

PLANNING COMMITTEE –10 DECEMBER 2020

PART I - DELEGATED

7. 20/1835/FUL - Conversion and two storey rear extension to upper parts, with balconies and conversion of outbuilding to form three self-contained residential units at 137 HIGH STREET, RICKMANSWORTH, WD3 1AR (DCES)

Parish: Batchworth Community Council
Expiry of Statutory Period: 11.11.2020
Extension of time: 17.12.2020

Ward: Rickmansworth Town
Case Officer: David Heighton

Recommendation: That Planning Permission be granted subject to Section 106 Agreement.

Reason for consideration by the Committee: The application has been called in by 3 Members of the Planning Committee and by Batchworth Community Council unless Officers are minded to refuse due to possible inappropriate development within the Conservation Area, overdevelopment, lack of amenity space and car parking.

1. Relevant Planning History

- 1.1 20/1027/FUL: Conversion and two storey rear extension to upper parts and conversion of outbuilding to form three self-contained residential units – Withdrawn: 03.08.2020
- 1.2 20/0252/COMP: Partial removal of extensions to building – Pending consideration (considered that no breach currently exists at the time of this report being published)

2. Description of Application Site

- 2.1 The application site is located on the southern side of High Street, Rickmansworth, situated within the Rickmansworth Town Centre Conservation Area and within the designated Primary Shopping Frontage. The site has an area of approximately 190sqm and includes a two storey mid terrace building with roof level accommodation served by two dormers fronting the High Street, a ground floor rear projection and a rear outbuilding within a courtyard and with sole access from the High Street.
- 2.2 The application building comprises a retail unit at ground floor level with ancillary facilities towards the rear, including the use of the existing outbuilding. The upper floors consist of ancillary accommodation and storage.
- 2.3 To the rear, the building includes a single storey rear projection which has recently had its roofs removed (subject to enforcement case 20/0252/COMP). The western rear part of the site has an existing outbuilding with a gable roof.
- 2.4 The rear part of the site is laid as a hardstanding courtyard, which is accessed from the High Street. The boundary to the rear of the site is made up of a brick wall approximately 12m high which forms part of the neighbouring building at No. 135 High Street and a 4.9m and 2.7m high stepped brick wall with the parking area beyond the site to the rear. To the west there is a 9m high bricked wall rear extension, which has a flat roof built up to the boundary with the application site (No.139 High Street).

3. Description of Proposed Development

- 3.1 The applicant is seeking full planning permission for the part conversion of the existing building and a two storey rear extension above the existing single storey rear extension to

create two new flats and the conversion of the existing outbuilding to form a further residential flat.

- 3.2 The alterations to the ground floor would incorporate part of the existing rear storage area into a bike and bin store. A further access door and extended staircase would be installed within the existing rear entrance into the building to enable access up to the proposed two residential units.
- 3.3 The existing ancillary retail space would be converted to provide two, two-bedroom self-contained flats, one at first floor and one at second floor level with additional floorspace provided by the two storey rear extension. The extension would have a double pitched roof, which would be a maximum of 9.35m high (incorporates the existing ground floor element) and would be a maximum of 13.3m deep at roof level and 6.9m deep at first floor level and 4.3m at ground floor level.
- 3.4 Both proposed two bed flats would have similar layouts with the bedrooms and bathrooms facilities contained within the existing building and open plan living within the extension served by an oriel window within the western elevation (at first and second floor levels) and glazing at the rear. Each flat would benefit from a partially enclosed external balcony which would have a depth of 2m, measuring 5sqm in area with outlook towards the rear.
- 3.5 The converted outbuilding would provide a two bed flat set over two floors. A full length window would be inserted into the south elevation of the outbuilding with associated alterations to the eastern flank fenestration including the provision of two rooflights. A small private amenity space would be provided at the rear.
- 3.6 Due to the site constraints, no parking is to be provided.
- 3.7 Amended plans were sought during the application to reduce the depth of the two storey rear extension, alter the form of the balconies and reduce the rear fenestration. Further, in relation to the previous scheme, the number of bedrooms has been reduced from two, 3 bedrooms to two, 2 bedroom self-contained flats at first and second floor level and amenity space included for all three proposed units.

4. Consultation

4.1 Statutory Consultation

4.1.1 Batchworth Community Council: [Object]

Batchworth Community Council object to this application and request that it is called-in for decision by the District Council's Planning Committee unless the officers are minded to refuse. This is done on the following basis:-

- *The proposed development will overlook neighbouring properties.*
- *The rights of access need to be resolved.*
- *The proposal appears to be over-development of the site.*
- *There are concerns about the proposals with regard to the former stable block.*
- *The proposal would be inappropriate development within the Conservation Area.*
- *There is a lack of sufficient car parking and amenity spaces for a potential maximum of 13 residents.*

4.1.2 National Grid: [Comments received]

PLEASE NOTE – the below information is related to Low and Medium Pressure Assets. You may be contacted separately by our engineers regarding High/Intermediate Pressure Pipelines.

Considerations in relation to gas pipeline/s identified on site:

Cadent have identified operational gas apparatus within the application site boundary. This may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent assets in private land. The Applicant must ensure that proposed works do not infringe on Cadent's legal rights and any details of such restrictions should be obtained from the landowner in the first instance.

If buildings or structures are proposed directly above the gas apparatus then development should only take place following a diversion of this apparatus. The Applicant should contact Cadent's Plant Protection Team at the earliest opportunity to discuss proposed diversions of apparatus to avoid any unnecessary delays. If any construction traffic is likely to cross a Cadent pipeline then the Applicant must contact Cadent's Plant Protection Team to see if any protection measures are required.

All developers are required to contact Cadent's Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to.

