

PLANNING COMMITTEE – 10 DECEMBER 2020

PART I - DELGATED

6. 20/1349/FUL – Erection of six units within a single two storey flatted block (three 2-bed & three 1-bed), with associated parking, access, alterations to land levels and landscaping at LAND AT THE REAR OF CLOVERS COURT, CHORLEYWOOD, HERTFORDSHIRE

Parish: Chorleywood

Ward: Chorleywood South and Maple Cross

Expiry of Statutory Period: 01.10.2020

Case Officer: Matthew Roberts

Extension of time: 16.12.2020

Recommendation: That Planning Permission be Granted.

Reason for consideration by the Committee: Called in by Chorleywood Parish Council and three Members of the Planning Committee due to overdevelopment concerns and the extensive planning history of the site.

- 1.1 Relevant Planning History (including Nos. 79 & 81 Quickley Lane)
 - 1.1.1 The application site partially encompasses land that relates to two planning permissions (14/0641/FUL & 12/0972/RSP). The combination of both permissions has resulted in six terrace dwellings now known as Nos.1 to 6 Clovers Court, all of which are served by a single central access road from Quickley Lane.
 - 1.1.2 Following the demolition of both former bungalows, a number of planning applications and appeal decisions have been submitted at the land which has contributed to the intermittent nature of construction work which first commenced in 2010. The following paragraphs outline the planning history for both Nos.79 and 81 Quickley Lane and the land in general as they are intrinsic to this application.
- 1.2 **Planning History at No.79 Quickley Lane (now demolished)**
 - 1.2.1 10/1251/FUL - Erection of 3 x 2 bed houses with off street parking and bin storage area. Refused for the following reasons:

R1: The development fails to comprehensively address the characteristics, opportunities and constraints of the wider site and adjacent site as a whole which would result in piecemeal development. Such piecemeal development would fail to protect the existing character of the area, be detrimental to the street scene and appearance of the area and fail to allow a full and proper consideration of the impacts of the cumulative developments to be properly considered contrary to Policies H14 and GEN1 and Appendix 1 of the Three Rivers Local Plan 1996 2011.

R2: The proposal fails to provide satisfactory evidence as to the lack of adverse impact arising from the proposed land level changes necessary to accommodate the development. Insufficient evidence has been submitted to demonstrate that the proposed land level changes would not have a detrimental impact on the character of the street scene or the residential amenities of neighbouring properties. As such the application is contrary to Policies GEN1 and GEN3 and Appendices 1 and 2 of the Three Rivers Local Plan 1996 - 2011.

The appeal was dismissed in April 2011.

- 1.2.2 11/1652/FUL - Demolition of existing bungalow at No.79 Quickley Lane and the erection of 3 town houses with associated access, parking, bin storage, landscaping and amenity areas – Permitted.
- 1.2.3 12/2072/FUL - Minor amendments to planning permission 11/1652/FUL (erection of 3 town houses with associated access, parking, bin storage, landscaping and amenity areas) to reduce the width of the proposed terrace of three houses, marginally increase their depth and to realign the access road – Permitted.
- 1.2.4 13/1631/FUL - Variation of condition 2 of planning permission 12/2072/FUL: to create a staggered ridge height between the dwellings, accommodation within the roof space including the insertion of rooflights to front and rear associated with second floor accommodation and the realignment of the flank boundaries – Permitted, not implemented.
- 1.2.5 14/0641/FUL - Variation of condition 2 of planning permission 13/1631/FUL: to include first floor front clear glazed window, bricked exterior to north eastern elevation, re-siting of rooflights, alteration and increase to parking area and re-grading of rear landscape amenity area – Permitted and implemented.

1.3 **Planning History at No.81 Quickley Lane (now demolished)**

- 1.3.1 10/0065/FUL – Erection of 3 x 2 bed dwellings with associated access, off street parking, bin store provision and landscaping (Forward part of the site) – Permitted March 2010 - Not Implemented.

- 1.3.2 10/0703/FUL - Erection of 3 houses to the rear of No.81 Quickley Lane - Refused July 2010 for the following reasons;

R1: The development fails to provide adequate provision for the access, turning and manoeuvring of waste recovery and recycling vehicles as well as emergency vehicles within the site. This would result in inadequate arrangements for the storage and collection of waste and a sub-standard development contrary to Policies H14, N10, GEN1 and Appendix 1 of the Three Rivers Local Plan 1996-2011.

R2: The development fails to comprehensively address the characteristics, opportunities and constraints of the wider site as a whole which would result in piecemeal development of the site. Such piecemeal development would fail to protect the existing character of the area and be detrimental to the street scene and appearance of the area contrary to Policies H14 and GEN1 and Appendix 1 of the Three Rivers Local Plan 1996 2011.

R3: The proposed development results in a form of back land development that fails to protect and maintain the character of the area in terms of layout, plot size, building footprint and gaps between buildings and would result in the inappropriate loss of long and extensive gardens. It would have a detrimental impact on the character of the area and fails to meet the requirements of Policies H14, GEN1, GEN3 and Appendices 1 and 2 of the Three Rivers Local Plan 1996 – 2011.

The appeals (APP/P1940/A/11/2144323 & APP/P1940/A/10/2140364) were dismissed in April 2011.

- 1.3.3 10/2209/FUL - Demolition of No. 79 & 81 Quickley Lane and erection of 12 town houses split into 4 blocks, two blocks of 3 x 2 bedroom town houses to the front of the site and two blocks of 3 x 3 bedroom town houses including bin storage area and associated access road and parking – Withdrawn November 2010.
- 1.3.4 12/0972/RSP - Part Retrospective: Erection of three dwellings and associated parking - amended development following planning permission 10/0065/FUL- Refused August 2012 for the following reason:

R1: *The development, by reason of its width and height in relation to the adjacent highway (Quickley Lane) results in an excessively prominent appearance detrimental to the amenities of the street scene, contrary to Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Saved Policy GEN3 and Appendix 2 of the Three Rivers Local Plan 1996-2011.*

This application was allowed at Appeal (APP/P1940/A/12/2182187) in February 2013.

1.4 **Planning History at Land to rear / adjacent to Clovers Court**

1.4.1 14/1936/FUL - Erection of two detached bungalows with associated parking, bin stores, cycle stores, landscaping and alterations to land levels on land to rear of Clovers Court – Refused for the following reasons:

R1: *The proposed development by virtue of the limitations of the application site fails to provide a comprehensive planning scheme for the whole site, failing to take into account already approved adjoining developments. The proposal would therefore result in a poor form of development that fails to address sufficiently the characteristics and opportunities of the wider site. The proposal is therefore not 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).*

R2: *The proposed development fails to provide satisfactory evidence as to the lack of adverse impact arising from the proposed land level changes necessary to accommodate the garden amenity areas for the bungalows. Insufficient evidence has been submitted to demonstrate that the proposed land level changes would not have a detrimental impact on the character of the area or the residential amenities of neighbouring properties. As such the application is 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).*

R3: *The proposed development by virtue of the poor parking layout, oppressive and excessive boundary treatments to the north eastern and south western boundaries and lack of evidence with respect to the land level changes at the rear would cumulatively result in a poor standard of living for future occupiers of the bungalows. As such the application fails to accord 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).*

R4: *The proposed development fails to provide satisfactory evidence to ensure that adequate access arrangements for waste and recycling areas within the shared parking area can easily be achieved by local authority waste providers. As a result, the application fails to comply with Policy DM10 of the Development Management Policies LDD (adopted July 2013).*

R5: *The proposed development fails to enhance the landscape opportunities for the application site thereby resulting in a heavily urbanised form of development that is at odds with the immediate surrounding suburban environment. The submitted landscaping plan is insufficient and fails mitigate the harm identified and is contrary to Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).*

