collection.

7.10.3 Details of collection points will be secured by condition to ensure the bins on collection days do not block the roadway or parking spaces.

8 **Recommendation**

8.1 That subject to agreement of an appropriate commented sum towards affordable housing provision the application be delegated to the Director of Community and Environmental Services to GRANT PLANNING PERMISSION subject to the following conditions and subject to the completion of a Section 106 Agreement:

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

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

C2 The development hereby permitted shall be carried out in accordance with the following approved plans and documents: GVA/02B436060/01, 3704-300 Rev C, 3704-320 Rev A, 3704-321, 3704-310 Rev J

Reason: For the avoidance of doubt and in the proper interests of planning in accordance with Policies CP1, CP6, CP10 and CP12 of the Core Strategy (adopted October 2011), Policies DM6, and DM9 of the Development Management Policies LDD (adopted July 2013) and Policy SA2 of the Site Allocations LDD (adopted November 2014).

C3 No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of hard and soft landscaping, which shall include the location of all existing trees and hedgerows affected by the proposed

development, and details of those to be retained, together with a scheme detailing measures for their protection in the course of development.

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

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

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

Reason: This condition is required to ensure the completed scheme has a satisfactory visual impact on the character and appearance of the area. It is required to be a pre commencement condition to enable the LPA to assess in full the trees to be removed and the replacement landscaping requirement before any works take place, and to ensure trees to be retained are protected before any works commence in the interests of the visual amenity of the area in accordance with Policies CP1, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM6, DM2 of the Development Management Policies LDD (adopted July 2013).

- C4 Prior to occupation of the development hereby permitted, a plan indicating the positions, design, materials and type of boundary treatment to be erected along the southern boundary of 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).

- C5 The parking and turning spaces shall be constructed in accordance with the approved plans prior to the first occupation of any part of the development hereby permitted other than in accordance with a phasing plan which shall previously have been agreed in writing with the Local Planning Authority. The parking and turning spaces shall thereafter be kept permanently available for the use of residents, employees and visitors to the site.

Reason: To ensure that adequate off-street parking and manoeuvring space is provided within the development so as not to prejudice the free flow of traffic and in the interests of highway safety 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).

- C6 The development shall not be occupied until a scheme for the collection of domestic waste has been submitted to and approved in writing by the Local Planning Authority. Details shall include siting of the collection points. 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).

- C7 The park homes, hereby permitted, shall be occupied only as a single residential unit and shall not be used as a holiday let at any time.

Reason: In the interests of amenity, Green Belt and to protect the residential amenities of neighbouring properties in compliance with Policies CP1, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM2 and Appendix 2 of the Development Management Policies document (adopted July 2013).

8.2 **Informatives:**

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

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

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

- I2 The applicant is reminded that the Control of Pollution Act 1974 allows local authorities to restrict construction activity (where work is audible at the site boundary). In Three Rivers such work audible at the site boundary, including deliveries to the site and running of equipment such as generators, should be restricted to 0800 to 1800 Monday to Friday, 0900 to 1300 on Saturdays and not at all on Sundays and Bank Holidays.
- I3 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development

Management Procedure) (England) Order 2015. The development maintains/improves the economic, social and environmental conditions of the District.

- 14 Road Deposits: It is an offence under section 148 of the Highways Act 1980 to deposit mud or other debris on the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 123404.
- 15 Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.
- 16 Any vegetation and building clearance should be undertaken outside the nesting bird season (March to August inclusive) 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 2 days in advance of vegetation clearance by a competent Ecologist and if active nests are found, works should stop until the birds have left the nest.
- 17 To avoid killing or injuring of hedgehogs it is best practice for any brash piles to be cleared by hand. Any trenches on site should also be covered at night or have mammal ramps to prevent and avoid hedgehogs being trapped during construction – this is particularly important if the holes fill with water. It is also possible to provide enhancements for hedgehogs by making small holes within any boundary fencing. This allows foraging hedgehogs to be able to pass freely throughout a site.
- 18 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).

- 8.3 In the event that the viability appraisal is considered unacceptable and an acceptable commuted sum towards affordable housing cannot be agreed the application be delegated to the Director of Community and Environmental Services to REFUSE PLANNING PERMISSION for the following reason:

- R1 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).

8.4 Informatives

- I1 The Local Planning Authority has been positive and proactive in considering 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 encourages applicants to have pre-application discussions as advocated in the NPPF. The applicant did not have formal pre-application discussions with the Local Planning Authority and the proposed development fails to comply with the requirements of the Development Plan and does not maintain/improve the economic, social and environmental conditions of the District.