Email: plantprotection@cadentgas.com Tel: 0800 688 588

4.1.3 Hertfordshire Archaeology: [No objection, subject to conditions]

We note that the Heritage Statement which has been submitted by AB Heritage in support of this planning application has not consulted the Historic Environment Record. This is a minimum requirement of the NPPF (paragraph 189). Nevertheless the report does acknowledge the archaeological significance of 137 High Street and the potential for below ground archaeological remains at the site.

This office was consulted on planning application 20/1027/FUL for a similar proposal. We made the following comments and they remain the same for this planning application:

From the information provided, the proposed development would involve comparatively significant alterations to a building within the Rickmansworth conservation area, and within Area of Archaeological Significance no. 12, as identified in the Local Plan.

The structure to be altered appears from a superficial inspection to be of some age and of some heritage value. It is present on the 1839 Rickmansworth tithe map and may be depicted on Dury and Andrews 1766 map of Hertfordshire, although the scale makes it difficult to tell if it is the same structure.

We believe that the proposed development is such that it should be regarded as likely to have an impact on heritage assets of archaeological interest and we recommend that the following provisions be made, should you be minded to grant consent:

- 1. The archaeological building recording of the historic structures, prior to development commencing;*
- 2. the archaeological building recording of all interventions to the fabric of the building, including demolition, soft stripping etc., in areas where such works might reveal information relating to the development of the building, and for the purpose of recording any original historic features (etc.) that may be exposed;*
- 3. the archaeological monitoring of all groundworks related to the scheme, including for example ground reduction, foundation trenches, service trenches, grubbing out of foundations/removal of slab, and all other ground impact. This should include a contingency for preservation or further excavation of any remains encountered;*

4. the analysis of the results of the archaeological work with provision for the subsequent production of a report and an archive, and the publication of the results;

5. such other provisions as may be necessary to protect the archaeological interests of the site;

We believe that these recommendations are both reasonable and necessary to provide properly for the likely archaeological implications of this development proposal. We further believe that these recommendations closely follow the policies included within Policy 16 (para. 199, etc.) of the National Planning Policy Framework. In this case three appropriately worded conditions on any planning consent would be sufficient to provide for the level of investigation that this proposal warrants. We suggest the following wording:

A No demolition/development shall take place/commence until an Archaeological Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of archaeological significance and research questions; and:

1. The programme and methodology of site investigation and recording
2. The programme for post investigation assessment
3. Provision to be made for analysis of the site investigation and recording
4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
5. Provision to be made for archive deposition of the analysis and records of the site investigation
6. Nomination of a competent person or persons/organisation to undertake the works set out within the Archaeological Written Scheme of Investigation.

B The demolition/development shall take place/commence in accordance with the programme of archaeological works set out in the Written Scheme of Investigation approved under condition **(A)**

C The development shall not be occupied/used until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition **(A)** and the provision made for analysis and publication where appropriate.

If planning consent is granted, we will be able to provide detailed advice concerning the requirements for the investigations, and to provide information on professionally accredited archaeological contractors who may be able to carry out the necessary work.

4.1.4 Conservation Officer: [Object]

137 High Street is located in the Rickmansworth Conservation Area and is a small, two storey Victorian property with attics and a shop front on the ground floor. A positive contributor to the conservation area, the property is considered to be a non-designated heritage asset due to its role in the historic development of the high street. The building has been previously extended to the rear, with a large single storey extension infilling part of the yard area. Within this yard is a small stable block which retains many original features.

This application follows a pre-application (19/0491/PREAPP) and a formal application (20/1027/FUL) for a similar scheme which was subsequently withdrawn.

There has been little improvement in this current scheme, and it will still result in the substantial increase in massing of the property, undermining and detracting from a property that makes a positive contribution to the area.

There have been minor changes to the fenestration which is not considered to go far enough to address previous concerns. A heritage statement has also now been provided.

The heritage statement states: The proposed development seeks to demolish the south facing pitch of the existing slate roof covering and timbers of the rear extension to 137 High Street (catslide). This will also include the demolition of a small proportion of the oldest part of the roof covering and supporting timbers. This section of the roof has been identified as the oldest part and therefore its removal is considered wholly unacceptable. The catslide roof is one of the only remaining original roofs within the High Street and its loss will result in the substantial loss of historic fabric. Thus, not only diminishing the significance of the non-designated heritage asset but also causing harm to the significance of the Conservation Area.

Previous advice stated: The fenestration and balcony detailing of the proposal is inappropriate and unsympathetic, not reflecting the historic subservient nature of the rear of a building. Rear elevations are typically less fussy and simpler in their detailing than the principal elevation fronting the High Street and I would expect any alterations to reflect the existing hierarchy of the elevations. The modern oriel windows to the second and third floor side elevation would be an incongruous feature within the Conservation Area.

The heritage statement acknowledges this by stating: Given that the north elevation is recognised as the principal façade the proposed rear treatments would challenge the dominance of the street front elevation – in effect shifting focus to the rear of No.137 High Street. The treatment of the rear elevation is not considered appropriate for the reasons stated above and all previous advice remains relevant.

Pre application advice stated: The yard to the rear of the property is significant due to the presence of the stable block and any development of the site should incorporate elements of existing architectural features into its design. Back-land or yard development is typically ancillary in function to the host building, therefore introducing a high number of residential units into this area would diminish the significance of the host property. Any redevelopment should therefore seek to be bespoke to the location, maintaining as much of the historic sense of place and the conservation area as possible, being low in height and subordinate to the surrounding buildings. Given there has been little reduction to the massing of the rear extension all previous advice remains relevant.

The heritage statement identifies less than substantial harm to the significance of the Conservation Area as well as the non-designated heritage asset and highlights similar concerns.