R6: *The proposed development by virtue of the bungalows construction and lack of on-site renewable energy systems fails to demonstrate that sustainable development principles are satisfied. The proposal therefore fails to comply with Policy CP1 of the Core Strategy (adopted October 2011) and Policy DM4 of the Development Management Policies LDD (adopted July 2013).*

R7: *The proposed development would result in an increase in demand for education, libraries, childcare facilities, youth facilities, open space/children's play space and sustainable transport provision in the area. The proposed development in the absence of an agreement under the provisions of Section 106 of Town and Country Planning Act 1990 would fail to recognise the impact of the development upon these services. The proposal would also attract a requirement for fire hydrant provision. The application would therefore fail to meet the requirements of Policies PSP2, CP1, CP8 and CP10 of the Core Strategy (adopted October 2011), Policy DM11 of the Development Management Policies LDD (adopted July 2013) and Open Space, Amenity and Children's Play space SPD (adopted December 2007).*

R8: *The scheme is for two market dwellings and in the absence of an agreement under the provisions of Section 106 of Town and Country Planning Act 1990 would fail to contribute to the provision of affordable housing. The proposed development therefore fails to meet the requirements of Policy CP4 of the Core Strategy (adopted October 2011) and the Affordable Housing Supplementary Planning Document (approved June 2011).*

- 1.4.2 14/2522/FUL - Erection of two detached bungalows with associated parking, bin stores, cycle stores, landscaping and alterations to land levels on land to rear of Clovers Court – Withdrawn.
- 1.4.3 15/1674/NMA - Non material amendment to planning permission 14/0641/FUL: To slope rear garden to accommodate step features (retrospective) – Refused.
- 1.4.4 15/1717/FUL - Erection of two detached bungalows including alterations to land levels and alterations to existing parking area serving numbers 1, 2, 3, 4, 5 and 6 Clovers Court – Refused, for the following reasons:

R1: *The proposed development results in a form of back land development that fails to protect and maintain the character of the area in terms of layout, plot size, building footprint, landscaping and gaps between buildings and would result in unsatisfactory access and parking provision. It would have a detrimental impact on the character of the area and fails to meet the requirements of Policies CP1, CP3, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM3 and Appendices 2 and 5 of the Development Policies LDD (adopted July 2013).*

R2: *The scheme is for two market dwellings and in the absence of an agreement under the provisions of Section 106 of the Town and Country Planning Act 1990 would fail to contribute to the provisions of affordable housing. The proposed development therefore fails to meet the requirements of Policy CP4 of the Core Strategy (adopted October 2011) and the Affordable Housing Supplementary Planning Document (approved June 2011).*

This application was allowed at Appeal (APP/P1940/W/16/3149879) in September 2016 but has not been implemented to date.

- 1.4.5 17/1304/FUL - Erection of two detached chalet bungalows including alterations to land levels and alterations to existing parking area serving numbers 1, 2, 3, 4, 5 and 6 Clovers Court. Withdrawn.
- 1.4.6 17/1787/FUL - Erection of two detached chalet bungalows including alterations to land levels and alterations to existing parking area serving numbers 1, 2, 3, 4, 5 and 6 Clovers Court. Refused, for the following reason:

R1: *The proposed development would represent overdevelopment with the proposed dormer windows resulting in an overbearing and un-neighbourly form of development and would outlook neighbouring dwellings to the detriment of their residential amenity. The proposed development would also fail to provide sufficient usable amenity space for future*

occupiers. The proposal would therefore be contrary to Policies CP1, CP3 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

This decision was not appealed.

19/0040/FUL - Erection of six 3-bed dwellings with associated parking, access and landscaping. Refused, for the following reasons:

R1: *The proposed development by virtue of the design, height and siting of Unit 1 (plot 1) would result in an unduly prominent and un-neighbourly form of development towards No.6 Rendlesham Way. In addition, due to the orientation of the sun Unit 1 would also result in significant overshadowing of the rear garden serving No.6 Rendlesham Way, to the detriment of the occupiers' enjoyment of their property. As a result, the development fails to have regard to protecting the visual and residential amenity of No.6 Rendlesham Way and is 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).*

R2: *The proposed development by virtue of the number of units, layout and lack of amenity space provision when taken cumulatively would result in an overdevelopment of the site to the detriment of the area's character. The shortfall of amenity space would also have a detrimental impact on the living standards of future occupiers. The development would therefore be 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).*

R3: *The development fails to demonstrate that the protected trees towards the rear of the site, adjacent to the boundary with Terre Haute, would not be harmed as a consequence of land level alterations serving plots 4, 5 and 6. The development therefore fails to comply with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM6 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).*

R4: *In the absence of an agreement under the provisions of Section 106 of Town and Country Planning Act 1990, the development would not contribute to the provision of affordable housing. The proposed development therefore fails to meet the requirements of Policy CP4 of the Core Strategy (adopted October 2011) and the Affordable Housing Supplementary Planning Document (approved June 2011).*

This decision was appealed but subsequently dismissed (APP/P1940/W/19/3235144).

1.4.7 19/1863/FUL - Erection of six dwellings with associated parking, access and landscaping. Withdrawn.

2 **Description of Application Site**

2.1 The application site is situated on the south eastern side of Quickley Lane in Chorleywood and contains a steep access road leading up to a large expanse of hardstanding and an "L shaped" parcel of undulating land which historically formed garden land as part of Nos.79 and 81 Quickley Lane.

2.2 The parcels of land either side of the central access and on land falling outside of the application site comprise three terrace dwellings which are two storeys in height with loft accommodation, some of which have also added rear conservatories. The terrace dwellings are elevated above the height of Quickley Lane and have rear gardens which front Quickley Lane, bounded by standard timber fencing with small mounds of highway verges immediately adjacent which consist of various trees and landscaping. The principal

elevations of the terrace dwellings front a large expanse of tarmac which forms the main parking area which is supported further by one completed flat roofed bin store with a Laurel hedge surround. The terrace dwellings, now known as Nos. 1, 2, 3, 4, 5 and 6 Clovers Court are all occupied.

- 2.3 The central part of the application site relates to the large expanse of tarmac which is between the front of the existing terraces and close boarded fencing which encloses the undulating land towards the west. To the north eastern side of the hardstanding area a retaining wall with elevated planting topped with close boarded timber fencing has been erected and extends along the entire depth of the north eastern boundary which is shared with properties on Rendlesham Way. The south western boundary of the land contains a significant retaining wall which has been left exposed following earth excavations close to this boundary point.
- 2.4 Immediately behind the existing tarmac hardstanding area is a large open parcel of land which has been subject to various spoil movements to facilitate its re-grading/excavation in parts. The south eastern corner has been levelled at a height similar to surrounding residential properties and is laid with turf.

3 Description of Proposed Development

- 3.1 This application seeks planning permission for the erection of six units within a two storey flatted block (three 2-bed & three 1-bed), with associated parking, access, alterations to land levels and landscaping.
- 3.2 The proposed six flats would be contained within a two storey flat roofed building of contemporary design positioned immediately opposite the existing terraces which serve Clovers Court, separated by a minimum distance of 20m extending up to 24m. The building would have a maximum height of 7m, maximum width of 26m and depth of 14.5m, set in from the north eastern boundary with properties fronting Rendlesham Way by a minimum of 9m and set in 1.5m from the south western boundary with No.83 Quickley Lane and land at the rear of Orchard Cottage. The building would have a varied external appearance comprising of light grey render, dark stained timber boarding, facing brickwork and aluminium framed windows. Green roofs are also proposed on-top of the single storey projections.
- 3.3 At ground level there will be three, two bed flats which would comprise open plan living, with a kitchen and dining area, bathroom, storage and two bedrooms served by approximately 12sqm light-wells, enclosed above by 1.1m high glass balustrades. At first floor level there are three, one bed flats of a similar layout accessed via a lobby area. All flats via the lobbies would have access to a tiered communal garden which will be supported by new trees and hedging.
- 3.4 The area between the proposed building and the north eastern boundary is proposed to contain a new timber refuse and recycling store and two cycle stores. This space would be hard surfaced and complimented by soft landscaping.
- 3.5 The parking area serving the site would include a total of 23 spaces, 12 parking spaces serving the existing terraces (No.1-6 Clovers Court) which would be unaltered as part of this application and 11 new spaces of which 2 would be for visitors/guests.
- 3.6 The application was supported by a schedule of materials, Planning Statement, Viability Statement, Energy and Sustainability Statement, Biodiversity Checklist and an Arboricultural Impact Assessment and Method Statement.
- 3.7 During the process the plans have been amended, removing a residential flat in its entirety and re-positioning the refuse and cycle stores, changes to soft landscaping and the parking

area. The location plans has also been amended (reduced) to reflect the extent of the applicant's ownership.

