

PLANNING COMMITTEE – 27 FEBRUARY 2020

PART I – DELEGATED

8. **19/2213/FUL - Demolition of existing workshops and construction of a two-storey building containing 4 residential units (Use Class C3) including accommodation within the roof served by dormers to the front and rooflights to side and rear, alterations to vehicular access, associated car and bicycle parking, refuse and recycling storage, landscaping and associated works at GREYSTONE WORKS, THE GREEN, CROXLEY GREEN, HERTS, WD3 3AN (DCES)**

Parish: Croxley Green

Ward: Dickinson

Expiry of Statutory Period: 17 January 2020
(extension agreed to 2 March 2020)

Case Officer: Suzanne O'Brien

Recommendation: That Planning Permission be Granted, following the completion of a Section 106 Agreement to secure the affordable housing contribution.

Reason for consideration by the Committee: This application was called to Committee at the request of the Director of Community and Environmental Services.

1 Relevant Planning History

- 1.1 10/2071/FUL – Demolish the existing buildings, removal of commercial use and construct a two storey residential building comprising six no. one bed flats – Refused – 07.12.2010.

Refused for the following reasons:

R1 The proposed development by reason of its size, scale number of units, layout, siting and position of buildings would result in inadequate amounts and quality of amenity space provision for the proposed dwellings which would be detrimental to the amenities of the future occupiers of these units, contrary to Policies GEN1 and GEN3 and Appendices 1 and 2 of the Three Rivers Local Plan 1996-2011 (adopted 2001).

R2 The proposed development by reason of its siting, scale, bulk and horizontal detailing and emphasis would result in a cramped development out of character with features of adjacent buildings, and would fail to preserve or enhance the character or appearance of the Conservation Area; contrary to Policy C1 of the Three Rivers Local Plan 1996-2011 (adopted 2001).

R3 The proposal would provide insufficient off-street parking provision to meet the needs of the development. The failure to provide adequate off street parking elsewhere to serve the development that would be detrimental to the amenities of neighbouring residents by reason of disturbance and general activity and to highway and pedestrian safety and the free flow of traffic. As such the proposed development would fail to comply with Policies T7, T8, GEN1 and GEN3 and Appendices 1 and 3 of the Three Rivers Local Plan 1996-2011 (adopted 2001).

R4 The proposed development fails to demonstrate how renewable energy systems would be incorporated into the building to achieve sustainable design and aim to be a carbon neutral development. This fails to meet the requirements of Policy ENG1 of the East of England Plan, Policy GEN1 and Appendix 1 of the Three Rivers Local Plan 1996-2011 (adopted 2001) and the Adopted Supplementary Planning Document – Sustainable Communities (2007).

The application was subsequently dismissed on appeal (appeal reference APP/P1940/A/11/2153809).

- 1.2 12/0662/FUL – Demolition of existing buildings and removal of commercial use, construction of a two storey residential building comprising four no. two bed flats – permitted – 03.07.2012.
- 1.3 12/0665/CAC – Conservation Area Consent: Demolition of existing buildings – Permitted – 03.07.2012.
- 1.4 16/1366/FUL – Demolition of existing workshops and construction of three storey building containing six one bedroom flats and associated car parking and landscaping – Refused – 18.08.2016.

R1 In the absence of an acceptable redevelopment scheme for the site the demolition of the existing building(s) would lead to a vacant site with no permitted use or buildings, which would be detrimental to the character and appearance Conservation Area. The proposal would therefore be contrary to Policy CP12 of the Core Strategy (adopted October 2011) and Policy DM3 of the Development Management Policies LDD (adopted July 2013).

R2 The proposed development by reason of its siting, scale, height, design, proposed material, lack of amenity space and limited soft landscaping would be a cramped, visually prominent and intrusive form of development which would fail to preserve the amenities of the locality and wider Conservation Area contrary to Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM3 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

R3 The proposed development by reason of its siting, scale, height, design including proposed materials and siting of windows would be a visually intrusive and prominent form of development which would result in unacceptable levels of both actual and perceived overlooking to the residential occupiers of New Parade, and The Cottage, The Green. Furthermore, the proposed development by reason of its size, scale and siting would result in adequate amounts and quality of amenity space, detrimental to the amenities of the future occupiers of the site, contrary to Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

The application was subsequently dismissed on appeal (appeal reference APP/P1940/W/16/3161584). In the appeal decision the Planning Inspector stated the following:

'Overall I conclude that the proposed development would fail to preserve or enhance the character and appearance of the Croxley Green CA. As such, the development would be contrary to Policies CP1 and CP12 of the Three Rivers District Council Core Strategy 2011 (CS) which seeks to secure sustainable development which seeks to protect the built and historic environment from inappropriate development and promote high enduring design quality which respects local context. The proposal would also conflict with Policy DM1 of the Development Management Policies Local Development Document 2013 (LDD) which resists layouts of development which do not maintain the character of the area in terms of plot size, depth, footprint, height and gaps. Finally, the development also conflicts with LDD Policy DM3, which requires development within a CA to be of a design and scale which preserves or enhances the character of the area, using materials and finishes appropriate to the local context.'

'I therefore conclude that the development would cause harm to living conditions of future occupants in respect of outdoor amenity space and neighbouring occupants at New Parade and The Cottage in respect of outlook and privacy. The development would not accord with

CS Policy CP1 and CP12 which seek to protect residential amenity in terms of privacy, prospect, amenity and garden space. The proposal would also conflict with LDD Policy DM1 and associated appendix 2. Together, these set out design criteria for development, including resisting development which would result in the loss of amenity, specifying separation distances, amenity space standards and guidance on prospect.'

2 Description of Application Site

- 2.1 Greystone Works is located to the rear of New Parade, The Green. Historically the site has been used for storage and as a roofing contractor's yard. The site contains a single storey building that is separated into four individual units, each served by a separate pedestrian access off of Windmill Drive. Each unit contains a small storage area to the rear enclosed by metal railings. Two further single storey buildings are sited to the rear and an external storage area is sited to the south of the site. The site boundaries consist of single storey brick walls of the buildings and other brick walls sited around the boundaries of the site.
- 2.2 The site is served by a vehicular access to the south. The site can also be accessed via New Parade.
- 2.3 Immediately to the east of the site of the site is New Parade. This is a three storey building consisting of commercial units at ground floor level and residential units at first and second floor level. These appear to be served by amenity areas located above ground floor projections facing towards the application site. A service area is sited to the rear of the building.
- 2.4 The Cottage is located to the north of the site. This is a detached residential dwellinghouse set back from The Green behind New Parade; there is also a vehicle access to The Cottage from Windmill Drive to the rear of the site. To the south of the site is an existing building which appears to be associated with the existing commercial units fronting The Green. To the west of the site is Windmill Drive, and beyond that the rear garden boundaries of properties 13-19 Windmill Drive which are approximately 8 metres from the application site. The ground floor level of the neighbouring building to the south is in commercial use.

3 Description of Proposed Development

- 3.1 This application seeks planning permission for the demolition of existing workshops and construction of a two-storey building containing 4 residential units (Use Class C3) including accommodation within the roof served by dormers to the front and rooflights to side and rear, alterations to vehicular access, associated car and bicycle parking, refuse and recycling storage, landscaping and associated works.
- 3.2 The existing buildings would be demolished and the external commercial storage area removed. The proposed replacement building would have a maximum depth of 14m, width of 15.8m and maximum height of approximately 9m with 8.3m high subordinate projections. The proposed development would have a crown roof with two subordinate pitched roof projections to the flank. The building would consist of four two bedroom flats (two at ground and two at first floor and roof level). The second floor accommodation would be served by two front dormers, each of which would have a width of 1.3m, height of 1.7m and depth of 1.9m, and rooflights to the flanks, rear and within the flat roof form.
- 3.3 The development would be set back a minimum of 0.9m from the front boundary of the site, set in 4.9m from the northern boundary, 2.7m from the southern boundary and 1m from the rear boundary.
- 3.4 The proposal would include the provision of five parking spaces along the frontage with two private amenity areas serving the ground floor flats and a shared amenity space sited along the northern aspect of the site. A bin and bike store would be sited along the northern

boundary which would have a maximum height of 2.7m with a flat roof, width of 5.4m and depth of 2.5m.