Given the sensitivities of the site a bespoke approach is required, which has not been realised in this application. I recommend more thought is given to the significance of the site in order better reveal and enhance its significance as per paragraph 200.

For the reasons states above, I would strongly object to this proposal. This proposal would cause 'less than substantial harm' to the significance of the Conservation Area (a designated heritage asset) as per paragraph 196 of the NPPF and cause harm to No.137 High Street, including unsympathetic alteration of associated outbuildings (non-designated heritage assets), therefore, paragraph 197 is also relevant. 'Great weight' should be given to the heritage asset's conservation as per paragraph 193. The proposed development does not enhance or better reveal the significance of the Conservation Area (paragraph 200) and neither preserves nor enhances its character or appearance as per Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- Following receipt of revised drawings, further comments have been received from the conservation officer:

The proposed changes (namely to the floor plan and the recessed balconies) do not go far enough to address previous heritage concerns. My comments relating to the disproportionate scale of the extension, the loss of the catslide roof remain relevant. I would still identify the proposal to cause 'less than substantial harm' to the significance of the Conservation Area as per para. 196 of the NPPF. Additionally, the property has been identified as a non-designated heritage asset making para. 197 also relevant.

Notwithstanding the above, I acknowledge that there may be other material considerations which are deemed to outweigh the heritage harm and therefore would request conditions are imposed relating to the detail of the windows and doors as well as external materials. The proposed fenestration to the rear of the property is very industrial, which is not appropriate to the context of the Conservation Area. There is a preference for the fenestration to reflect a more vernacular style. The design and access statement, states: A more vernacular approach was chosen replicating the existing materials in the local area. Precedents were reviewed for brickwork detailing which were incorporated into the next iteration. The design uses features from the surrounding area such as simple fenestration and red brickwork used in a simple manner which reinforces the rear elevations as subservient to the High Street elevation. However, the large industrial style glazing would be quite prominent, and contextually not in keeping with the area's character and does not reflect the residential use of this property.

Due to the concerns regarding the fenestration design, a condition which reads similar to the following might be appropriate: Notwithstanding the approved drawings [proposed elevation drawing numbers] additional detailed drawings of the new windows, doors and rooflights in section and elevation, at a scale between 1:1 and 1:20 as appropriate, shall be submitted to and approved in writing by the local planning authority prior to their first installation on site.

However, if this condition is considered to be unreasonable in potentially altering the approved drawings too dramatically, then it may be deemed more appropriate to remove the reference to 'notwithstanding the approved drawings'.

4.2 Public/Neighbour Consultation

4.2.1 Site Notice: Posted - 03.10.2020 Expired - 24.10.2020

Press Notice: Published - 25.09.2020 Expired - 16.10.2020

4.2.2 Number consulted: 17

4.2.3 No responses received: 7

4.2.4 Summary of Responses:

- Adversely affects Conservation Area
- Overdevelopment
- Overshadowing
- Overlooking
- Access issue
- Additional traffic
- Additional noise
- Substantial loss of historic fabric
- No parking provision
- No access rights
- Security

Officer comment:

All material planning considerations are outlined within the relevant analysis section below.

Access rights are a civil matter, although given it would be fundamental to the development a condition has been recommended.

5. Reason for Delay

5.1 Committee cycle.

6. Relevant Planning Policy, Guidance and Legislation

6.1 National Planning Policy Framework and National Planning Practice Guidance

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

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

6.2 The Three Rivers Local 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 PSP1, 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, DM3, DM4, DM6, DM10, DM13 and Appendices 2 and 5.

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

6.3 Other

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.

Rickmansworth Conservation Area Appraisal and Character Assessment (1993).

Affordable Housing Supplementary Planning Document (adopted June 2011).

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

7. Planning Analysis

7.1 Principle of Development

7.1.1 The proposed development would result in a net gain of three self-contained residential units on the site. The site is not identified as a housing site in the Site Allocations Document. However, as advised in this document where a site is not identified, it may still come forward through the planning application process where it will be tested in accordance with the relevant national and local policies.

7.1.2 Core Strategy Policy CP2 advises that in assessing applications for development not identified as part of the District's housing land supply, including windfall sites, applications will be considered on a case by case basis having regard to:

- i. The location of the proposed development, taking into account the Spatial Strategy
- ii. The sustainability of the development and its contribution to meeting local housing needs
- iii. Infrastructure requirements and the impact on the delivery of allocated housing sites
- iv. Monitoring information relating to housing supply and the Three Rivers housing targets.

7.1.3 The application site is within Rickmansworth which is identified as the Principal Town in the Core Strategy. The Spatial Strategy of the Core Strategy advises that some new development will take place on previously developed land and appropriate infilling opportunities within the Principal Town. Policy PSP1 states that Rickmansworth will provide approximately 15% of the District's Housing requirements over the plan period.

7.1.4 The proposed self-contained units would be located on previously developed land and would be within a sustainable town centre location. Given the location of the site within the Principal Town which incorporates a mix of commercial and residential uses, there is no in principle objection to residential development on the site in accordance with Policy CP2 of the Core Strategy, subject to consideration against all material planning considerations as discussed below.

7.2 Housing Mix

7.2.1 Policy CP3 of the Core Strategy relates to density and states that in order to meet future housing needs in Three Rivers, the overall housing requirement will need to be provided as a range of housing types and sizes. The Strategic Housing Market Assessment advised that the need in the District to 2021 is for:

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

7.2.2 The proposed development fails to accord with the above. The development would provide 3 x 2 bedroom units (100%). However, given the town centre location and the size of the

units are considered acceptable and it is not considered that a development of this form would prejudice the ability of the Council to deliver housing targets. The proposed development is therefore considered acceptable and in accordance with Policy CP3 of the Core Strategy (adopted October 2011).