4 Consultation

4.1 Statutory Consultation

4.1.1 Chorleywood Parish Council: [Objection]

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

- *Overdevelopment of the site*
- *Fails to integrate the principle of secured by design*
- *The development would result in an unacceptable loss of amenity space for the developments*
- *The car parking spaces fails to comply with the requirements set out in Policy CP12*
- *There are significant concerns in respect of the site layout and the proposed depth of the lightwells which would result in an oppressive feel to the habitable spaces backing onto the lightwell*
- *The proposal fails to provide an emergency escape route from the lightwell*
- *Concerns with regards to mutual overlooking into the adjoining properties*
- *Major concerns with the access and egress into Quickley Lane from Clovers Court*
- *The Committee highlights the objections raised by neighbouring residents and request these are taken into account*
- *The planning history to date must be taken into account."*

Officer comment: The agent has confirmed that regarding the fire access, there will need to be external ladder/steps fixed to the inside of the wall to allow a protected means of escape. This would be caught under the Building Regulations in any event.

4.1.2 Landscape Officer: [No objection]

"The application is accompanied by an arb impact assessment, including a method statement and tree protection plan, as with previous application. I have not raised any objections to previous applications at the site, and have none in regard to the current application. The methods of tree protection detailed in the report are suitable for the site and development proposed."

4.1.3 Thames Water: [No objection, informative added]

Thames Water would advise that with regard to foul water sewerage network infrastructure capacity, we would not have any objection to the above planning application, based on the information provided.

With regard to surface water drainage, Thames Water would advise that if the developer follows the sequential approach to the disposal of surface water we would have no objection. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. Should you require further information please refer to our website.

<https://developers.thameswater.co.uk/Developing-a-large-site/Apply-and-pay-forservices/Wastewater-services>

Thames Water recognises this catchment is subject to high infiltration flows during certain groundwater conditions. The scale of the proposed development doesn't materially affect the sewer network and as such we have no objection. In the longer term Thames Water,

along with other partners, are working on a strategy to reduce groundwater entering the sewer network.

Thames Water recognises this catchment is subject to high infiltration flows during certain groundwater conditions. The developer should liaise with the LLFA to agree an appropriate sustainable surface water strategy following the sequential approach before considering connection to the public sewer network. The scale of the proposed development doesn't materially affect the sewer network and as such we have no objection. In the longer term Thames Water, along with other partners, are working on a strategy to reduce groundwater entering the sewer network.

The applicant is advised that their development boundary falls within a Source Protection Zone for groundwater abstraction. These zones may be at particular risk from polluting activities on or below the land surface. To prevent pollution, the Environment Agency and Thames Water (or other local water undertaker) will use a tiered, risk-based approach to regulate activities that may impact groundwater resources. The applicant is encouraged to read the Environment Agency's approach to groundwater protection (available at <https://www.gov.uk/government/publications/groundwaterprotection-position-statements>) and may wish to discuss the implication for their development with a suitably qualified environmental consultant.

4.1.4 Affinity Water: [No objection, informative added]

You should be aware that the proposed development site is located within an Environment Agency defined groundwater Source Protection Zone 2 (SPZ 2) corresponding to Mill End Pumping Station. This is a public water supply, comprising a number of Chalk abstraction boreholes, operated by Affinity Water Ltd.

If you are minded to approve the Application, it is essential that appropriate conditions are imposed to protect the public water supply, which would need to address the following points:

1. *General*: The construction works and operation of the proposed development site should be done in accordance with the relevant British Standards and Best Management Practices, thereby significantly reducing the groundwater pollution risk.
2. *Ground investigation*: Any works involving excavations below the chalk groundwater table (for example, piling or the implementation of a geothermal open/closed loop system) should be avoided. If these are necessary, a ground investigation should first be carried out to identify appropriate techniques and to avoid displacing any shallow contamination to a greater depth, which could impact the chalk aquifer.
3. *Contaminated land*: Construction works may exacerbate any known or previously unidentified pollution. If any pollution is found at the site then works should cease and appropriate monitoring and remediation methods will need to be undertaken to avoid impacting the chalk aquifer.
4. *Infiltration*: Surface water should not be disposed of via direct infiltration into the ground via a soakaway. This is due to the known presence of contaminated land and the risk for contaminants to remobilise.
5. *Bundling*: If any tanks, generators and filling areas are to be installed as part of the development, they will need to have secondary containment which can hold 110% of the volume the tank or generator is designed to contain. This is to prevent contaminants being discharged into the surface and groundwater network in the event of a spill.

4.1.5 National Grid: [No comments received. Any comments received will be verbally updated at the Committee meeting]

4.1.6 Environmental Protection: [No comments received. Any comments received will be verbally updated at the Committee meeting]

4.1.7 Crime Prevention Officer: [No comments received. Any comments received will be verbally updated at the Committee meeting]

4.2 **Public/Neighbour Consultation**

4.2.1 Number consulted: 88

4.2.2 No of responses received: 18 (objections)

4.2.3 Following amendments all neighbours were re-consulted for a further 21 days. 6 residents re-submitted further objections.

4.2.4 Site Notice: Expired 09.09.2020

4.2.5 Press Notice: Not applicable.

4.2.6 Summary of Responses:

- Additional traffic and highway safety issues
- Overdevelopment of site
- Developed beyond its limits
- Overshadowing
- Overlooking between existing and proposed development
- Overlooking from flat roofs
- Boundaries in a poor state
- Lack of parking
- No allowance for waste provision for existing residents
- Lack of light reception / oppressive amenity spaces

5 **Relevant Planning Policy, Guidance and Legislation**

5.1 National Planning Policy Framework and National Planning Practice Guidance

On 19 February 2019 the new National Planning Policy Framework was published. This is read alongside the National Planning Practice Guidance (NPPG). The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another. The 2019 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.

5.2 The Three Rivers Local Development Plan

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

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies PSP3, CP1, CP2, CP3, CP4, CP8, CP9, CP10 and CP12.

The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM1, DM4, DM6, DM8, DM9, DM10, DM11 and DM13 and Appendices 2 and 5.

Chorleywood Neighbourhood Plan 2020-2035 (Referendum Version, August 2020):

At a meeting of Full Council on 20th October 2020, the Council agreed that the Chorleywood Neighbourhood Development Plan (Referendum Version, August 2020) should proceed to referendum on 6 May 2021 (as required by Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020). A Decision Statement was subsequently published on 21 October. In accordance with Planning Practice Guidance relating to Neighbourhood Planning, the Chorleywood Neighbourhood Development Plan can now be given significant weight in decision making, so far as the plan is material to the application. The following policies are relevant to the current proposal: 2, 3, 5, 10 & 13.

5.3 Other

Online National Planning Practice Guidance.

South West Hertfordshire Strategic Housing Market Assessment (January 2016).

Affordable Housing Supplementary Planning Document (adopted June 2011).