3.5 The plans have been amended during the course of the application. The amendments include:

- Reduction in width of first floor bedroom window in northern flank elevation;
- Reduction in width of first floor windows in front elevation.

4 Consultation

4.1 Consultees

4.1.1 Croxley Green Parish Council: [Comment]

Committee is concerned over height and potential loss of privacy to nearby properties and noted that it is in the conservation area.

4.1.2 Herts Highways Authority: [No objection subject to conditions]

Proposal

Demolition of existing workshops and construction of a two-storey building containing 4 residential units (Use Class C3), alterations to vehicular access, associated car and bicycle parking, refuse and recycling storage, landscaping and associated works

Decision

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

1. *No development shall commence until full details (in the form of scaled plans and/or written specifications) have been submitted to, and approved in writing by the Local Planning Authority in consultation with the Highway Authority, to illustrate the following:*

- *Indicative plan showing two VXOs of 5.4m (made up of four flat kerbs and two ramped kerbs) leading to the two double driveway areas. One VXO of 4.5m (made up of three flat kerbs and two ramped kerbs) leading to the proposed single car parking space.*
- *Any proposed front boundary features (e.g. hedge, fence, wall) of a height of no greater than 0.6m to ensure that visibility levels are maximised on either side of the proposed vehicle access points.*
- *Surface water drainage for the proposed parking areas / hardstanding to ensure that surface water is collected and disposed of on site.*

Reason: To ensure suitable, safe and satisfactory planning and development of the site in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018).

2. Provision of Access, Parking & Servicing Areas

Prior to the first occupation of the development hereby permitted the proposed access and on-site car parking shall be laid out, demarcated, surfaced and drained in accordance with the approved plans 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. 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).

HIGHWAY INFORMATIVE:

HCC recommends inclusion of the following highway informative / advisory note (AN) to ensure that any works within the public highway are carried out in accordance with the provisions of the Highway Act 1980:

AN) Extent of Highway: Information on obtaining the extent of public highway around the site can be obtained from the HCC website: www.hertfordshire.gov.uk/services/highways-roads-and-pavements/changes-to-your-road/extent-of-highways.aspx

AN) Agreement with Highway Authority: 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.

COMMENTS / ANALYSIS:

The proposal comprises of the demolition of existing workshops and construction of four residential units at Greystone Works, The Green, Croxley Green. The properties would be accessed via a cul-de-sac section of Windmill Drive, which is designated as an unclassified local access road, subject to a speed limit of subject 30mph and is highway maintainable at public expense.

ACCESS:

The site has an existing extended vehicle crossover (VXO) / dropped kerb providing vehicle access to the site. The proposals include closing of this vehicle access and amending the access to provide access to five car parking spaces and the front of the proposed dwellings. The proposed arrangements are shown on submitted plan no. (PL)012E, the general details of which are considered to be acceptable by HCC as Highway Authority.

Following consideration by HCC as Highway Authority of the nature of the highway (a cul-de-sac residential access road) and the replacement of an existing access, the level is vehicular to vehicular visibility is acceptable. Any front boundary features would need to be of a height of no greater than 0.6m to ensure that visibility levels are maximized and permanently available.

HCC as Highway Authority would recommend the provision of three separate VXOs rather than one extended VXO fronting the whole of the site. The applicant would need to enter into a Section 278 Agreement with HCC as Highway Authority in relation to the access works on highway land at the entry to the site including:

- Two VXOs of 5.4m (made up of four flat kerbs and two ramped kerbs) leading to the two double driveway areas.

- One VXO of 4.5m (made up of three flat kerbs and two ramped kerbs) leading to the proposed single parking spaces.
- The creation of the 1m wide footway fronting the site and full height kerbs between the proposed VXOs.

PARKING:

HCC as Highway Authority does not have any objections to the proposed level of car parking. Although vehicles would be unable to turn around and egress to the highway in forward gear, this is acceptable onto a local access road. Three Rivers District Council (TRDC) is the parking authority for the district and therefore should ultimately be satisfied with the level of parking provision. The proposals include the provision of a bike store, which is acceptable to encourage cycling as a form of sustainable travel.

TRIP GENERATION & DISTRIBUTION:

Following consideration of the size of the proposals and replacement of an existing use, HCC as Highway Authority considers that the generation of vehicles would not have a significant or detrimental impact on the local highway network.

REFUSE / WASTE COLLECTION:

Provision has been made for an on-site bin-refuse store within 30m of the dwellings and within 25m of the kerbside/bin collection point and considered to be acceptable. The collection method 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. This adheres to guidelines as recommended in *MfS, Roads in Hertfordshire; Highway Design Guide* and *Building Regulations 2010: Fire Safety Approved Document B Vol 1 - Dwellinghouses*.

CONCLUSION:

HCC as Highway Authority considers that the proposal would not have an unreasonable impact on the safety and operation of the surrounding highway. The applicant would need to enter into a Section 278 Agreement with HCC to cover the technical approval of the design, construction and implementation of any highway /access works needed within the existing public highway. Therefore HCC has no objections on highway grounds to the application, subject to the inclusion of the above planning conditions and informatives.

4.1.3 Development Plans: [Comment]

Representation: The application proposes the demolition of workshops and storage buildings and the redevelopment of the site to provide four residential units, with associated parking, landscaping and recycling and refuse storage. The application site has not been allocated as a housing site by the Site Allocations Local Development Document and as such is not currently identified as part of the District's housing supply. The site should therefore be considered as a windfall site. Policy CP2 of the adopted Core Strategy (adopted 2011) states that applications for windfall sites 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.

The Spatial Strategy states that new development will be directed towards previously developed land and appropriate infilling opportunities within the urban areas of Principal

Town and Key Centres, which are identified as the most sustainable locations in the District. This strategy is supported by Policy PSP2 in the Core Strategy which states that future development will predominantly be focused on sites within the urban area. The application site is on previously developed land and is located in the Key Centre of Croxley Green, within close proximity to public transport and amenities. The sustainable and urban location complies with the approach set out in the Spatial Strategy and with Policy PSP2. The application would also contribute to meeting the current housing target of 620 dwellings per year through the provision of four dwellings.

Policy CP4(a) of the Core Strategy requires that all new housing development resulting in a net gain of one or more dwellings contributes to affordable housing provision. The proposal would result in the net gain of four dwellings and should therefore make a contribution to affordable housing. Policy CP4(e) states that for small sites delivering between one and nine dwellings, the Council considers the use of commuted payments towards affordable housing provision off site. Such payments will be broadly equivalent in value to on-site provision but may vary depending on site circumstances and viability.

Policy CP6 of the Core Strategy states that the Council will provide for a range of small, medium and large business premises and retain overall levels of industrial and warehousing floorspace in the district. The demolition of existing workshops would result in the loss of an existing business location currently used by the construction industry. It would also result in a small reduction of storage space in the area. The demolition of the existing workshops therefore fails to meet Policy CP6. This is reinforced by the South West Herts Economic Study (2016) which states that the estimated jobs growth during the period from 2013 to 2036 will be 8400 jobs. Therefore there shall need to be an increase in employment space during this period. It is worth noting that these figures may change in the future, as an update to the SWES will be published in due course.

4.1.4 Herts Ecology: [No objection subject to informatives]

In respect of the above application, further to our comments of 14/02/2020, our attention has since been drawn to previous Herts Ecology comments of 10/08/2016 which advised that an Informative was likely to be sufficient to address any bat issue, given it was considered the potential for roosting bats to be present was slight.

Consequently I have reviewed the proposals and our advice. The location itself lacks any vegetation and there are no bat records in the immediate area although they are present to the east within Croxley Green. All the buildings proposed for demolition are flat roofed. All buildings appear to be in good condition and from additional photographs of the site which I have seen, it would appear that all have rather limited opportunities for bats in terms of access features. They appear well sealed and the garage roofs significantly disturbed with stored materials of various kinds. All of these characteristics significantly reduce the likelihood of bats being present, although they do not necessarily preclude bats from using any of the buildings.