7.3 Affordable Housing

- 7.3.1 In view of the identified pressing need for affordable housing in the District, Policy CP4 of the Core Strategy seeks provision of around 45% of all new housing as affordable housing and requires development resulting in a net gain of one or more dwellings to contribute to the provision of affordable housing. Developments resulting in a net gain of between one and nine dwellings may meet the requirement to provide affordable housing through a financial contribution. Details of the calculation of financial contributions in lieu of on-site provision of affordable housing are set out in the Affordable Housing Supplementary Planning Document. 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.
- 7.3.2 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 31 July 2015 the High Court held (*West Berkshire Council v SSCLG* [2015]) that the policy expressed through the WMS was unlawful and the NPPG was changed to reflect this. On 11 May 2016 the Court of Appeal reversed the High Court decision. The NPPG was subsequently amended to reflect the WMS on 19 May 2016.
- 7.3.3 In light of the above developments, between November 2014 and August 2015 and May 2016 and 1 September 2017 the Council gave greater weight to the WMS policy and associated NPPG guidance in it than to adopted Policy CP4 of its Core Strategy in respect of development proposals for 10 dwellings or less and which had a maximum combined gross floor area of 1000 square metres. However, having undertaken an analysis of up to date evidence of housing needs (**The Needs Analysis**), officers advised in 2017 that when considering the weight to be given to the WMS in the context of breaches of the adopted development plan policy, the local evidence of housing need contained in the Needs Analysis should generally be given greater weight. On 1 September 2017 the Council resolved to have regard to the Needs Analysis as a consideration of significant weight when considering the relationship between Policy CP4 and the WMS for the purposes of Section 70(2) Town and Country Planning Act 1990 and Section 38(6) Planning and Compulsory Purchase Act 2004 in respect of development proposals of 10 dwellings or less.
- 7.3.4 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.”*
- 7.3.5 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.”

7.3.6 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.

7.3.7 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.

7.3.8 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.

7.3.9 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 million¹** of affordable housing contributions in respect of unimplemented but current planning permissions. All of those schemes were agreed to be viable with those sums secured. The Council has several large scale future residential developments planned which will aim to deliver substantial quantities of further affordable housing in the District in the medium term future, utilising those additional affordable housing contributions as and when they are received.

7.3.10 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.

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.

7.3.11 Current evidence of housing need in the District is noted below at 7.2.19 to 7.2.30. It confirms that the needs underlying the adopted development plan policy remain pressing.

Importance of Small Sites to Three Rivers

7.3.12 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 1 May 2016 and 12 April 2017 for instance, seventy nine planning applications for residential development involving a net gain of dwellings were determined by the Council. Of those, forty seven applications (60%) were for schemes which proposed a net gain of 1-9 units. Having a large number of small sites is an inevitable consequence of the District being contained within the Metropolitan Green Belt. The contribution to both market housing supply and affordable housing supply are therefore both material to overall identified needs and adopted development plan objectives. This is dealt with in more detail below.

7.3.13 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

7.3.14 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.

7.3.15 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"

7.3.16 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”

7.3.17 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.

7.3.18 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.

7.3.19 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

7.3.20 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
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
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Table 1.

- 7.3.21 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.

- 7.3.22 Lowest quartile earnings in Three Rivers in 2016 were £24,518.00¹ 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.

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

Number	Local Authority Name	Median quartile house price affordability ratio ¹
1	South Bucks	14.55
2	Hertsmere	14.16
3	Mole Valley	14.0
4	Chiltern	13.92
5	Three Rivers	13.82
6	Elmbridge	13.82
7	Cambridge	13.45
8	Epsom and Ewell	12.99
9	Oxford	12.58
10	Christchurch	12.47

Table 3.

- 7.3.24 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.

- 7.3.25 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

- 7.3.26 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
- 7.3.27 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.
- 7.3.28 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

- 7.3.29 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.
- 7.3.30 Since the start of the plan period from 1 April 2001 to 31 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
- 7.3.31 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 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*

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.

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

- 7.3.32 As set out at para 7.3.12 above, between 1 May 2016 and 12 April 2017, seventy nine planning applications for residential development involving a net gain of dwellings were determined by the Council. Of those, forty seven applications (60%) were for schemes which proposed a net gain of 1-9 units. In 2017-2018 there were 67 planning applications for net gain residential schemes, of which 57 were small site schemes (85%). From 1 January 2018-December 2019 there were 50 planning applications for net gain residential schemes, of which 46 were small site schemes (92%).
- 7.3.33 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 7.2.34 below:
- 7.3.34 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

- 7.3.35 As set above, 7.3.8 and 7.3.9 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**

- 7.3.36 As set out at paragraph 7.3.10 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

- 7.3.37 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.
- 7.3.38 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.
- 7.3.39 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.
- 7.3.40 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.
- 7.3.41 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*
- 7.3.42 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.
- 7.3.43 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

⁵ Paragraph 7, Planning Inspectorate Letter, March 2017.

and the important contribution small sites make towards addressing this shortfall. Below are extracts from a few of those decisions:

- **APP/P1940/W/19/3222318, Eastbury Corner, 13 Eastbury Avenue, Northwood, Decision date: 21 June 2019:**
“The Council has however provided robust evidence to demonstrate high affordable housing need locally and that affordability in the District continues to deteriorate. Indeed, needs analysis carried out by the Council highlights the importance of small sites in addressing shortfall and the lack of affordability that exists in the District. I apply substantial weight to this local evidence due to its recentness and the clear conclusions that can be drawn from it. Policy CP4 makes it clear that site circumstances and financial viability will be taken into account when seeking affordable housing provision.”
- **APP/P1940/W/19/3221363, The Swallows, Shirley Road, Abbots Langley, Decision date: 27 June 2019:**
“The Council has however provided robust evidence to demonstrate high affordable housing need locally and that affordability in the District continues to deteriorate. Indeed, needs analysis carried out by the Council highlights the importance of small sites in addressing shortfall and the lack of affordability that exists in the District. I apply substantial weight to this local evidence due to its recentness and the clear conclusions that can be drawn from it.”
- **APP/P1940/W/19/3225445, 6 Berkeley Close, Abbots Langley, Decision date 5 August 2019:**
“The Council has provided robust evidence of high affordable housing need in the District, and in line with the findings of other appeal decisions cited by the Council, I attribute substantial weight to that need as a consequence and consider that a contribution towards the provision of affordable housing is necessary.”
- **APP/P1940/W/19/3230999, 27 Gable Close, Abbots Langley, Decision Date: 1 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 22 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: 11 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 Council's 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/19/3229189, Glenwood, Harthall Lane, Kings Langley, Decision date: 7 May 2020**

"Despite the appellant's evidence, which included reference to a Local Plan Consultation Document (October 2018) and an analysis undertaken by them based on the Council's Housing Land Supply Update (December 2018), it was clear to me, in the light of all the evidence before me, that a pressing need for affordable housing in the area remains. It was also clear that small sites play a key role in ensuring this provision. As such, in this case, I am satisfied that although considerable weight should be given to the Framework, it does not outweigh the development plan policy."

Affordable Housing Conclusion

- 7.3.44 The proposed development would result in a requirement for a commuted sum of £200,375 towards affordable housing based on a habitable floor-space of 160.3sqm multiplied by £1,250 per sqm which is the required amount in the Highest Value Three Rivers' market area.
- 7.3.45 The applicant has agreed to pay the required affordable housing contribution of £200,375. A Section 106 Agreement has yet to be completed and would be subject to planning permission approval to secure the required contribution. Under the provisions of Section 106 of Town and Country Planning Act 1990, the development would contribute to the provision of affordable housing. Subject to the completion of a Section 106 Agreement, the proposed development would comply with the requirements of Policy CP4 of the Core Strategy (adopted October 2011) and the Affordable Housing Supplementary Planning Document (approved June 2011).

7.4 Design and impact on heritage assets

- 7.4.1 The host property has been identified as a non-heritage designated asset given its role in the historic development of the high street and the architectural form of the building which, including the outbuilding, has retained many original features. In addition to the status of the host building, it also falls within the Rickmansworth Conservation Area, a designated heritage asset and within an area of archaeological significance.
- 7.4.2 Policy CP1 of the Core Strategy (adopted October 2011) seeks to promote buildings of a high enduring design quality that respect local distinctiveness and Policy CP12 of the Core Strategy (adopted October 2011) relates to design and states that in seeking a high standard of design the Council will expect development proposals to 'have regard to the local context and conserve or enhance the character, amenities and quality of an area'. Development should make efficient use of land but should also respect the 'distinctiveness of the surrounding area in terms of density, character, layout and spacing, amenity, scale, height, massing and use of materials'; 'have regard to the local context and conserve or enhance the character, amenities and quality of an area' and 'incorporate visually attractive frontages to adjoining streets and public spaces'.
- 7.4.3 Policy DM1 and Appendix 2 of the Development Management Policies document set out that development should not have a significant impact on the visual amenities of the area. Extensions should not be excessively prominent and should respect the existing character of the dwelling, particularly with regard to the roof form, positioning and style of windows and doors, and materials.
- 7.4.4 The application site is within the Rickmansworth Town Centre Conservation Area, Policy DM3 of the Development Management Policies document is also relevant. This policy advises that within Conservation Areas, development will only be permitted if the proposal is of a design and scale that preserves or enhances the character or appearance of the area; uses building materials, finishes, including those for features such as walls, railings, gates and hard surfacing that are appropriate to the context; and retains historically significant boundaries, important open spaces and other elements of the area's established pattern of development, character and historic value including gardens, roadside banks and verges.
- 7.4.5 The proposed development would take the form of a flatted development occupying part of the current building whilst also extending it. The application site is within a Town Centre location where there are a number of flatted developments and as such this form of development would not be uncharacteristic of the vicinity.
- 7.4.6 With regard to the alterations proposed to the existing building, these would not affect the existing shop frontage facing the High Street at ground floor level, which would be retained. Whilst the existing shop frontage would be retained, it is noted that the roof of the proposed extension to the rear would not exceed that of the original building. The change of use of the first floor and roof space into two residential self-contained units would include some internal alterations to the property, as well as the addition of a two storey rear extension, above the existing ground floor rear projection, resulting in the building having a three storey appearance. There would be limited views of the alterations proposed to the rear of the building from public vantage points including Bury Lane, Farris Mews and the rear of properties on Ebury Road to the south of the site.
- 7.4.7 The Conservation Officer has objected to the development due to the impact on the non-designated heritage asset and the impact on the Conservation Area, resulting in less than substantial harm.