Evidence for re-instating the Affordable Housing Threshold in Core Strategy Policy CP4: Affordable Housing

Three Rivers Housing Land Supply (2017)

The Community Infrastructure Levy (CIL) Charging Schedule (adopted February 2015).
Housing Delivery Test Action Plan (August 2019).

Housing Land Supply Update (December 2019).

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.

Solid Waste Storage / Collection Guidance (Environmental Protection Department)

6 **Reason for Delay**

6.1 Committee cycle.

7 **Planning Analysis**

7.1 Site Visit

7.1.1 A site visit was made during the application process.

7.2 Overview

- 7.2.1 The application site and land adjacent to Quickley Lane (known as Clovers Court) which previously incorporated two detached bungalows have been subject of numerous planning applications and formal enforcement action. The long running planning issues and length of construction work has led to this particular site attracting a significant degree of local interest.
- 7.2.2 In respect of previous planning history, planning application 10/0703/FUL for three houses to the rear of No.81 Quickley Lane was refused by the Local Planning Authority (LPA) and dismissed on 3 May 2011 by the Planning Inspectorate (APP/P1940/A/10/2144323). The houses subject of this appeal were sited towards the very rear of the site and included a long access road in excess of 40m from Quickley Lane with an extensive area of hardstanding covering the majority of the curtilage. The appeal was dismissed on grounds that the scheme would be harmful to the character and appearance of the area and there would have been unacceptable provision for utility and emergency vehicles by virtue of the long access road. This appeal decision is a material planning consideration.
- 7.2.3 Planning permission was also granted at appeal (APP/P1940/W/16/3149879) in September 2016 for the erection of two bungalows opposite the existing terraces (Nos.1 to 6 Clovers Court). This appeal decision followed the Council's decision to refuse the application on grounds of character and affordable housing. Nevertheless, in terms of impact on character, the Inspector disagreed that the erection of two bungalows would have a harmful impact on the area's character as set out below:

"Whilst I accept that, prior to the redevelopment of the site of the former Nos 79 and 81, the area around the corner of Quickley Lane and Rendlesham Way might have very much been characterised by detached bungalows within generous or large garden plots, I find that to be less so now."

"Both the developments at Juniper Court and the six terraced properties to the front of the appeal site have led to the evolution of the character of the area. Unlike other properties along Quickley Lane, they present their rear face, behind substantial timber fences, towards Quickley Lane. They look inwards, into shared parking and turning courtyards. As the character and appearance of places evolve over time, these developments are as much constituent parts of the character and appearance of the surrounding area as the bungalows elsewhere on Rendlesham Way are, or the semi-detached properties opposite the appeal site or further up Quickley Way are. Put simply, the character of the area, through house types, scale, layout and age is mixed."

"In this context, I find that the proposed form of development; two bungalows located just beyond the shared parking and turning area facing towards the front elevations of the existing terrace of six dwellings, would not be inappropriate, in terms of character, for the area. The development would follow the pattern and general layout established by Juniper Court with a type of dwelling that would reflect the character, appearance and form of neighbouring bungalows along Rendlesham Way whilst the garden plots around the dwellings would also be broadly comparable with those surroundings."

- 7.2.4 The grant of permission by the Planning Inspector is therefore a material consideration (albeit that permission has now lapsed) however a subsequent planning application for alterations to the two permitted bungalows was refused by the Council in November 2017. The alterations sought to increase the size of the dwellings and incorporate a second floor served by dormer windows. This was refused on the basis that the enlarged bungalows would result in overdevelopment with the dormer windows resulting in an overbearing and un-neighbourly form of development, overlooking neighbouring dwellings. The development also failed to provide sufficient amenity space for future occupiers.

7.2.5 Following this application a further proposal (reference 19/0040/FUL) for the erection of six, 3 bed dwellings was submitted but refused by the Council on four grounds (un-neighbourly form of development to No.6 Rendlesham Way; overdevelopment; impact on protected trees & affordable housing). This application was appealed but subsequently dismissed on all abovementioned grounds.

7.2.6 The current amended application varies considerably from previous applications in that it now involves a single contemporary style building which does not extend across the entire plot width and also does not project significantly into the plot towards the rear boundary. Additionally, the proposed building is no lower and communal amenity space is being provided for the flats which unlike the dismissed scheme is not split into different segments and leaves the land relatively untouched at the rear.

7.3 Principle of development

7.3.1 Policy CP3 of the Core Strategy stipulates that the Council will promote high quality residential development that respects the character of the District and caters for a range of housing needs. In addition, Policy CP12 states that development should *'have regard to the local context and conserve or enhance the character, amenities and quality of an area and should make efficient use of land whilst respecting the distinctiveness of the surrounding area.'*

7.3.2 The NPPF encourages the effective use of land. At the heart of the NPPF is a presumption in favour of sustainable development (paragraph 11) which seeks positive improvements in the quality of the built environment but at the same time balancing social and environmental concerns.

7.3.3 The proposed development would result in a net gain of six residential flats. The site is not identified as a housing site in the adopted Site Allocations Document. However, as advised in this document, where a site is not identified for development, it may still come forward through the planning application process where it will be tested in accordance with relevant national and local policies.

7.3.4 The application site is within Chorleywood which is identified as a Key Centre in the Core Strategy. The Spatial Strategy of the Core Strategy advises that new development will be directed towards previously developed land and appropriate infilling opportunities within the urban areas of Key Centres and Core Strategy Policy PSP3 indicates that the Key Centres (including Chorleywood) will provide approximately 60% of the District's housing requirements over the plan period.

7.3.5 The proposal would be on former garden land and as such would not be considered to be development of previously developed land. Nevertheless, development of garden land is not prohibited, subject to consideration against national and local planning policies. Furthermore, the principle of development within the "back land" area of the application site has been accepted and the site is considered deliverable.

7.3.6 Within the 2020 planning appeal which was for six dwellings the Inspector noted that the site is within a reasonably accessible location which would contribute towards boosting and diversifying the overall housing supply in an area of unmet need in line with paragraph 59 of the NPPF. It was also noted that there would be short and long term economic benefits arising from the appeal scheme which combined with the net gain of housing was given moderate weight in favour of the development.

7.4 Housing Mix

7.4.1 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

7.4.2 The application proposes 50% of its housing provision to be 1 bed dwellings and 50% to be 2 bed dwellings. Therefore, the proposal does not take into account the range of housing needs required by the SHMA. However, 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. No justification for the proposed mix has been provided, however, given the scale of development, it is not considered that the lack of variety in the housing mix would weigh against the proposal.

7.5 Affordable Housing

7.5.1 In view of the identified pressing need for affordable housing in the District, Policy CP4 of the Core Strategy seeks provision of around 45% of all new housing as affordable housing and requires development resulting in a net gain of one or more dwellings to contribute to the provision of affordable housing. Developments resulting in a net gain of between one and nine dwellings may meet the requirement to provide affordable housing through a financial contribution. Details of the calculation of financial contributions in lieu of on-site provision of affordable housing are set out in the Affordable Housing Supplementary Planning Document. 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.

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

7.5.3 In light of the above developments, between November 2014 and August 2015 and May 2016 and 1st September 2017 the Council gave greater weight to the WMS policy and associated NPPG guidance in it than to adopted Policy CP4 of its Core Strategy in respect of development proposals for 10 dwellings or less and which had a maximum combined gross floor area of 1000 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 1st September 2017 the Council resolved to have regard to the Needs Analysis as a consideration of significant weight when considering the relationship between Policy CP4 and the WMS for the purposes of Section 70(2) Town and Country Planning Act 1990 and Section 38(6) Planning and Compulsory Purchase Act 2004 in respect of development proposals of 10 dwellings or less.

7.5.4 On 24 July 2018 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.”

7.5.5 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.”

7.5.6 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.

7.5.7 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.

7.5.8 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.

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

¹ 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.