However, whilst I recognise that currently no evidence is presented to demonstrate the buildings are not used by bats, on balance I am of the opinion that there is no reason to suspect the likelihood of bats being present has changed since the 2016 response. Consequently it is not unreasonable to deal with this matter by way of an Informative.

Therefore, if approved an Informative should be attached to the effect that:

“In the event of bats or evidence of them being found, work must stop immediately and advice taken on how to proceed lawfully from an appropriately qualified and experienced Ecologist or Natural England to avoid an offence being committed.”

An Informative should also cover the potential for nesting birds to be present:

“Any building works should not disturb any nesting birds. Should any active nest be discovered, all works should cease until all evidence of nesting activity has stopped, in order to avoid committing an offence”.

4.1.5 Herts and Middlesex Wildlife Trust: No comments received.

4.1.6 Conservation Officer: No comments received.

4.1.7 National Grid: No comments received.

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 19 No. of responses received: 7 (six objection letters; 1 support letter) and a petition with 31 signatures objecting to the application.

4.2.1.1 The objections received can be summarised as follows:

The development is in fact a three storey building; The development is bigger than the 2012 permission (which did not have accommodation within the roof) and similar in scale to the refused 2016 scheme; The roof height has not been confirmed on the plans so could change during construction; Large building will be overly bulky and prominent in street scene and will be close to the narrow road; Not in keeping with the existing character; Cramped plot; Appropriate scale would be true two-storey ‘mews style’ block; Development would not be of a scale comparable to existing built form; Loss of sunlight; Loss of privacy and invasion of privacy; Overlooking would be greater than a normal two storey dwelling; Dormers would overlook; 28m back to back would not be achieved; Due to height of building 28m separation should be greater; Dormers would be intrusive; Character of street should change and include footpaths along both sides; Provisions should be made to maintain access for existing properties as road gets busy and proposed development would exacerbate existing problems and reduce visibility for other vehicles; Inadequate amenity space provision and amenity space would be overshadowed; No affordable housing provision information; Carbon saving is not sufficient in climate emergency; Impact on outlook and views from flat; Loss of light; Noise implications; Loss of value to neighbouring properties; Too close to boundary; Limited refuse access; All previous objections are still relevant; Development would be a vast improvement.

4.2.1.2 The support comment can be summarised as follows:

Existing commercial use would result in noise, nuisance and disruption.

4.2.2 Site Notice: Displayed 10/12/19, expired 03/01/20

4.2.3 Press notice: Published 02/12/19, expired 23/12/19

5 Reason for Delay

5.1 Description was amended to include the development within the roofspace and neighbours were re-notified of the alterations to the description.

6 Relevant Planning Policy, Guidance and Legislation

6.1 National Planning Policy Framework and National Planning Practice Guidance

In February 2019 the National Planning Policy Framework was updated. This document 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 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 PSP2, CP1, CP2, CP3, CP4, CP6, 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, DM3, DM4, DM6, DM8, DM10, DM13, Appendix 2 and Appendix 5.

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

The Croxley Green Neighbourhood Plan Referendum Version (adopted December 2018). Relevant policies include: CA1, HO1, HO2, HO3 and RE2.

Croxley Green Conservation Area Appraisal (1996).

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 Principal of Residential Development

7.1.1 The application proposes the demolition of workshops and storage buildings and the redevelopment of the site to provide five residential units, with associated parking, landscaping and recycling and refuse storage. The application site has not been allocated as a housing site by the Site Allocations Local Development Document and as such is not

currently identified as part of the District's housing supply. The site should therefore be considered as a windfall site. Policy CP2 of the adopted Core Strategy (adopted 2011) states that applications for windfall sites will be considered on a case by cases basis having regard to:

- v. the location of the proposed development, taking into account the Spatial Strategy
- vi. the sustainability of the development and its contribution to meeting local housing needs
- vii. infrastructure requirements and the impact on the delivery of allocated housing sites
- viii. monitoring information relating to housing supply and the Three Rivers housing target.

7.1.2 The Spatial Strategy states that new development will be directed towards previously developed land and appropriate infilling opportunities within the urban areas of the Principal Town and Key Centres, which are identified as the most sustainable locations in the District. This strategy is supported by Policy PSP2 in the Core Strategy which states that future development will predominantly be focused on sites within the urban area. The application site is on previously developed land and is located in the Key Centre of Croxley Green, in close proximity to public transport and amenities. The sustainable and urban location complies with the approach set out in Spatial Strategy and with Policy PSP2. The application would also contribute to meeting the current housing need.

7.1.3 Thus no objections are raised in relation to the principle of residential development on this site subject to the assessment against all other material planning considerations.

7.2 Principle of loss of commercial use

7.2.1 Policy CP6 of the Core Strategy relates to employment and economic development and states that the Council will support development that provides for a range of small, medium and large business premises. In addition it states that development will continue to focus employment use within key employment areas within the district. Policy RE2 of the Neighbourhood Plan also highlights that there will be a presumption against change of use from any B Use Classes to residential.

7.2.2 The Policy Officer has noted that the proposal would result in the loss of a mixed use development and an overall small loss of jobs within the area; as such this fails to comply with Policy CP6 (and Policy RE2 of the Croxley Green Neighbourhood Plan). However, the workshops are not located in a key employment area and the submitted details identify that the buildings are of poor quality and has a history of vacancy, as indicated in the Planning Statement and evidenced on site. Furthermore, the principle of the loss of this employment land has been previously agreed. Furthermore, the existing employment use does not integrate well with the predominant residential use of the surrounding area and has limited parking provisions to serve the existing use. The proposed development would also contribute to the housing stock and make a monetary contribution towards affordable housing provision.

7.2.3 As such, although the proposal would result in the loss of a small employment provision within the District taking into consideration the siting of the site within a predominantly residential area, poor quality of the existing buildings and limited space, no objections are raised to the loss of the small employment contribution that the site provides. Furthermore, there is a significant need for housing within the District of which the proposed development would contribute.

7.3 Housing Mix

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

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

7.3.2 The development would result in 100% two bed units.

7.3.3 The proposal is not consistent with Policy CP3 in providing the necessary size of dwellings identified in the SHMA (2016). It is recognised that the proportions of housing mix may be adjusted for specific schemes to take account of market information, housing needs and preferences and specific site factors. The number of units and bedroom sizes is limited by the size of the site. No objections are therefore raised in relation to the provision of 100% two bedroom units on the site which would not prejudice the ability of the Council to meet its overall housing needs.

7.4 Affordable Housing

7.4.1 Policy CP4 of the Core Strategy stipulates that all new development resulting in a net gain of one or more dwellings will be required to provide 45% affordable housing provision. As a guide, the Council will seek 70% of the affordable housing provided to be social rented and 30% to be intermediate. For schemes of between 1-9 units a commuted payment would be accepted.

7.4.2 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. The proposed development would result in a net gain of two dwellings as such a monetary contribution would be required to be sought unless viability demonstrates otherwise.

7.4.3 In November 2014, the Minister of State for Housing and Planning issued a Written Ministerial Statement (WMS) setting out changes to national planning policy. The WMS stated that financial contributions towards affordable housing should no longer be sought on sites of 10 units or less and which have a maximum combined gross floor area of 1,000sqm. National Planning Practice Guidance (NPPG) was amended to reflect this. However on 31 July 2015 the High Court held (*West Berkshire Council v SSCLG [2015]*) that the policy expressed through the WMS was unlawful and the NPPG was changed to reflect this. On 11 May 2016 the Court of Appeal reversed the High Court decision. The NPPG was subsequently amended to reflect the WMS on 19 May 2016.