- 7.4.8 Paragraph 197 of the NPPF states that ‘The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.’ Additionally, paragraph 196 states that where a development proposal will lead to less than substantial harm, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 7.4.9 In respect of the harm to the non-designated heritage asset, the two storey rear extension would clearly be residential in character and given the proposed two pitched roofs, would match the roof form of the existing ground floor projections and would not exceed the height of the original roof form. The extension would have a maximum depth of 13.3m at roof level and a minimum of 6.9m at first floor level and would extend to the length of the adjacent rear extension at No.135 High Street. The extension would infill an existing area, not projecting beyond the existing extended building line. When viewed in the context of adjoining developments, the extension would not appear excessive. Further, the original building and roof forms have been altered over time, as such, the extent of original rear fabric lost would be less. Therefore the scale of the loss of original building materials and features would be considered as minimal, with the majority of the existing building remaining. Additionally, it is recognised that the outbuilding, a former stable block, is typically ancillary in function to the host building and thus the introduction of a flatted development would erode its significance. However, given the adjoining developments, it is considered that its significance has already been eroded to such an extent that a further flatted development on site would not result in any greater harm. There would be some loss of original fabric due to the provision of new windows to the west and south elevations including two rooflights. The proposal would retain the existing openings and the existing external architectural form of the principal façade to preserve this significant feature in the rear courtyard of the property. As a result, the level of harm associated with the non-designated heritage is considered limited, given the scale of extension on adjoining properties at the rear.
- 7.4.10 In respect of the impact on the Rickmansworth Conservation Area, there would be no alterations to the principal front elevation. The works are all contained towards the rear. The existing rear roofslope, which has been extended from its original form with the introduction of a cat-slide roof is glimpsed from certain public views from Ebury Road and from car parks. The concerns in relation to the scale and bulk of the extension are acknowledged; however, the character of the area, especially to the rear of the High Street, has been dramatically altered since the Appraisal was first adopted in 1996. The rear of the High Street is now dominated by large modern developments which appears to be the prevailing character of this part of the conservation area. Uses at the rear of the High Street are mixed and do include residential uses. It is considered that the siting of the proposed residential development and proposed extensions to the existing built form would not appear unduly prominent or out of character in the conservation area, which would integrate with the existing types of development to the rear of the High Street. Further, when considering the relatively limited public vantage points, the impact of the extensions would not be considered harmful and would, when balancing all the above in account, not result in harm to the designated heritage asset.
- 7.4.11 There is a range of building materials to the rear to the building, with limited architectural characteristics and details apparent. The proposed external red brick and slate roof, however, would match the existing building. The window style is in keeping with surrounding properties within the High Street and are influenced by such buildings. Whilst it is acknowledged that oriel windows are not a typical feature of the area, they are a Victorian feature. Given the location to the rear of the building their visibility would be limited in context with the site and further given their purpose, in balance they are not considered harmful.

- 7.4.12 It is acknowledged that the site has a degree of archaeological significance, also with the potential for below ground archaeological remains. The current works to the rear infill extensions of the building in the have not had an impact on any historic fabric. However, given that the proposed development could have an impact on heritage assets of archaeological interest, the works will be subject to a condition.
- 7.4.13 Amendments made during the course of the application have reduced the size of the rear fenestration in line with comments from the Conservation Officer and have altered the size, design and visibility of the now, recessed balconies from surrounding vantage points. The reduction in fenestration has improved the appearance of the rear elevation and given the development more of a perceived residential use. The further reduction in the scale of the development as a whole would appear inconspicuous from within the Conservation Area.
- 7.4.14 In summary, it is considered that flatted development would be appropriate and acceptable in this location. Whilst accepting that some low level harm would arise to the non-designated heritage asset as a result of loss of original features it is not considered that the development would harm the character and appearance of the Rickmansworth Conservation Area given the notable change in its character at the rear of the site. Whilst some low level harm results to the non-designated asset, it is not considered that the harm is unacceptable to justify the refusal of planning permission. The development would therefore, on balance, be considered acceptable in accordance with Policies CP1 and CP12 of the Core Strategy and Policies DM1, DM3 and Appendix 2 of the Development Management Policies document and Rickmansworth Conservation Area Appraisal (1993).

7.5 Impact on amenity of neighbours

- 7.5.1 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.
- 7.5.2 The Residential Design Criteria at Appendix 2 of the Development Management Policies document also advise that in the interests of privacy and to prevent overlooking, windows of habitable rooms at first floor level and above should not generally be located in flank elevations. Flank windows of other rooms should be non-opening, below 1.7m from internal floor level and obscure glazed.
- 7.5.3 The neighbouring building to the east, No.135 is on the same land level and is built in line with the application dwelling to the front. It currently benefits from a three storey rear projection including habitable accommodation in the rear roof space. The proposed two storey extension would project a minimal 0.5m in depth at roof level beyond this neighbouring extension and would be set down 1.7m in height. As such it would not result in loss of light to the rear of this neighbour or have an overbearing impact.
- 7.5.4 The neighbour at No.139 High Street adjoins the western flank of the application site. The proposed two storey rear extension would be set in 1.1m from this neighbour's rear projection flank boundary to a residential self-contained unit. The proposed two storey rear extension would project approximately 4m at first and second floor level from the rear elevation of this neighbouring building. Given that the extension would be set in a minimum of 1m from the shared boundary no harm would result. Further, given its orientation it is considered that the proposed extension would not therefore cause loss of light or appear overbearing to this neighbour resulting in demonstrable harm.
- 7.5.5 In terms of overlooking, windows are proposed at first and second floor levels within the rear elevation of the extension. Given the existing site circumstances and separation

distance between the application site and neighbouring properties to the south, it is not considered that the rear elevation fenestration would result in any overlooking. Two oriel windows are proposed at first and second floor level within the western flank elevation. Given their orientation and design, it is not considered that the proposed flank fenestration to the rear would result in any overlooking towards the neighbouring property to the west and the converted outbuilding.

7.5.6 Additionally, it is acknowledged that the balconies would be recessed and set back from the rear boundary of the application site by a minimum of approximately 7m and would be a minimum distance of 13m from the flank elevation of the neighbouring building to the rear of the application site. Whilst views towards Ebury Road would be possible, the amended balconies would not allow for direct overlooking or result in a perception of overlooking.

7.5.7 In summary, it is not considered that the proposed development would result in a significant adverse impact on any neighbouring dwelling and the development would be acceptable in accordance with Policies CP1 and CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies LDD.