- 7.5.10 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.
- 7.5.11 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

- 7.5.12 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 identify needs and adopted development plan objectives. This is dealt with in more detail below.
- 7.5.13 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

- 7.5.14 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.
- 7.5.15 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”

- 7.5.16 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”

- 7.5.17 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
- 7.5.18 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.
- 7.5.19 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

- 7.5.20 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 2016², 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

²

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

4	Windsor and Maidenhead	£345,000.00
5	Chiltern	£335,000.00
6	Hertsmere	£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.

- 7.5.21 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.

- 7.5.22 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.

- 7.5.23 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
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Table 3.

7.5.24 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.

7.5.25 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

7.5.26 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.³

7.5.27 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.

7.5.28 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.⁴ 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

7.5.29 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.

7.5.30 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

7.5.31 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 1000sqm. The Council was therefore unable to fully implement Core Strategy CP4, in line with government guidance. Out of a total of 23 sites

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.

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

- 7.5.32 As set out 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%).
- 7.5.33 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 at paragraph 7.2.36 below:
- 7.5.34 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

- 7.5.35 As set 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, as set out at paragraph 1.8 above, small scale (1-9 unit) schemes have (as at December 2019) secured a further **£1.3million - £2.9million** (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

- 7.5.36 As set out above, Policy CP4 makes it clear that a requirement for a scheme to contribute towards the provision of affordable housing is subject to viability considerations and is

therefore consistent with paragraph 122 of the Framework. The application of CP4, which includes this in built viability allowance, cannot properly be said to be a barrier to delivery. The Council accepts that if, properly tested, viability cannot be established on current day costs and values then a scheme should not currently be required to provide or contribute to affordable housing delivery. Between 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

- 7.5.37 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.
- 7.5.38 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.
- 7.5.39 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.
- 7.5.40 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.
- 7.5.41 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.”⁵*
- 7.5.42 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.

⁵ Paragraph 7, Planning Inspectorate Letter, March 2017.

7.5.43 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/19/3230999, 27 Gable Close, Abbots Langley, Decision Date: 1st November 2019:**

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

A further Needs Analysis following publication of the revised Framework in July 2018 demonstrated that housing stress had increased since 2016. The Council has therefore revisited its position following the update to national policy. There is no evidence before me that affordable housing contributions are acting as a brake on development. Rather, the evidence is that contributions from small sites collected since the policy was adopted in 2011 are delivering affordable housing on the ground. Due to its recentness and the clear conclusions that can be drawn from it, I give this local evidence substantial weight. It underpins the approach in Policy CP4 as an exception to national policy."

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

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

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

"The Council states that its Strategic Housing Market Assessment (2010) has demonstrated that there is a significant affordable housing need locally due to very high house prices and rents and a constricted supply of suitable housing sites. Further, the South West Hertfordshire Strategic Housing Market Assessment (2016) estimated a net affordable housing need of 14,191 in the District between 2013-16 and there is also a worsening situation with regards to affordability. Based on the Councils evidence the District is the 7th most expensive local authority area in England and Wales in 2016 and demonstrates that its application of Policy CP4 has delivered a significant contribution of over £2.1 million towards the delivery of affordable housing without disrupting the supply of small residential sites. Decisions should be made in accordance with the development plan unless material considerations indicate otherwise. The robust evidence referred to in footnote 1 and the clear need to deliver affordable housing in the District underpins the

Council's approach in Policy CP4 as an exception to national policy and therefore in this case, the Framework's threshold would not outweigh the conflict with the development plan. I therefore attach considerable weight to Policy CP4. I am also referred to a number of recent appeal decisions in the District which support this approach and are therefore relevant to the scheme before me and as such carry considerable weight."

- **APP/P1940/W/19/3235144, Land to the rear of Clovers Court, Chorleywood, Decision date: 15th January 2020:**

"I am referred to the Needs Analysis dated July 2018^s, which shows a very high need for affordable housing in the district. Furthermore, there is no dispute between the parties that the district is amongst the most expensive in the country for house prices. The report further sets out local circumstances which outline the shortfall in the provision in affordable housing and the nature of development proposals within the district show that it is particularly reliant on small sites to make contributions towards affordable housing. Taking these factors in combination, this amounts to considerable recent evidence that underpins the approach in policy CP4 as an exception to national policy... Therefore, I find that the proposal would fail to make appropriate provision for affordable housing and as such, would be contrary to policy CP4 of the CS which seeks to secure such provision, which although does not attract full weight, in light of the evidence provided, attracts significant weight sufficient to outweigh paragraph 63 of the Framework."

- **APP/P1940/W/19/3249107, 2 Church Cottages, Old Uxbridge Road, West Hyde, Decision date: 21st October 2020**

"The Framework at paragraph 63 sets out that the provision of affordable housing should not be sought for residential developments that are not major developments other than in designated rural areas where policies may set out a lower threshold of 5 units or fewer... That said, there is clear evidence to suggest that there is an acute need for affordable housing in the Three Rivers District and there have been several appeal decisions which supported this view. The Appellant has not disputed this need and has indicated that there is a willingness to make an affordable housing contribution for off-site provision. In summary, I agree that there are special circumstances which justify the provision of affordable housing below the Framework's suggested threshold...In lieu of on-site provision, the Council has suggested that a sum of £47,300 should be paid so that affordable housing can be provided elsewhere. However, the Appellant has not provided a legal agreement to deliver such a financial contribution and as such the development would not make the necessary provisions to assist in the delivery of much needed affordable housing... As a result, the proposal would be contrary to Policy CP4 of the CS which amongst other matters seeks to increase the provision of affordable homes including by means of a commuted sum payment for sites of between one and nine dwellings."

7.5.44 The proposed amended development would result in a requirement for a commuted sum of £351,250 towards affordable housing based on a habitable floorspace of 281sq. metres multiplied by £1,250 per sq. metres which is the required amount in 'Highest Value Three Rivers' market area.

7.5.45 Unlike the previous application, this application has been supported by a Viability Appraisal, which has been reviewed by the Council's independent viability assessor. The applicant's submitted appraisal concluded that the scheme cannot viably afford to provide any commuted payment towards affordable housing. As part of the review, the build costs were also assessed by an independent chartered quantity surveyor as there were some concern that the build costs were too high. However, following this review the independent viability assessor agreed with the applicant's approach. It has therefore been demonstrated that no affordable housing contribution would be required.

7.6 Impact on character and appearance of area

- 7.6.1 Policy CP1 of the Core Strategy seeks to promote buildings of a high enduring design quality that respect local distinctiveness and Policies CP3 and CP12 of the Core Strategy set out that development should make efficient use of land but should also 'have regard to the local context and conserve or enhance the character, amenities and quality of an area'.
- 7.6.2 Policy DM1 and Appendix 2 of the Development Management Policies document set out that new residential development should not be excessively prominent in relation to the general street scene and should respect the character of the street scene, particularly with regard to the spacing of properties, roof form, positioning and style of windows and doors and materials. In terms of new residential development, Policy DM1 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 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.).
- 7.6.3 Policy 2 of the Chorleywood NDP also states in exceptional cases a limited scale of back land development may be acceptable, subject to 4 criterion; maintaining neighbouring amenity; car parking avoiding adverse impact on neighbours in terms of noise or light; development must be more intimate in mass and scale and lower than frontage properties and re-provide features such as trees.
- 7.6.4 In previous decisions it has been accepted that the application site is a back land site, and that former proposals to introduce new dwellings opposite the terraces were a form of tandem development. However, the Planning Inspector in the September 2016 planning appeal stated that the erection of two bungalows would not constitute development that would be harmful per se, nor would it be precluded by the provisions of Policy DM1 of the Development Management Policies document.
- 7.6.5 The character of the local area has been described at length in previous applications and more recently within the 2020 planning appeal decision was described as follows:
- "The established planting and garden spaces between dwellings, many of which contain mature trees and hedgerows, contribute positively to the setting of the surrounding buildings such that there is a generous, verdant separation between the respective built form along Quickley Lane and Stag Lane. Clovers Court and Juniper Court provide some variety in terms of the plot layout as they have a tighter knit built form with the principal elevations of some dwellings facing away from the road. Nevertheless, these developments broadly respect the building line along Quickley Lane resulting overall, in a pleasant, leafy suburban character.*
- 7.6.6 The submitted amended proposal takes on a more contemporary design approach which would generally be at odds with the terraces immediately opposite and surrounding built form. However, the local area is extremely varied and thus the introduction of a contemporary style building is simply considered to add to the area's character which given the building's positioning would have relatively limited visibility from public vantage points, other than views from the private access from Quickley Lane. As a result, there is no in principle objection to a contemporary approach. The proposed building would use a variety

of materials (timber boarding, grey multi brick and light grey render) and its flat roof form would reduce its visual presence within the site and from private views from neighbouring outlook.