7.4.4 In light of the above developments, between November 2014 and August 2015 and May 2016 and 1 September 2017 the Council gave greater weight to the WMS policy and associated NPPG guidance in it than to adopted Policy CP4 of its Core Strategy in respect of development proposals for 10 dwellings or less and which had a maximum combined gross floor area of 1000 square metres. However, having undertaken an analysis of up to date evidence of housing needs (**The Needs Analysis**), officers advised in 2017 that when considering the weight to be given to the WMS in the context of breaches of the adopted development plan policy, the local evidence of housing need contained in the Needs Analysis should generally be given greater weight. On 1 September 2017 the Council resolved to have regard to the Needs Analysis as a consideration of significant weight when considering the relationship between Policy CP4 and the WMS for the purposes of Section 70(2) Town and Country Planning Act 1990 and Section 38(6) Planning and Compulsory Purchase Act 2004 in respect of development proposals of 10 dwellings or less.

7.4.5 In 2019 a new version of the National Planning Policy Framework (the Framework) was

published with immediate effect for development management purposes. Paragraph 63 of the Framework advises that *“Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer).”* Annex 2 of the NPPF defines *“major development”* as *“for housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more.”*

7.4.6 The Council's current affordable housing policy is set out in Policy CP4 of the Core Strategy (adopted in October 2011) and establishes that :

a) “...All new development resulting in a net gain of one or more dwellings will be expected to contribute to the provision of affordable housing.”

e) “In most cases require affordable housing provision to be made on site, but in relation to small sites delivering between one and nine dwellings, consider the use of commuted payments towards provision off site. Such payments will be broadly equivalent in value to on-site provision but may vary depending on site circumstances and viability.”

7.4.7 The supporting text to Policy CP4 summarises the justification for it:

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

7.4.8 This policy remains the legal starting point for the consideration of planning applications under Section 38(6) PCPA 2004, which requires that the Council determines applications in accordance with the adopted development plan unless material considerations indicate otherwise. Revised NPPF 63 is a material consideration. The weight to be given to it is a matter for the decision maker when determining each planning application. This note explains the advice from the Head of Planning Policy & Projects and Head of Regulatory Services on the weight that they recommend should be given to NPPF 63 for these purposes in light of the Needs Analysis.

7.4.9 Since the adoption of its Core Strategy in 2011, Three Rivers has received small site affordable housing contributions amounting to over **£2.1 million**. Utilising those monies, development is currently underway which will deliver 21 units of affordable housing, with the remaining monies utilised as a contribution towards the delivery of a further 17 affordable dwellings. It is clear that Three Rivers' policy has already delivered a significant contribution towards the delivery of much needed affordable housing in the district.

7.4.10 In addition to the £2.1 million already received, small scale (1-9 unit) schemes have secured to date a further **£1.3+million to £2.9+million¹** of affordable housing contributions in respect of unimplemented but current planning permissions. All of those schemes were agreed to be viable with those sums secured. The Council has several large scale future residential developments planned which will aim to deliver substantial quantities of further

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

affordable housing in the District in the medium term future, utilising those additional affordable housing contributions as and when they are received.

- 7.4.11 Policy CP4 makes it clear that a requirement for a scheme to contribute towards the provision of affordable housing is subject to viability considerations and is therefore consistent with paragraph 122 of the Framework. The application of CP4, which includes this in built viability allowance, cannot properly be said to be a barrier to delivery. Indeed between October 2011 and March 2019 198 planning permissions were granted for minor residential developments which contribute a net dwelling gain. Of those only 18 have been permitted to lapse which is only 9% of all such schemes.
- 7.4.12 Current evidence of housing need in the District is noted below. It confirms that the needs underlying the adopted development plan policy remain pressing.

Importance of Small Sites to Three Rivers

- 7.4.13 It is important to acknowledge the percentage of residential development schemes which tend to come forward in the District which propose the delivery of less than 10 dwellings: between 1st May 2016 and 12th April 2017 for instance, 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. Having a large number of small sites is an inevitable consequence of the District being contained within the Metropolitan Green Belt. The contribution to both market housing supply and affordable housing supply are therefore both material to overall identified needs and adopted development plan objectives. This is dealt with in more detail below.
- 7.4.14 If the weight to be given to the Framework is greater than the adopted development plan, this large proportion of Three Rivers' expected new housing delivery will contribute nothing towards affordable housing. This would compromise Three Rivers' ability to deliver its objectively assessed need for affordable housing.

Development Plan Policies and the WMS

- 7.4.15 The content of the Framework is a material consideration in any planning decision, and one which the decision making authority must weigh against the development plan as the starting point under section 38(6) of the 2004 Planning and Compulsory Purchase Act. The correct approach is to:
- Consider the starting point under the development plan policies
 - Have regard to the Framework and its objectives if those development plan policies would be breached – it is officers' view that the Framework should be given considerable weight as a statement of national policy post-dating the Core Strategy
 - Consider up to date evidence on housing needs
 - Consider whether the Framework should outweigh the weight to be given to the local evidence of affordable housing need and the breach of the adopted development plan policy.
- 7.4.16 This approach reflects the Court of Appeal's judgment in West Berkshire, which held that whilst the government, whether central or local, could state policy "rules" absolutely, decision makers must consider them without treating them as absolute: their discretion to weigh material considerations in the balance and do something different cannot be fettered by policy:

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

7.4.17 At paragraph 26 of the judgment, the court cited statements made to the High Court on behalf of the Secretary of State, describing those as being “no more than a conventional description of the law’s treatment of the Secretary of State’s policy in the decision making process”:

“As a matter of law the new national policy is only one of the matters which has to be considered under sec 70(2) and sec 38(6) when determining planning applications... in the determination of planning applications the effect of the new national policy is that although it would normally be inappropriate to require any affordable housing or social infrastructure contributions on sites below the threshold stated, local circumstances may justify lower (or no) thresholds as an exception to the national policy. It would then be a matter for the decision maker to decide how much weight to give to lower thresholds justified by local circumstances as compared with the new national policy”

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

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

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

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

General House Price Affordability in Three Rivers

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

Number	Local Authority Name	Lowest Quartile House Prices
1	Elmbridge	£375,000.00

2	South Bucks	£370,000.00
3	St Albans	£355,000.00
4	Windsor and Maidenhead	£345,000.00
5	Chiltern	£335,000.00
6	Herstmere	£330,000.00
7	Three Rivers	£325,000.00
8	Epsom and Ewell	£324,000.00
9	Cambridge	£320,000.00
10	Mole Valley	£320,000.00

Table 1.

7.4.21 Since the publication of the above ONS data in 2016, the general house price affordability position has grown worse. According to data published by the Office of National Statistics (ONS) in the third quarter of 2017, the lowest quartile house price in Three Rivers as of September 2017 was £355,000.00, making it now the **sixth** most expensive local authority area in England and Wales (excluding London), out of a total of three hundred and fifty local authority areas (see table 2 below).

Number	Local Authority Name	Lowest Quartile House Prices
1	Elmbridge	£390,000.00
2	South Bucks	£386,000.00
3	St Albans	£355,000.00
4	Chiltern	£375,000.00
5	Windsor and Maidenhead	£373,000.00
6	Three Rivers	£355,000.00
7	Mole Valley	£349,950.00
8	Epsom and Ewell	£340,000.00
9	Cambridge	£338,000.00
10	Epping Forest	£330,000.00

Table 2.

7.4.22 Lowest quartile earnings in Three Rivers in 2016 were £24,518.00 and £24,657.00 in 2017, 13.3 times worsening to 14.4 below the lowest quartile house prices (ratio of lower quartile house prices to lower quartile gross annual, residence based earnings). In a mortgage market where lenders are traditionally willing to lend 3.5 times a person's income, clearly a lending requirement in excess of 14 times such an income means that most first time buyers are simply unable to purchase a dwelling in the District. Such a lending ratio would have required a first time buyer in 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.

7.4.23 When one considers the median affordability ratio for Three Rivers compared to the rest of England and Wales, the position is even more serious: the median quartile income to median quartile house price affordability ratio is 13.82, the fifth worst affordability ratio in England and Wales, as set out in table 3 below, again when compared against 350 local authorities.