7.6 Amenity Space Provision for future occupants

7.6.1 Policy CP12 of the Core Strategy states that development should take into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space and specific standards for provision of amenity space are set out in Appendix 2 of the Development Management Policies LDD. These standards include:

Flats:

One bed – 21 sqm

Additional bedrooms – 10 sqm each (space can be allocated specifically to each flat or communally)

7.6.2 The proposed development is for the construction of three, two-bedroom units, which would require 93sqm of private amenity space in accordance with the above Standards. The proposal includes a recessed balcony to the rear for each self-contained unit at first and second floor level, approximately 5sqm each and would provide enough space to make them usable spaces. The converted outbuilding would have private amenity space of approximately 15sqm.

7.6.3 The application site is within a Town Centre location where higher density development is generally encouraged and where opportunities for open space provision as part of new development are more limited. The site is also within easy walking distance of public open space provision, including at The Aquadrome (500 metres away) and The Bury Open Space (250 metres away). Whilst it is acknowledged that access to public open space does not directly replicate access to private amenity space, such provision is not uncommon in town centre locations and would be of benefit to future occupiers. As a consequence and acknowledging the town centre location of the site and the accessibility of alternative public open space, it is not considered that the lack of private amenity space provision would justify refusal of the current application.

7.7 Wildlife and Biodiversity

7.7.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive.

7.7.2 The protection of biodiversity and protected species is a material planning consideration in

the assessment of applications in accordance with Policy CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the DMLDD. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications that may be affected prior to determination of a planning application.

- 7.7.3 The application has been submitted with a Biodiversity Checklist and states that no protected species or biodiversity interests will be affected as a result of the application. However, given that the development would affect the roof of the dwelling an informative would be added to any consent advising the applicant what to do should bats be discovered during the course of development.

7.8 Trees and Landscaping

- 7.8.1 Policy CP12 of the Core Strategy expects development proposals to 'have regard to the character, amenities and quality of an area', to 'conserve and enhance natural and heritage assets' and to 'ensure the development is adequately landscaped and is designed to retain, enhance or improve important existing natural features'.

- 7.8.2 No trees would be affected by the proposed development.

7.9 Highways, Access and Parking

- 7.9.1 Core Strategy Policy CP10 requires development to provide a safe and adequate means of access and to make adequate provision for all users, including car parking. Policy DM13 and Appendix 5 of the Development Management Policies document set out parking standards

- 7.9.2 The proposed development would result in a mixed use development consisting of commercial floor space, Class A1 at ground floor level. In addition, the proposed development would accommodate 3 x 2 bedroom flats. Appendix 5 sets out the following standard:

2 bedroom: 2 spaces per dwelling (1 assigned space).

- 7.9.3 Therefore a total of 6 spaces (3 assigned spaces) would be required for future occupiers of the flats. The block plan indicates that there would be no parking spaces on site. As such, there would be a shortfall in off street car parking provision. However, given the Town Centre location and proximity of public transport links, it is not considered that a parking free development would be unacceptable. However, that said, it would be important that the applicant enters into a unilateral undertaking to prevent future residents from applying for car parking permits. This would therefore ease parking pressures in the CPZ. The requirement for a unilateral undertaking would comply with the relevant tests as set out in Paragraph 56 of the NPPF.

- 7.9.4 In the event this application is refused, the inability to secure the unilateral undertaking would form a reason for refusal given the increased pressure on the CPZ.

- 7.9.5 The access rights with regards to the use of the access way between No's.139 and 141 High Street, Rickmansworth is a civil matter as the grant of planning permission runs with the land. However, given that this is a fundamental requirement for the proposed development as access would be required both during construction and to gain access to all flats via the access way, a pre-commencement condition will be recommended to require that there is a right of access agreement for the proposed three self-contained units, prior to the commencement of the development.

7.10 Refuse/Re-cycling

7.10.1 Policy DM10 (Waste Management) of the Development Management Policies LDD (adopted July 2013) advises that the Council will ensure that there is adequate provision for the storage and recycling of waste and that these facilities are fully integrated into design proposals. New developments will only be supported where:

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

7.10.2 A bin store is proposed within the rear courtyard at ground floor level, however, no specific details have been provided with regards to the storage of refuse and recycling facilities to serve the new dwelling. As such a condition would be attached to any consent requiring further details to ensure that adequate provision would be made to serve the new dwelling in accordance with Policy DM10 of the Development Management Policies document.

7.11 Sustainable Development

7.11.1 Policy DM4 of the Development Management Policies document states that applications for new residential development will be required to demonstrate that the development will meet a zero carbon standard (as defined by central government). However the government are not pursuing zero carbon at this time and therefore the requirements of DM4 to achieve a 5% saving in CO2 over 2013 Building Regulations Part L would continue to apply.

7.11.2 No energy statement has been submitted as part of the current application and a condition on any consent would require the submission of an Energy Statement and the implementation of measures to achieve at least a 5% saving of carbon dioxide emissions over Building Regulations Part L (2013) in accordance with Core Strategy Policy CP1 and Policy DM4 of the Development Management Policies document.

7.12 Planning balance

7.12.1 The NPPF identifies that there are 3 dimensions to sustainable development: social, economic and environmental. It is accepted that the development would make a limited contribution, with three additional units towards making up the shortfall in housing in the district. The development, on balance, has been found to be acceptable. It is also noted that the site is situated within a sustainable location and that future occupiers can assist in supporting the town centre by using nearby amenities. There are benefits, the increase in housing and economic benefits, but it is acknowledged these would be minor in favour of the development. If it was found that harm does arise, then this should be balanced against the benefits of the development.