- 7.6.7 Notwithstanding the building's design, its layout has been altered to avoid it from extending across the majority of the plot width and towards the rear. This has ensured that the building is far more concentrated within the middle of the plot meaning that a large portion of amenity space would remain untouched, thus preserving the spacious and verdant part of the site.
- 7.6.8 Another key consideration has been the design of the parking area which would portray more of a 'courtyard' appearance complimented by trees and hedging with the parking spaces split into four areas to avoid the space being dominated by parked cars in a uniformed fashion.
- 7.6.9 Following the removal of the single storey element, the refuse and cycle storage has been re-sited towards the North West. These buildings would be of a low height, set back from the front elevation of the building, small in scale and of timber design which would only be noticeable from within certain parts of the site.
- 7.6.10 Whilst recognising the areas spacious, verdant, suburban character as referenced in previous appeals, it is considered that a number of factors combine to ensure that the development would have an acceptable impact. As detailed above, the layout of the building, its flat roofed design, greater area of retained amenity area and a parking area complimented by soft landscaping would ensure that the impact on the area's character is acceptable. It is fully recognised that the character of the site would alter, this is not disputed; however, these factors would ensure that the development does not result in a gradual deterioration in the quality of the built environment which Policy DM1 and Appendix 2 seek to avoid.
- 7.6.11 Another key consideration has been the design of the parking area, ensuring it is broken up and provides soft landscaping to compliment the presence of mature trees towards the rear of the site.
- 7.6.12 Should the application be approved, further details regarding external lighting should be submitted along with details of the boundary treatments including retaining walls and the proposed materials including the hard surfacing areas across the application site.
- 7.6.13 The concern regarding the impact on the area's character is acknowledged, nevertheless, for reasons expressed above it is not considered that the amended development would have a harmful impact on the local area and thus would accord with Policy DM1 and Appendix 2 of the Development Management Policies LDD and Policies 2 and 3 of the Chorleywood Neighbourhood Plan 2020-2035 (Referendum Version, August 2020).

7.7 Impact on the amenities of neighbours

- 7.7.1 Policy CP12 of the Core Strategy states that development should 'protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space'. Policy DM1 and Appendix 2 of the Development Management Policies document set out that residential 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. Policy DM1 and Appendix 2 of the Development Management Policies LDD sets out further guidance in relation to residential development and states that development resulting in the loss of residential amenity will not be supported and distances between buildings should be sufficient so as to prevent overlooking, particularly from upper floors. Additionally, it states that in respect of rear to flank distances, where the rear of a building looks onto the side of another the

distance between them must be sufficient to avoid the flank wall having an overbearing effect.

- 7.7.2 The previous appeal scheme was identified as being overbearing and also by virtue of its siting (set in 1-1.2m from the boundary) resulted in significant overshadowing to the adjacent property, No.6 Rendlesham Way which is positioned to the north east. In order to overcome these issues the amended proposed building is set in from the neighbouring boundary point by approximately 9m with a back to side distance of 21m (previous refused application was 12-16m). When considering the separation distance and the flat roof design of the scheme at a height of 6.2m closest to the neighbour who is on higher land, it is not considered that the proposed building would appear overbearing, nor would it result in any unacceptable levels of overshadowing to this neighbour.
- 7.7.3 In respect of overlooking the proposed flats would have outlook across the car parking area and for the first floor flats also across the communal amenity area to the rear. The proposed building has a staggered building line and therefore would be separated from the existing six terraces at the front of Clovers Court by 20-24m. The Design Criteria is silent in respect of front to front distances between buildings, although whilst not directly comparable, it does state that where a rear garden length alone is relied on to provide privacy the minimum length should be 14m. Having regard to the site circumstances and the introduction of soft landscaping to the car park, the proposed front to front distances are considered acceptable to avoid unacceptable levels of inter-overlooking between properties and to No.2 Rendlesham Way to the north east and No.83 Quickley Lane to the north west. At the rear, the first floor flats would have outlook across the amenity area and would not overlook adjacent neighbouring properties as the existing boundary treatments would ensure that privacy levels are preserved.
- 7.7.4 Concern has been raised with regards to the use of the flat roof on the single storey projection at the front of the building towards the south west; however, a condition has been recommended to control its use for maintenance purposes only.
- 7.7.5 Policy DM9 of the Development Management Policies LDD states that planning permission will not be granted for development which has an unacceptable adverse impact on the indoor and outdoor acoustic environment of existing or planned development.
- 7.7.6 The proposed development will increase general activity on site, especially within the parking area; however, the refuse and recycling and cycle stores have been re-sited, set back from the parking area to mitigate any potential noise disturbance. Whilst recognising the noise created from those on site, given the site circumstances and its suburban context within a built up area, it is not considered that the noise and disturbance generated as a result of the development would harm neighbouring amenity and has not previously been cited as a reason for refusal in previous schemes which also included a net gain of six dwellings.
- 7.7.7 The refuse and recycling store and cycle store would be located in close proximity to the neighbouring boundary with No.6 Rendlesham Way; however, the application site is on a significantly lower land level and would be completely screened by the existing boundary treatments. Additionally, given the relationship between the application site and No.6 Rendlesham Way no unacceptable levels of noise and disturbance is considered to arise.
- 7.7.8 If approved, it is noted that the construction works including the land level changes could have the potential to adversely affect the living conditions of the existing occupiers currently living at Clovers Court and those immediately adjacent to the site. It will therefore be important that a Construction Management Plan is imposed to ensure that measures are in place to reduce the impact throughout the construction phase.
- 7.8 Quality of accommodation for future occupants

- 7.8.1 It is also necessary to consider the amenity impact of the development towards the future occupiers of the flats in accordance with Policy CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies LDD which seeks to protect residential amenities for residents of new development.
- 7.8.2 The proposed ground floor flats would have natural outlook across the parking area, each served by a large window. Towards the rear, each bedroom would have access to a lightwell which would have a height of approximately 3.6m and depth of 2m. It is recognised that the bedrooms would not have natural outlook and light reception would be limited even though the rear faces in a south easterly direction. That said, each bedroom would be served by full height glazing to compensate the lack of natural outlook. Whilst it would be preferable that greater light would reach the bedrooms, each would have access to their own private external space which through the sensitive use of materials within the lightwells would be of added benefit. Whilst there are concerns about the level of accommodation being provided, all ground floor units would be served by a significant front window which would allow sufficient light into the main habitable open plan living area.
- 7.8.3 The proposed first floor flats would have natural outlook to both the front and rear with easy access to the communal amenity garden.
- 7.8.4 One of the previous reasons for refusal within the most recent dismissed scheme related to the poor usability of the gardens for the future occupiers. To overcome this specific issue, the rear part of the site (excluding the tiered planters) would now remain predominately unaltered and would provide two relatively level communal areas (referred to as lower garden and higher garden on the submitted plans) which could be used for a range of outdoor activities.
- 7.8.5 In light of the above, whilst recognising that the ground floor units would not have natural outlook to the rear, it is considered on balance, that the living conditions of those future occupants would be acceptable.
- 7.9 Amenity space provision
- 7.9.1 Within the Design Criteria as set out within Appendix 2 of the Development Management Policies LDD it states that for one bed flats there should be an indicative level of 21sqm, with 10sqm for each additional bedroom which can be allocated specifically to each flat or communally. The Design Criteria makes it clear that the disposition of amenity space may be in the form of private gardens or in part, may contribute to formal spaces/settings for group of buildings and that any communal space for flats should be well screened from highways and passers-by.
- 7.9.2 The proposed plans indicate that amenity space will be provided both privately (for the ground floor two bed flats) and communally to the rear via lower and higher garden levels. Based on the Design Criteria, the following amenity levels are required:
- 63sqm for one bed flats (21sqm x 3)
 - 93sqm for two bed flats (31sqm x 3)
 - Total indicate amount: 156sqm
- 7.9.3 The total communal amenity area serving the development would amount to approximately 380sqm which exceeds the indicative requirement. In addition, further small enclosed private amenity spaces will exist for the two bed flats on the ground floor (lightwells of 11.8sqm). The communal area would be towards the rear and thus would be well screened from highways. In light of the above, policy complaint levels of amenity space would be provided.
- 7.10 Parking/Access/Highways