Number	Local Authority Name	Median quartile house price affordability ratio ¹
1	South Bucks	14.55
2	Hertsmere	14.16
3	Mole Valley	14.0

4	Chiltern	13.92
5	Three Rivers	13.82
6	Elmbridge	13.82
7	Cambridge	13.45
8	Epsom and Ewell	12.99
9	Oxford	12.58
10	Christchurch	12.47

Table 3.

- 7.4.24 Looking at the ratio of lower quartile house prices to lower quartile to gross annual, residence based earnings, in 2016 the ratio was 14.30. By September 2017 that had risen to 14.84.
- 7.4.25 It is clear from the above that the affordability of housing in Three Rivers is getting worse with time.

Affordable Housing Requirements in Three Rivers

- 7.4.26 The South West Hertfordshire Strategic Housing Market Assessment January 2016 (SHMA) found that at that time there were approximately 658 households within Three Rivers that were situated in unsuitable housing. Unsuitability is based on the number of households shown to be overcrowded in the 2011 Census (updated to a 2013 base for the purposes of the SHMA). 59.4% of these households were unable to afford market housing, which meant the revised gross need was reduced to 391 households.²
- 7.4.27 The SHMA also looked into newly-arising (projected future) need within the District, which was accepted as arising from newly forming households and existing households falling into this need. In South West Herts, the SHMA estimated a need totalling 2,760 new households per annum from 2013-2036. 15% of this need falls within Three Rivers, which equates to an estimated level of affordable housing need in the District from newly forming households of 419 per annum.
- 7.4.28 With these figures in mind, the SHMA calculated the net affordable housing need within the five local authority areas of the South West Herts area as being 54,997 units over the 23 year period from 2013 to 2036. This is 2,391 units per annum.³ The net need within Three Rivers was calculated as being 357 units per annum or 8,211 units over the same 23 year period. The SMHA identified the district's OAN for the next plan period as being 514 dwellings a year; thus affordable housing need equates to 69% of total housing need.

Affordable Housing Provision in Three Rivers

- 7.4.29 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.
- 7.4.30 Since the start of the plan period from 1 April 2001 to 31st March 2018 (the latest date where the most recent completion figures are available), 4,047 gross dwellings were completed. From this, 933 were secured as affordable housing, a total of 24.5%. This percentage is significantly below the Core Strategy target of 45% which means there was a shortfall of 888 affordable housing units or 21.5% in order to fulfil the 45% affordable housing requirement up to 31 March 2018. This shortfall only exacerbates the already pressing need for small sites to contribute towards the provision of affordable housing

³ Table 33: Estimated Current Need, South West Hertfordshire Housing Market Assessment (January 2016).

⁴ Table 38: South West Hertfordshire Housing Market Assessment (January 2016). Net need = Current Need + Need from Newly-Forming Households + Existing Households falling into Need – Supply of Affordable Housing.

7.4.31 The latest available Annual Monitoring Report, published in March 2018 states: "the low percentage recorded in the 2017/18 year can partly be attributed to the Governments Written Ministerial Statement (WMS) in November 2014 which led to an amendment to National Planning Practice Guidance. This meant that from May 2016, the Council was only able to require affordable housing on sites of 10 or more dwellings, or where development had a combined gross floor area of 1000 sqm . The Council was therefore unable to fully implement Core Strategy CP4, in line with government guidance. Out of a total of 23 sites where overall development would result in a net gain of one or more dwellings, and where CP4 would have been applied, only seven contributed towards the provision of affordable housing during the 2017/18 monitoring period. Given the implications of the WMS outlined above, only 10 of the 23 sites contributing a net gain of one or more dwellings were required to contribute towards affordable housing provision, with seven sites making contributions as required. A further two sites which were replacement dwellings and contributed no net gain, provided a total of three gross dwellings which are included in the gross dwelling completion figures."

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

7.4.32 As set out at above, 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. In 2017-2018 there were 67 planning applications for net gain residential schemes, of which 57 were small site schemes (85%). From 1st January 2018-December 2019 there were 50 planning applications for net gain residential schemes, of which 46 were small site schemes (92%).

7.4.33 In terms of numbers of completed dwellings proposed by those small site schemes, between 2011-19 some 313 dwellings were completed which equates to 39 dwellings per annum. Whilst such numbers are significant, it is acknowledged that major developments, whilst far less frequent, provided significantly greater quantities of housing. However CP4(e) does not generally require small site schemes to provide on-site affordable housing (small-scale piecemeal development is unattractive to RP's). Instead commuted sums in lieu of on-site provision are required and thus it is the sums of money secured and the contribution those make towards the provision of additional much needed affordable housing in the District which the policy should be tested against. This has been acknowledged by Planning Inspectors on appeal, as referred to below:

APP/P1940/W/19/3230999, 27 Gable Close, Abbots Langley: "It also identifies the importance of small sites in providing affordable housing with contributions from small sites amounting to over £2.1 million since 2011 being spent towards the delivery of 38 affordable dwellings."

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

7.4.34 As set out above, the commuted payments (£2.1 million) to be spent on the provision of affordable housing which have been collected by the Council to date have made a direct contribution towards the identified affordable housing shortfall in the district: providing some 21 units with some of the monies being utilised to assist in the delivery of a further 17 units (38 in total). Furthermore, small scale (1-9 unit) schemes have (as at December 2019) secured a further **£1.3+million - £2.6+ million** (see footnote 1) in respect of unimplemented but current planning permissions. The Council has several large scale future residential developments planned which will aim to deliver substantial quantities of further affordable housing in the District in the medium term future, utilising those additional affordable housing contributions as and when they are received. It is clear therefore that CP4(e) has made and will continue to make a significant contribution towards the provision of much

needed affordable housing in the District in the future.

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

- 7.4.35 Policy CP4 makes it clear that a requirement for a scheme to contribute towards the provision of affordable housing is subject to viability considerations and is therefore consistent with paragraph 122 of the Framework. The application of CP4, which includes this in built viability allowance, cannot properly be said to be a barrier to delivery. The Council accepts that if, properly tested, viability cannot be established on current day costs and values then a scheme should not currently be required to provide or contribute to affordable housing delivery. Between October 2011 and March 2019 there were 198 planning permissions granted for minor (net gain) residential developments in the District. Of those only 18 have lapsed (9%). This demonstrates that the application of CP4 has not acted as a brake on small scale residential developments.

Relevant Appeal Decisions

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

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

dates the development plan policies.”⁴

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

7.4.42 The Council’s stance has been tested on appeal on numerous occasions and the Planning Inspectorate have repeatedly concluded (13 decisions as at the date of this document) that whilst the NPPF carries considerable weight, it does not outweigh CP4 of the Councils development plan given the acute and substantial need for affordable housing in the District and the important contribution small sites make towards addressing this shortfall. Below are extracts from a few of those decisions:

- **APP/P1940/W/19/3222318, Eastbury Corner, 13 Eastbury Avenue, Northwood, Decision date: 21st June 2019:**

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

- **APP/P1940/W/19/3221363, The Swallows, Shirley Road, Abbots Langley Decision date: 27th June 2019:**

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

- **APP/P1940/W/19/3225445, 6 Berkely Close, Abbots Langley Decision date 5th August 2019:**

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

- **APP/P1940/W/19/3230999, 27 Gable Close, Abbots Langley Decision Date: 1st November 2019:**

“The Council has provided detailed evidence of acute affordable housing need locally: a Needs Analysis was undertaken in May 2016 after the publication of the Written Ministerial Statement which introduced the affordable housing thresholds now included in the Framework. Based on the Needs Analysis, the Council’s evidence highlights the issue of general house price affordability in the District, plus an exceptionally high need for affordable housing exacerbated by a significant shortfall in supply. It also identifies the importance of small sites in providing affordable housing with contributions from small sites amounting to over £2.1 million since 2011 being spent towards the delivery of 38 affordable dwellings.