8. **Recommendation**

8.1 That subject to the completion of a Section 106 Agreement, that the application be delegated to the Director of Community and Environmental Services to GRANT PLANNING PERMISSION subject to the following conditions:

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

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

C2 The development hereby permitted shall be carried out in accordance with the following approved plans: MW828-0-01 REV P4, MW828-0-03 REV P3, MW828-1-11 REV P3,

MW828-1-12 REV P4, MW828-1-13 REV P4, MW828-2-02 REV P2, MW828-1-01 REV P6, MW828-1-02 REV P9, MW828-3-01 REV P6, MW828-2-01 Rev P7, MW828-1-03 REV P9

Reason: For the avoidance of doubt and in the proper interests of planning and in the interests of the visual amenities of the area and residential amenity of neighbouring occupiers, in accordance with Policies CP1, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM3, DM6, DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013) and Rickmansworth Conservation Area Appraisal (1993).

- C3 No development shall take place whatsoever until evidence in writing has been provided to the Local Planning Authority demonstrating that there is a right of access to the site from for all purposes connected with the development permitted, lawfully, permanently and without restriction and the Local Planning Authority has confirmed in writing its receipt of such evidence establishing that right of way.

Reason: This is a pre commencement condition to ensure the approved development benefits from adequate access 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).

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

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

- C5 No development shall take place/commence until an Archaeological Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of archaeological significance and research questions; and:

1. The programme and methodology of site investigation and recording
2. The programme for post investigation assessment
3. Provision to be made for analysis of the site investigation and recording
4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
5. Provision to be made for archive deposition of the analysis and records of the site investigation
6. Nomination of a competent person or persons/organisation to undertake the works set out within the Archaeological Written Scheme of Investigation.

Reason: This condition is a pre-commencement condition to define, in advance of any development commencing, the details of evaluation/mitigation necessary to protect any archaeological remains present within the development site. The significance of heritage assets with archaeological interest can be harmed/destroyed by development. This is in accordance with Policy CP1 of the Core Strategy (adopted October 2011) and Policy DM3 of the Development Management Policies LDD (adopted July 2013).

- C6 The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 5 and the provision made for analysis and publication where appropriate.

Reason: In the interests of protecting any archaeological remains present within the development site. The significance of heritage assets with archaeological interest can be harmed/destroyed by development. This is in accordance with Policy CP1 of the Core Strategy (adopted October 2011) and Policy DM3 of the Development Management Policies LDD (adopted July 2013).

- C7 Before any building operations above ground level hereby permitted are commenced, samples and details of the proposed external materials (balconies, roof, windows including rooflights, doors and hard surfacing) shall be submitted to and approved in writing by the Local Planning Authority and no external materials shall be used other than those approved.

Reason: To prevent the building being constructed in inappropriate materials in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM3 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C8 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any other revoking and re-enacting that order with or without modification), no windows/dormer windows or similar openings [other than those expressly authorised by this permission] shall be constructed in the elevations or roof slopes of the extension/development hereby approved.

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

- C9 Notwithstanding the details on the approved plans, no development in relation to the proposed refuse and recycling provision for the development shall take place until a scheme for the separate storage and collection of waste has been submitted to and approved in writing by the Local Planning Authority. Details shall include the siting, size and appearance of refuse and recycling facilities on the premises. The development hereby permitted shall not be occupied until the approved scheme has been implemented and these facilities should be retained permanently thereafter.

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

- C10 No occupation of any part of the permitted development shall take place until an Energy Statement for the development demonstrating energy saving measures for the development to achieve a saving of 5% carbon dioxide over Building Regulations Part L (2013) subject to viability has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to occupation of the development and permanently maintained thereafter.

Reason: To ensure that the development meets the requirements of Policy CP1 of the Core Strategy (adopted October 2011) and Policy DM4 of the Development Management Policies LDD (adopted July 2013).

8.2 Informatives

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

All relevant planning conditions must be discharged prior to the commencement of work. Requests to discharge conditions must be made by formal application. Fees are £116 per

request (or £34 where the related permission is for extending or altering a dwellinghouse or other development in the curtilage of a dwellinghouse). Please note that requests made without the appropriate fee will be returned unanswered.

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

Community Infrastructure Levy (CIL) - If your development is liable for CIL payments, it is a requirement under Regulation 67 (1) of The Community Infrastructure Levy Regulations 2010 (As Amended) that a Commencement Notice (Form 6) is submitted to Three Rivers District Council as the Collecting Authority no later than the day before the day on which the chargeable development is to be commenced. DO NOT start your development until the Council has acknowledged receipt of the Commencement Notice. Failure to do so will mean you will lose the right to payment by instalments (where applicable), lose any exemptions already granted, and a surcharge will be imposed.

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

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

- 12 The applicant is reminded that the Control of Pollution Act 1974 allows local authorities to restrict construction activity (where work is audible at the site boundary). In Three Rivers such work audible at the site boundary, including deliveries to the site and running of equipment such as generators, should be restricted to 0800 to 1800 Monday to Friday, 0900 to 1300 on Saturdays and not at all on Sundays and Bank Holidays.
- 13 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The 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.
- 14 Bats are protected under domestic and European legislation where, in summary, it is an offence to deliberately capture, injure or kill a bat, intentionally or recklessly disturb a bat in a roost or deliberately disturb a bat in a way that would impair its ability to survive, breed or rear young, hibernate or migrate, or significantly affect its local distribution or abundance; damage or destroy a bat roost; possess or advertise/sell/exchange a bat; and intentionally or recklessly obstruct access to a bat roost.

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

The UK Bat Helpline: 0845 1300 228

Natural England: 0300 060 3900

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

or an appropriately qualified and experienced ecologist.

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

- 15 The applicant is reminded that this planning permission is subject to either a unilateral undertaking or an agreement made under the provisions of Section 106 of the Town and Country Planning Act 1990.