- 7.10.1 When applying the Parking Standards as set out within Appendix 5 of the Development Management Policies LDD, it states that a one bed flat would require 1.75 spaces (1 assigned space) and for two bedroom flats there is a requirement of 2 spaces (1 assigned space).
- 7.10.2 The development proposed would require 12 (rounded up from 11.25 spaces) parking spaces of which 6 should be assigned. However, owing to the fact that the parking area would be shared with the existing well established terraces, a further 12 spaces must be allocated to those occupiers as per previous planning permissions. Therefore, a total of 24 spaces (rounded up from 23.25 spaces) would be required to serve both existing and proposed developments within Clovers Court.
- 7.10.3 The proposed parking layout shows 23 spaces in total; 12 allocated to the existing terraces (as per the current situation), 9 allocated to the six new flats and 2 visitor spaces. As a result, based on the above there would be a very minor shortfall of 1 space (rounded up from 0.25) across the development as a whole. Following numerous site visits over the years it appears from observations that parking serving the existing 2/3 bed dwellings is well contained to the site, in front of the terraces rather than right across the existing hard surface area or within local roads, which suggests that existing parking levels are acceptable. Whilst this scheme will introduce six new flats, it is not considered that the minor shortfall would result in the displacement of on-street parking within the locality or cause harm to highway safety. All the two bed flats would have two allocated parking spaces with one space allocated to all one bed flats.
- 7.10.4 Additionally, the site is located within a relatively accessible location to local transport networks. The Chorleywood Train Station is one mile away and the site is also a short walk to local bus stops on Furze View and Heronsgate Road.
- 7.10.5 Cycle storage is also set out within Appendix 5 and states that for flats there is a requirement for 1 space per unit. The submitted plans indicate that the two cycle stores would provide space for 12 bikes (6 per store).
- 7.10.6 The development is already served by a formal access from Quickly Lane which is not planned to be altered. The parking area is private and does not form part of the public highway; however, it is recognised that the parking area will need to provide drainage or be of porous material so details of the hard surfacing will be secured by condition.
- 7.10.7 If granted, a Construction Management Plan should also be imposed so the existing parking spaces serving the terraces would be safeguarded throughout the construction phase.
- 7.10.8 As a result, subject to conditions, it is not considered that the very minor shortfall would lead to unacceptable planning harm in respect of parking and thus would accord with Policy CP10 and Appendix 5 of the Development Management Policies LDD.
- 7.11 Impact on trees
- 7.11.1 Policy DM6 of the Development Management Policies LDD states that development proposals should seek to retain trees and other important landscape and nature conservation features whilst including new trees and other planting to enhance the landscape of the site and its surroundings as appropriate. It also states that development should be designed in such a way as to allow trees and hedgerows to grow to maturity without causing undue problems of visibility, shading or damage and that development likely to result in future requests for significant topping, lopping or felling will be refused.
- 7.11.2 The application site contains a number of trees towards the rear of the site. These trees exist alongside relatively mature trees found within neighbouring gardens which form part of the area's verdant character. The trees within the application site adjacent to the boundary with Terre Haute are protected. A Beech hedge also exists along the boundary

with No.8 Rendlesham Way although it is recognised that no trees exist adjacent to this neighbour, contrary to the submitted landscape plan.

- 7.11.3 Unlike previous submissions the rear part of the amenity area will not be altered physically, other than its alteration to provide tiered planters with steps. The tiered planter falls outside the root protection area of the protected trees and therefore would not result in harm, although tree protection details would need to be secured by condition and erected prior to works commencing on site.
- 7.11.4 The submitted Arboricultural Impact Assessment indicates that only the Ash tree (T2) will be removed as it is in decline. All other trees and hedging will be retained. The submitted details also show that new trees and hedging will be planted within the rear amenity area and within the car parking area. To ensure that appropriate species are planted and would have a relatively instant impact, especially within the parking area, a soft landscaping condition is recommended.
- 7.11.5 In light of the above and subject to the recommended conditions, the development would comply with Policy DM7 of the Development Management Policies LDD.

7.12 Ecology impacts

- 7.12.1 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. The Habitats Directive places a legal duty on all public bodies to have regard to the habitats directive when carrying out their functions.
- 7.12.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of this application in accordance with Policy CP9 of the Core Strategy and Policy DM6 of the Development Management Policies document. Paragraph 170 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by proposals minimising impacts on and providing net gains for biodiversity, including by minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 7.12.3 A Local Biodiversity Checklist has been completed by the applicant and submitted with the application and states that no protected species or biodiversity interests will be affected as a result of the application. The site is not in or located adjacent to a designated wildlife site. The Local Planning Authority is not aware of any records of protected species within the immediate area that would necessitate further surveying work being undertaken and given the nature of the proposed development there would not be any adverse impacts on biodiversity. To aid biodiversity across the site, new tree and hedge planting will occur.

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 Environmental Protection department confirmed that the Council's Waste Team reverse up the private access so on-site manoeuvrability will not be an issue. The proposed refuse and recycling storage enclosure would be set back approximately 11m from the parking area, which is within the accepted limits (25m distance) as set out within the guidance provided by Environmental Protection.

7.14 Sustainability

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

7.14.2 The application has been supported by an Energy and Sustainability Statement which sets out that the development would deliver a minimum 30% reduction over the Part L1A baseline. This is to be achieved by through the use of passive design measures, efficient building fabric (high levels of insulation and efficient glazing) and PV panels. Following discussions with the agent it is apparent that the above may be subject to change so a follow-up Energy and Sustainability Statement will be secured by condition.

7.15 Infrastructure Contributions

7.15.1 Policy CP8 of the Core Strategy requires development to make adequate contribution to infrastructure and services. The Three Rivers Community Infrastructure Levy (CIL) was adopted in February 2015 and came into force on 1 April 2015. CIL is therefore applicable to this scheme. The Charging Schedule sets out that the application site is within 'Area A' within which the charge per sqm of residential development is £180 per sqm.

7.16 Planning balance

7.16.1 The proposed amended development has found no unacceptable conflict with the relevant local planning policies which are considered out of date (as the LPA cannot demonstrate a five year supply of deliverable housing), having regard to paragraph 11 of the NPPF.

7.16.2 The NPPF makes it clear at paragraph 11 that where is a presumption in favour of sustainable development that planning permission should be granted unless either a) there is a clear reason for refusing the development proposal given its impact on an area or asset of particular importance (para 11(d) (i)), or b) that any adverse impacts of doing so would significantly and demonstrably outweigh the benefits (para 11(d) (ii)). Whilst it is recognised that the housing mix is not strictly in accordance with Policy CP3 of the Core Strategy, given the scale of the development it is not considered to provide a clear reason for refusal. Likewise, the impact on future living conditions of the ground floor units was considered, on balance, to be acceptable.