A further Needs Analysis following publication of the revised Framework in July 2018 demonstrated that housing stress had increased since 2016. The Council has therefore

⁵ Paragraph 7, Planning Inspectorate Letter, March 2017.

revisited its position following the update to national policy. There is no evidence before me that affordable housing contributions are acting as a brake on development. Rather, the evidence is that contributions from small sites collected since the policy was adopted in 2011 are delivering affordable housing on the ground. Due to its recentness and the clear conclusions that can be drawn from it, I give this local evidence substantial weight. It underpins the approach in Policy CP4 as an exception to national policy.”

• **APP/P1940/W/19/3230911, 67 & 69 St Georges Drive, Carpenders Park, Decision date 22nd October 2019:**

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

• **APP/P1940/W/19/3230458, 19 Lynwood Heights, Rickmansworth, Decision date: 11th October 2019:**

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

Affordable Housing Conclusion

- 7.4.43 Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Having regard to the Framework as a material consideration of significant weight, officers' view is that the local evidence of affordable housing need continues to deserve significant weight in deciding whether, for the purposes of Section 38(6), the revised Framework policies weigh sufficiently against the Core Strategy Policy CP4. Having undertaken this assessment in 2017 and further reviewed it post the new NPPF in 2018 and in December 2019 with regard to more up to date evidence, where available, officers are of the view that the Framework does not outweigh the weight to be attached to the local evidence of affordable housing need. That evidence shows that

the need for affordable housing in Three Rivers is great and the contribution that small sites have made has been significant. Furthermore comparisons between 2016 and 2017 ONS data shows that the affordability of housing in Three Rivers is deteriorating year on year and the need for affordable housing is growing. As such proposals for the residential development of sites of 10 dwellings or less (not “major development”) will currently be expected to contribute towards the provision of affordable housing in accordance with Policy CP4 as a condition of grant. The Council will keep this evidence under review.

7.4.44 The proposed development would result in the demolition of existing commercial unit and the construction of flatted development consisting of four two bedroom units. Due to the scale of the development a commuted payment towards affordable housing would be applicable. The scheme would generate a commuted payment of £147,600.00 however following submission of viability evidence a commuted sum of £95,000.00 has been deemed as viable and has been agreed to be paid. As such, a commuted payment of £95,000.00 will be secured via S106 Agreement towards affordable housing in accordance with the requirements of Policy CP4 of the Core Strategy.

7.5 Impact on Character and Street Scene

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

7.5.2 In terms of new residential development, Policy DM1 of the DMLDD advises that the Council will protect the character and residential amenity of existing areas of housing from forms of 'back land', 'infill' or other forms of new residential development which are inappropriate for the area. Development will be only be supported where it can be demonstrated that the proposal will not result in:

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

7.5.3 The site is located within Croxley Green Conservation Area and as such Policy DM3 of the Development Management Policies document is relevant. This stipulates that within Conservation Areas development will only be permitted if the proposal is of a design and scale that preserves or enhances the character or appearance of the area. In relation to demolition, Policy DM3 of the DMP LDD stipulates development involving demolition will only be granted if it can be demonstrated that the structure to be demolished makes no material contribution to the special character or appearance of the area.

7.5.4 The Croxley Green Conservation Area Appraisal describes the Croxley Green Conservation Area as overwhelmingly green and open in character and appearance.

- 7.5.5 Policy CA1 of The Croxley Green Neighbourhood Plan requires that development should seek to conserve and enhance the character of the area through careful design and massing of new buildings. The application site is within Character Area 2 as set out within the Neighbourhood Plan.
- 7.5.6 The existing buildings to be demolished are single storey flat roofed structures that do not contribute to visual amenities of the street scene or character and appearance of the Conservation Area. The existing use of the site and built form detract from the overall character of this part of Windmill Drive and Conservation Area. No objections are raised to the demolition of the existing buildings in terms of impact on the street scene or character and appearance of the Conservation Area.
- 7.5.7 The proposed replacement building would consist of a two storey building with accommodation in the roof served by a crown roof form, front dormers and rooflights. The design of the building would not appear out of context within the street scene as the built form visible along this part of Windmill Drive is very varied. The proposed building would have crown roof form which is generally discouraged. However, the crown roof would not be significant in scale and would not result in a contrived feature within the varied street scene. The apparent bulk of the proposed roof form would be reduced by the subordinate two storey hipped roof side projections. The development would include two front dormers which would be subordinate in scale to the proposed roof and would not result in incongruous or obtrusive features. Taking into consideration the varied nature of the existing street scene and surrounding built form the proposed design of the building would not result in a contrived feature and would not result in any demonstrable harm to the visual amenities of the street scene or character of the area.
- 7.5.8 The building would be set in 4.9m from the northern boundary and 2.7m from the southern boundary. The set in of the building from the flank boundaries and that the building would be flanked by subordinate flank projections would prevent the proposed building from resulting in a cramped feature and would respect the existing open quality of the site. The building would be sited close to the rear boundary of the site however sufficient spacing would be provided between the proposed building and neighbouring building to the rear as to not result in overdevelopment of the site. In relation to the height of the proposed building it would represent a two storey structure with accommodation within the roofspace. The height of the building would be high relative to the existing built form. By virtue of the height and forward projection of the proposed building relative to the built form to the north and south, the building would appear more prominent within the street scene than the existing built form and neighbouring built form. Notwithstanding this, the highest point of the building would be set in a significant distance from both flank boundaries which would be flanked by subordinate two storey projections. The scale of the proposed building would also not appear out of character in relation to the visible three storey building sited to the east of the plot. The building has been designed to reduce its apparent bulk and massing and would not result in an unduly prominent or intrusive feature within the street scene.
- 7.5.9 Although the building would be sited close to the front boundary of the site it would be set back in comparison to the existing built form and would allow soft landscaping sited between the building and front boundary. This would introduce a positive feature within the street scene. Furthermore, the building would be of a height and bulk that would not result in an unduly prominent or obtrusive feature on the highway or impact on the visual amenities of the street scene. The neighbouring built form are two storeys in height with a three storey building sited to the rear. The neighbouring property to the north fronts The Green thus sits on a different building line to that of the proposed building. The neighbour to the south consists of a two storey building with a single storey projection sited close to the boundary with Windmill Drive. The existing site contains built form which is constructed close to the front boundary and due to the nature of this part of Windmill Drive there is no established building line. The proposed siting of the building would therefore not result in any demonstrable harm to the character of the street scene.

- 7.5.10 The sash windows, front porch and soft landscape features would introduce positive design features to the proposed building. Overall the design, siting and layout of the proposed building would introduce a positive feature within the street scene than that of the existing use and built form.
- 7.5.11 There would be limited views of the proposed building from The Green. Where the proposed building would be visible it would not result in a contrived or obtrusive addition. Due to the varied nature of the surroundings and taking into consideration the existing commercial use of the site the introduction of flatted development would not result in any demonstrable harm to the character of the area.
- 7.5.12 The proposed bin and bike store would be sited along the flank boundary and would be of a siting and scale that would not result in any harm to the visual amenities of the street scene. The proposal would include the provision of large areas of hardstanding along the frontage to accommodate the proposed five parking spaces. The proposed site plan does however include areas of soft landscaping which is encouraged. Furthermore, taking into consideration the visual impact of the existing built form the provision open parking spaces with small areas of soft landscaping would introduce a positive feature. Any permission would include a condition requiring the submission of a hard and soft landscaping scheme to ensure both the hard and soft landscaping is of high quality.
- 7.5.13 The proposed layout including the design, scale and siting of the building would not result in any harm to the particular character of the area and would not result in any demonstrable harm to the visual amenities of the street scene and character and appearance of the Croxley Green Conservation Area. The proposed development would therefore be in accordance with Policies CP1 and CP12 of the Core Strategy, Policies DM1, DM3 and Appendix 2 of the DMP LDD, Policy CA1 of the Neighbourhood Plan and the Croxley Green Conservation Area Appraisal.

7.6 Impact on amenity of neighbours

- 7.6.1 Policy CP12 of the Core Strategy states that development should 'protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space'.
- 7.6.2 Policy DM1 and Appendix 2 of the Development Management Policies LDD set out that development should not result in loss of light to the windows of neighbouring properties nor allow overlooking, and should not be excessively prominent in relation to adjacent properties. Appendix 2 of the Development Management Policies LDD advises that first floor rear additions should not intrude a 45 degree line taken from a point on the joint boundary level within the rear of the neighbour. However, this principle is dependent on the spacing and relative positions of the dwellings and consideration will also be given to the juxtaposition of properties, land levels and extensions on neighbouring properties. Although the 45 degree principle relates to extensions it is also applicable in the assessment of harm arising from replacement buildings.
- 7.6.3 The proposed building would be set in from the northern and southern boundaries of the site. The Cottage to the north of the site is set forward in the plot as it fronts The Green. Taking into consideration the set in of the proposed building and siting of The Cottage the proposal would not result in any loss of light or harm to the visual amenities of this neighbouring property. Sufficient separation would be provided between the proposed development and neighbouring properties to the north of The Cottage to prevent the proposal from resulting in any harm to the residential amenities of these neighbouring properties. In respect of any potential impact on No. 3 The Green to the south, it is acknowledged that the proposed building would be adjacent to the flank wall of this property. The wall contains a number of high level obscured windows but does not appear to contain clear glazed habitable room windows. The submitted block plan does not differentiate between single storey and two storey built form at the neighbouring property, however the

south elevation of the proposed building would be clearly visible from the first floor rear-facing windows at No. 3 The Green. This elevation is set off the boundary by 2.7m and is limited in depth, and so would have a limited impact on the amenities of the occupants of No. 3. Furthermore, the proposed building would not intrude the 45 degree splay line taken from the rear most point of the neighbouring building. Thus the proposal would not result in any unacceptable loss of light or harm to the visual amenities of No.3 The Green.

- 7.6.4 The proposed building would be positioned 1m from the rear boundary of the site. The existing built form is sited close to the rear boundary of the site however this is single storey level only. The proposed building would introduce built form that would be significantly higher than the existing building. The ground floor level of the neighbouring properties to the rear serve the commercial units and as such any loss of light to these units would not justify a reason for refusal. The first and second floor levels serve residential accommodation, which also use the roofs of the single storey projections as external amenity space. The proposed building would be sited approximately 12.2m from the first floor level of the neighbouring building and 8.13m from the ground floor projections. Taking into consideration that the neighbouring residential units are set at first and second floor level the proposed height of the building, which would be two storeys in height with the roof form hipped away from the boundary, would not result in any unacceptable loss of light or harm to the visual amenities of the neighbouring properties. The proposed building would also not extend across the full width of the plot and would include subordinate two storey projections which would be set in from the rear boundary. Taking this into consideration and the first floor nature of the neighbouring properties the 8m and 12m separation and height differences would also prevent the proposal from result in an unduly intrusive or dominant feature and would not demonstrably affect the use of the external space serving the neighbouring properties.
- 7.6.5 Sufficient spacing would be provided between the proposed development and neighbouring properties to the west to prevent the proposal from resulting in any loss of light or harm to the visual amenities of these neighbouring properties.
- 7.6.6 In terms of overlooking the ground floor windows to be inserted within the front, side and rear elevation of the development would not result in any unacceptable overlooking of the surrounding neighbouring properties. Taking into consideration the relationship and built form at No.3 the proposed first floor flank windows would not permit overlooking into any private amenity space provision. Two first floor windows would be inserted within the rear elevation at first floor level. The plans indicate that these windows would be obscure glazed. Any planning permission would include a condition that these windows are obscure glazed and top level opening only. The rear rooflights would also be conditioned to ensure that they have a minimum cill height of 1.7m to prevent overlooking.
- 7.6.7 The development would include two first floor windows in the northern elevation which would permit an outlook onto the rear amenity space serving The Cottage. These windows would be sited within the recessed elevation of the development thus would be set in approximately 7.5m from the boundary with The Cottage. Views from the flank window sited closer to the front of the proposed building would be obscured by the existing projection and due to its position closer to the rear of the neighbouring site would not result in unacceptable overlooking. The window sited closer to the rear of the building has been significantly reduced in width as to reduce the levels of actual and perceived overlooking. Although this window would allow some overlooking into the neighbouring property this would only be the rear portion of the neighbouring garden. Furthermore, taking into consideration the small width of the window and set in from the boundary it would not permit unacceptable actual or perceived overlooking that would demonstrably harm the residential amenities of occupiers of The Cottage or create a feeling of enclosure. The first floor flank windows would not result in unacceptable overlooking of the neighbouring properties to the north of The Cottage. The flank rooflights would not result in unacceptable overlooking.

7.6.8 Concerns have been raised that the proposed development would result in unacceptable overlooking into the neighbouring properties to the west (front) of the site. The proposed development would introduce a two storey building with accommodation within the roof served by front dormers. The level of overlooking in comparison to the existing situation into the neighbouring properties to the front of the site would be increased by virtue of the scale and type of built form proposed. A minimum distance of approximately 10m would separate the proposed development and rear boundaries of the neighbouring property to the west. A minimum distance of approximately 23m would be achieved between the closest neighbouring property and the front elevation of the application dwelling, increasing to 27m to the two storey rear elevation of the neighbouring property. The 10m separation from the rear boundary would be sufficient to prevent the proposed development from resulting in a dominant feature on the neighbouring gardens. Although the proposed development would not meet the 28m back to back distance the proposal would not produce a back to back relationship. The first floor front windows have been reduced in width and the two front dormers would be small in scale which would reduce the levels of actual and perceived overlooking into the neighbouring properties. It is not considered that the proposed siting of the building and use for residential development and the introduction of dormers within the roof would result in unacceptable overlooking into the neighbouring dwellings or gardens to the west. Furthermore, the measurements stated are the minimum that would be achieved between the proposed development and No.15. A greater separation would be achieved between the proposed development and neighbouring properties to the south of No.15.

7.7 Quality of accommodation for future occupants

7.7.1 It is considered that the layout of the building would provide acceptable living conditions for future occupants.

7.8 Amenity Space Provision for future occupants

7.8.1 Appendix 2 of the DMP LDD stipulates that one bedroom flats should be served by 21 square metres with an additional 10sq.m for each additional bedroom. The development would require a total of 124sq.m of amenity space provision. The two ground floor flats would be served by an amenity space provision 18.5sq.m and 17.7sq.m, however it is noted that this space would include unusable space between the rear of the dwelling and rear boundary. Taking this into consideration it is reasonable to state that the ground floor flats would be served by useable amenity space provision of 12sq.m each. A communal space of 26sq.m would also be provided. A total of 50sq.m amenity space provision would be provided. This would fall short of the amenity space requirements. However each unit would be able to access external amenity space provision. Furthermore, the site is within walking distance of The Green which provides open space of which the occupants could utilise. No objections are therefore raised to the proposed amenity space provision provided.

7.9 Wildlife and Biodiversity

7.9.1 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.

7.9.2 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.

7.9.3 Herts Ecology were consulted in relation to the proposed development which proposes the demolition of the existing Building. Herts Ecology confirmed that an informative regarding bats and nesting birds should be attached to any planning permission.

7.10 Trees and Landscaping

7.10.1 In ensuring that all development contributes to the sustainability of the District, Policy CP12 of the Core Strategy advises that development proposals should: "i) Ensure that development is adequately landscaped and is designed to retain, enhance or improve important existing natural features; landscaping should reflect the surrounding landscape of the area and where appropriate integrate with adjoining networks of green open spaces". Policy DM6 (Biodiversity, Trees, Woodlands, Watercourses and Landscaping) of the DMLDD advises that development proposals for new development should be submitted with landscaping proposals which seek to retain trees and other landscape and nature conservation features. Landscaping proposals should also include new trees to enhance the landscape of the site and its surroundings as appropriate.

7.10.2 No protected trees would be affected by the proposed development. As previously advised the application proposes hard and soft landscaping a condition requiring a hard and soft landscaping scheme would be attached to any planning permission.