7.16.3 In the view that no clear reason for refusing the development has been demonstrated it is considered acceptable. If the above matters or other material considerations are identified as harmful then these must be balanced against the benefits of the scheme. The benefits have previously been highlighted at appeal as set out at paragraph 8.3.6 of this report and include the contribution towards boosting the overall housing supply in the district and the economic benefits which would arise from the development. These factors were considered to be given moderate weight in any planning balance.

8 **Recommendation**

8.1 That PLANNING PERMISSION be GRANTED subject to the following conditions:-

C1 Time Limit

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 In accordance with plan numbers

The development hereby permitted shall be carried out in accordance with the following approved plans: 1344/P/1C; 1344/P/2A; 1344/P/3A; 1344/P/4; 1344/P/5A; 1344/P/6A & 1344/P/7.

Reason: For the avoidance of doubt, to preserve the character and appearance of the area, safeguard protected trees and highway safety and in the proper interests of planning in accordance with Policies PSP3, CP1, CP2, CP3, CP4, CP8, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011), Policies DM1, DM4, DM6, DM8, DM9, DM10, DM11 and DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013) and Policies 2, 3, 5, 10, 13 of the Chorleywood Neighbourhood Plan 2020-2035 (Referendum Version, August 2020).

C3 Hard and Soft Landscaping Scheme / tree protection / lighting / boundary treatments

No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. In respect of hard landscaping, these details shall include full construction details (including foundation design) of all retaining walls within the application site; details, including a plan, indicating the positions, design, materials and types of all boundary treatments; and details, including the position, height, design and intensity of all external lighting to be installed on the site or affixed to any buildings.

All hard landscaping works required by the approved scheme shall be carried out in complete accordance with those details prior to the first occupation of the development hereby approved.

In respect of the soft landscaping, these details 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 and all proposed soft landscaping measures (including green roofs) to include species and initial planting height in accordance with 1344/P/6A (Landscaping Layout).

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

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

C4 Construction Management Plan

No development whatsoever shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Management Plan shall include details of:

- a. Construction vehicle numbers, type, routing;
- b. Access arrangements to the site;
- c. Traffic management requirements
- d. Construction and storage compounds (including areas designated for contractor car parking, loading / unloading and turning areas);
- e. Siting and details of wheel washing facilities;
- f. Cleaning of site entrances, site tracks and the adjacent public highway;
- g. Timing of construction activities (including delivery times and removal of waste);
- h. Provision of sufficient on-site parking prior to commencement of construction activities;
- i. Post construction restoration/reinstatement of the working areas and temporary access to the public highway;
- j. Measures in place to safeguard the parking areas for the 1-6 Clovers Court

Reason: This is a pre-commencement condition in order to safeguard the residential amenities of neighbouring properties, protect highway safety and the amenity of other users of the public highway and rights of way in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011), Policies DM9, DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

C5 Submission of materials

The development shall not commence until electronic samples and details of the proposed external materials (external walls, windows, doors, lightwells and the external appearance of the refuse/recycling store and cycle store) 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: This condition is a pre-commencement condition to ensure that the external appearance of the dwellings are acceptable having regard to the local context in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

C6 Sustainability measures

Before above ground works commence, an Energy Statement demonstrating energy saving measures for the development to achieve [at least 5% less carbon dioxide emissions than Building Regulations Part L (2013)] have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the first occupation of the development and permanently maintained thereafter.

Reason: In order to ensure that the development will meet 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 make as full a contribution to sustainable development principles as possible.

C7 Parking area

Prior to the first occupation of the development hereby permitted, the parking spaces shall be constructed, surfaced and permanently laid out in accordance with the approved plan 1344/P/1C (Proposed Site Plan). The parking spaces shall thereafter be kept permanently available for the use of residents and visitors to the site only.

Reason: To ensure that adequate off-street parking and manoeuvring space is provided within the development so as not to prejudice the free flow of traffic and in the interests of highway safety in accordance with Policies CP1, CP10 and CP12 of

the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

C8 Cycle stores

Prior to the first occupation of the development hereby permitted, the two cycle stores shall be implemented in accordance with drawing numbers 1344/P/1C & 1344/P/7 7 (and the external appearance details as agreed via Condition 5) and be permanently retained thereafter.

Reason: In order to ensure bicycle parking facilities are provided and encourage use of sustainable modes of travel in accordance with Policies CP1, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

C9 Refuse and recycling enclosure

Prior to the first occupation of the development hereby permitted, the refuse and recycling enclosure shall be implemented in accordance with drawing numbers 1344/P/1C & 1344/P/7 (and the external appearance details as agreed via Condition 5) and be permanently retained thereafter.

Reason: In order to ensure bicycle parking facilities are provided and encourage use of sustainable modes of travel in accordance with Policies CP1, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

C10 Use of flat roof

The flat roof on the single storey front projection (in front of flat 6) hereby permitted, shall not be accessed or used at any time other than for maintenance purposes.

Reason: To safeguard privacy levels enjoyed by neighbouring properties in accordance with Policy CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

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. If your development is CIL liable, even if you have been granted exemption from the levy, please be advised that before commencement of any works it is a requirement under Regulation 67 of The Community Infrastructure Levy Regulations 2010 (As Amended) that CIL form 6 (Commencement Notice) must be completed,

returned and acknowledged by Three Rivers District Council before building works start. Failure to do so will mean you lose the right to payment by instalments (where applicable), and a surcharge will be imposed. However, please note that a Commencement Notice is not required for residential extensions IF relief has been granted.

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. The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority suggested modifications to the development during the course of the application and the applicant and/or their agent submitted amendments which result in a form of development that maintains/improves the economic, social and environmental conditions of the District.

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- 13 The applicant is reminded that the Control of Pollution Act 1974 allows local authorities to restrict construction activity (where work is audible at the site boundary). In Three Rivers such work audible at the site boundary, including deliveries to the site and running of equipment such as generators, should be restricted to 0800 to 1800 Monday to Friday, 0900 to 1300 on Saturdays and not at all on Sundays and Bank Holidays.
- 14 The applicant is advised that the requirements of the Party Wall Act 1996 may need to be satisfied before development commences.
- 15 Thames Water:
With regard to surface water drainage, Thames Water would advise that if the developer follows the sequential approach to the disposal of surface water we would have no objection. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. Should you require further information please refer to our website: <https://developers.thameswater.co.uk/Developing-a-large-site/Apply-and-pay-forservices/Wastewater-services>
- 16 Affinity Water:
 1. General: The construction works and operation of the proposed development site should be done in accordance with the relevant British Standards and Best Management Practices, thereby significantly reducing the groundwater pollution risk.

2. Ground investigation: Any works involving excavations below the chalk groundwater table (for example, piling or the implementation of a geothermal open/closed loop system) should be avoided. If these are necessary, a ground investigation should first be carried out to identify appropriate techniques and to avoid displacing any shallow contamination to a greater depth, which could impact the chalk aquifer.
3. Contaminated land: Construction works may exacerbate any known or previously unidentified pollution. If any pollution is found at the site then works should cease and appropriate monitoring and remediation methods will need to be undertaken to avoid impacting the chalk aquifer.
4. Infiltration: Surface water should not be disposed of via direct infiltration into the ground via a soakaway. This is due to the known presence of contaminated land and the risk for contaminants to remobilise.
5. Bunding: If any tanks, generators and filling areas are to be installed as part of the development, they will need to have secondary containment which can hold 110% of the volume the tank or generator is designed to contain. This is to prevent contaminants being discharged into the surface and groundwater network in the event of a spill.