7.11 Highways, Access and Parking

7.11.1 Policy CP1 of the Core Strategy (adopted October 2011) advises that in ensuring all development contributes to the sustainability of the District, it is necessary to take into account the need to reduce the need to travel by locating development in accessible locations and promoting a range of sustainable transport modes. Policy CP10 of the Core Strategy (adopted October 2011) states that all development should be designed and located to minimise the impacts of travel by motor vehicle on the District and demonstrate that it provides a safe and adequate means of access.

7.11.2 The Highways Authority were consulted in relation to the proposed development and raised no objections subject to conditions. The Highways Authority suggested that three separate cross overs should be implemented instead of one continuous cross over which will be agreed subject to a Section 278 agreement between the applicant and Highways. No objections however were raised in relation to the provision of five parking spaces accessed via Windmill Drive. The Highways Authority further confirmed that the generation of vehicular traffic would not have a significant or detrimental impact on the local highway network. Neighbours have raised concerns that the existing road is used for parking for the commercial units fronting The Green. Highways have been consulted in relation to the proposed development and raised no objections. Furthermore, the proposal would result in the removal of a commercial unit that would generate parking requirements but has limited on-site parking provisions. Thus, it is not considered that the proposed use would result in demonstrable harm to the surrounding road networks or obstruction.

7.11.3 Five parking spaces would be provided to serve the proposed development providing four allocated spaces and one visitor space. Policy DM13 and Appendix 5 of the DMP LDD stipulates that two bedroom units should be served by 2 parking spaces. The scheme would therefore generate a parking requirement of eight parking spaces. A shortfall of three parking spaces would therefore exist.

7.11.4 As previously noted each unit would be provided with one allocated space and there would be one visitor space. There are no parking restrictions along this part of Windmill Drive and the site is considered to be within a sustainable location within walking distance of bus services and the Croxley Green Underground Station. Taking into consideration the sustainable location of the site the parking provision proposed would not justify a reason for refusal.

7.12 Sustainability

- 7.12.1 Paragraph 148 of the NPPF states that “Planning plays a key role in helping to shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure”.
- 7.12.2 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.
- 7.12.3 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.
- 7.12.4 An Energy Statement has been submitted with this application, and this makes reference to the site achieving a 7% CO₂ improvement over the baseline, which exceeds the 5% reduction required by Policy DM4 of the DMP LDD. The measures will include PV panels. A condition will be attached to any planning permission including details of the siting of PV panels to be submitted.

7.13 Refuse and Recycling

- 7.13.1 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
- 7.13.2 The plans include the siting of the bin store. The siting and scale of the bin store is considered acceptable and would not affect neighbouring properties and would not obstruct pedestrians or the highway.

7.14 Tilted Balance and Conclusion

- 7.14.1 The LPA cannot currently demonstrate a 5 year housing land supply, and therefore paragraph 11 of the NPPF 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 this Framework taken as a whole.”

- 7.14.2 Therefore the tilted balance exercise requires planning permission to be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 7.14.3 The NPPF identifies that there are 3 dimensions to sustainable development: social, economic and environmental. The development would make a contribution towards making up the shortfall in housing in the district, which provides a social benefit. The development would also be making a contribution towards affordable housing. In terms of economic benefits, there would be limited short term benefits as a result of construction activities, and benefits resulting from the expenditure of new residents locally. In respect of environmental benefits, the development would provide a development which utilises renewable energy technology which all enhance its environmental credentials.
- 7.14.4 Taking into account all of the considerations forming part of this application, it is concluded that any adverse impacts of granting planning permission would not outweigh the benefits and on this basis approval is recommended.

8 Recommendation

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

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

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

C2 The development hereby permitted shall be carried out in accordance with the following approved plans: 001 Rev B, (SK) 001 Rev A, 002 REV B, 012 Rev E, 011 Rev A, 200 Rev C, 600 Rev E, 601 Rev E, 602 Rev D, 603 Rev F, 700 Rev F, 701 Rev F, 702 Rev C, 800 Rev D.

Reason: For the avoidance of doubt, to protect the amenities of the street scene, Croxley Green Conservation Area and neighbouring properties in the proper interests of planning in accordance with PSP2, CP1, CP2, CP3, CP4, CP6, CP8, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM3, DM4, DM6, DM8, DM10, DM13, Appendix 2 and Appendix 5 of the Development Management Policies LDD (adopted July 2013), Policies CA1, HO1, HO2, HO3 and RE2 of the Croxley Green Neighbourhood Plan Referendum Version (adopted December 2018) and Croxley Green Conservation Area Appraisal (1996).

C3 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 condition is a pre commencement condition in the interests of highway safety and convenience in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011).

- C4 No development shall commence until full details (in the form of scaled plans and/or written specifications) have been submitted to, and approved in writing by the Local Planning Authority, to illustrate the following:
- o Indicative plan showing two VXOs of 5.4m (made up of four flat kerbs and two ramped kerbs) leading to the two double driveway areas. One VXO of 4.5m (made up of three flat kerbs and two ramped kerbs) leading to the proposed single car parking space.
 - o Any proposed front boundary features (e.g. hedge, fence, wall) of a height of no greater than 0.6m to ensure that visibility levels are maximised on either side of the proposed vehicle access points.
 - o Surface water drainage for the proposed parking areas / hardstanding to ensure that surface water is collected and disposed of on site.

The development shall thereafter be carried out in accordance with the approved details.

Reason: This condition is a pre commencement condition in the interests of highway safety and convenience in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

- C5 Before any building operations above ground level hereby permitted are commenced, samples and details of the proposed external materials shall be submitted to and approved in writing by the Local Planning Authority and no external materials shall be used other than those approved.

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

- C6 Before any building operations take place above ground level a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority, which shall include the location of all existing trees and hedgerows affected by the proposed development, and details of those to be retained, together with a scheme detailing measures for their protection in the course of development.

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

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

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

Reason: This condition is required to ensure the completed scheme has a satisfactory visual impact on the character and appearance of the area. It is required to be a pre

commencement condition to enable the LPA to assess in full the trees to be removed and the replacement landscaping requirement before any works take place, and to ensure trees to be retained are protected before any works commence in the interests of the visual amenity of the area in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

- C7 Before any building operations take place above ground level, 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: To ensure that the development meets the requirements of Policy CP1 of the Core Strategy (adopted October 2011) and Policy DM4 of the Development Management Policies LDD (adopted July 2013) and to ensure that the development makes as full a contribution to sustainable development as possible.

- C8 Prior to the first occupation of the dwelling hereby approved, details of the proposed boundary treatments to be installed within the site shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall thereafter be installed prior to the first occupation of the dwelling hereby approved and maintained in accordance with the details approved by this condition.

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

- C9 Prior to the first occupation of the development hereby permitted the proposed access and on-site car parking shall be laid out, demarcated, surfaced and drained in accordance with the approved plans and retained thereafter available for that specific use.

Reason: In the interests of highway safety and convenience in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011) and Policy DM13 of the Development Management Policies LDD (adopted July 2013).

- C10 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 windows/dormer windows or similar openings [other than those expressly authorised by this permission] shall be constructed in the elevations or roof slopes of the development hereby approved.

Reason: To safeguard the residential amenities of neighbouring 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).

- C11 Before the first occupation of the building/extension hereby permitted the window(s) in the first floor rear elevation shall be fitted with purpose made obscured glazing and shall be top level opening only at 1.7m above the floor level of the room in which the window is installed. The window(s) shall be permanently retained in that condition thereafter.

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).

- C12 The rooflights 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).

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 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 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.
- 13 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 applicant and/or their agent and the Local Planning Authority engaged in pre-application discussions which result in a form of development that maintains/improves the economic, social and environmental conditions of the District.
- 14 Extent of Highway: Information on obtaining the extent of public highway around the site can be obtained from the HCC website: www.hertfordshire.gov.uk/services/highways-roads-and-pavements/changes-to-your-road/extent-of-highways.aspx
- 15 Agreement with Highway Authority: 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.
- 16 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).

- 17 Any building works should not disturb any nesting birds. Should any active nest be discovered, all works should cease until all evidence of nesting activity has stopped, in order to avoid committing an offence.