

PLANNING COMMITTEE – 22 APRIL 2021

PART I - DELEGATED

5. **20/2737/FUL- Erection of a block of six apartments and a terrace of three residential dwellings, with the associated access from Sycamore Road, parking and landscaping at Land Adjacent to 62-84 & 99-121 SYCAMORE ROAD, CROXLEY GREEN, HERTS, WD3 3TF (DCES)**

Parish: Croxley Green

Ward: Dickinsons

Expiry of Statutory Period: 23 March 2021 Case Officer: Lauren Edwards
(Extension of Time to 26.04.2021)

Recommendation: That the decision be delegated to the Head of Regulatory Services to consider any representations received and that PLANNING PERMISSION BE GRANTED, subject to conditions and subject to the completion of a Section 106 Agreement in relation to Affordable Housing.

Reason for consideration by the Committee: Called in by Croxley Green Parish Council unless Officers are minded to refuse the application for the reasons set out in full at section 4.1.1 below.

1 Relevant Planning History

- 1.1 8/162/93 - Flat development comprising fourteen 2 bedroom flats with associated parking and creation of new access road. Refused
- 1.2 8/163/93 - Flat development comprising twelve 2 bedroom flats with associated parking and creation of new access road. Refused
- 1.3 05/1055/OUT- Outline Application: Erection of two storey building comprising eight apartments – Refused for the following reasons:

R1 The proposed development would involve the loss of an open space which was provided as part of the original development and has subsequently become an established feature of the area and has been used and enjoyed by local residents for many years. The loss of such an open space would have a detrimental effect on the character and appearance of the area. This fails to meet the requirements of Policies GEN1, GEN3, H14, L9 and Appendices 1 and 2 of the Three Rivers Local Plan 1996 – 2011.

R2 The proposed development is adjacent to the Metropolitan Green Belt. The development of the site would be detrimental to the visual amenities of the Metropolitan Green Belt failing to satisfy the requirements of Policy GB1 of the Three Rivers Local Plan 1996 – 2011 and Planning Policy Guidance Note 2 (Green Belts).

The subsequent planning appeal was dismissed in relation to R1. The planning and appeal history is considered below.

2 Description of Application Site

- 2.1 The application site has an area of 0.3Ha and is located on the south eastern side of Sycamore Road. The site is currently open land and has an individual TPO tree within the centre of the site and a group TPO to the northern boundary.
- 2.2 The site is relatively flat with little change in land levels and currently mostly comprises of a large grassed area enclosed by a low level chain link fence and hedging. Mature trees are also evident within and around the perimeter of the site. The lower part of Sycamore Road

adjacent to the application site is of a slightly different density to that which prevails with Sycamore Road and Valley Road with the presence of flatted development. However these blocks follow a similar building line, set back from the highway, with green amenity space to the rear. Parking bays are also evident within this vicinity providing parking the flatted units. Soft landscaping and spacing is provided by way of verges with mature trees and front gardens within the area with the parcel of land subject to this application being the only larger area of open space adjacent to existing development.

- 2.3 To the north and east of the site are three storey flat roofed flatted developments with parking bays to the frontages, a garage block and areas of soft landscaping. To the western side of the site are two storey dwellings. The southern side of the site abuts the Grand Union Canal.

3 Development description

- 3.1 This application seeks planning permission for the erection of a block of six apartments and a terrace of three residential dwellings, with the associated access from Sycamore Road, parking and landscaping.
- 3.2 The proposed apartment block would comprise of six two bed flats in a three storey block. Each floor would have two apartments with an en-suite, family bathroom and an open plan kitchen, dining and living area. It would be located to the north west of the application site, directly fronting Sycamore Road.
- 3.3 The proposed block would have a maximum width of 24m and a depth of 11.2m. The block would have a flat roof with a stepped front and rear elevation. The building would have a flat roof with a height of 9.2m and a central flat roofed feature accommodating stairwells which would project 0.8m higher. The proposed building would be set back 5m from the front boundary, 5.4m from the west and 14m from the eastern boundaries.
- 3.4 The proposed row of three 4-bedroom terraced dwellings would have a total width of 28m which includes adjoining garages (1 to serve each unit). The proposed dwellings would have a maximum height of 9.4m. Plot 7 which is furthest west would have a pitched roof with accommodation in the roofspace served by second floor windows in the gable end. Plot 8 and 9 have pitched roofs with Plot 9 having a gable end at the side. Second floor accommodation is served by front and rear dormer windows. The row of three terraced dwellings would be located to the south east of the application site, and would be accessed via extended access roads from Sycamore Road. The proposed terraced row would be set 10m back from the southern boundary which adjoins the GUC and 20m from the proposed flatted block to the north. The dwellings would be set in 6m from the south western boundary and 17m from the north eastern boundary.
- 3.5 Car parking is predominantly proposed to the east of the site with the exception of two spaces to the north western corner. Additional hedging and trees are proposed within the site and surrounding the car parking area.
- 3.6 Amended plans have been received during the course of the application to alter the design of the proposed terrace row. The changes include:
- The removal of the chimney stack.
 - The removal of the decorative barge board detail.
 - Window heads amended to reflect the proposed flats.
 - The extension of the wooden cladding to reflect the proposed flats.
 - Render removed from the gable ends.

4 Consultation

4.1 Statutory Consultation

4.1.1 Croxley Green Parish Council: [Objection]

Croxley Green Parish Council objects to the planning application for the following reasons:

Open Space

In granting planning permission in the 1960s for these flats and houses, it was a stipulated condition that a communal open space was provided as a necessary condition for the granting of that planning permission.

The area was specifically designed in the original plan as an amenity space for residents and it contributes to the unique open character of Sycamore Road and Valley Walk. The site has been maintained by the residents since 1962. Developing the site would contravene Policy RO-1 CP-2 CP-3 and DM-1.

The site is not unused or a brownfield site, it is well used and well maintained for recreational purposes of the residents. The site provides an important green space enjoyed by residents and neighbours and its value has been even more apparent during 2020 with the limits on travel and requirements to stay local when exercising.

The Croxley Green Neighbourhood Plan sections 1.2.6, 2.2.6, 5.3 supports the present use of this land as recreational and that it should not be developed; CA1 states "not to change the character of the area"; Aim 8 5.5 states "to protect land in recreational use".

Ecology

The garden is located next to green belt land which protects the canal and Sycamore Road is a main walking route to the towpath near the historic feature of a decommissioned railway bridge. Building here will destroy the established open nature of the area and adjoining green belt land and so is contrary to policy CP-9.

New buildings and light sources would damage the habitat used by protected species of bats and breaches environmental policy DM-6.

Several protected trees would be put under strain by building in close proximity to them. A protected Sycamore Tree is at high risk of being damaged or destroyed breaching tree preservation order 693.

Parking

Parking on site is ' haphazard' as noted in the Croxley Green Neighbourhood Plan B.7.9. Any additional parking from a new development would be detrimental. The development also proposes an access road that destroys an area marked as parking in all original plans. This contravenes policy DM-13.

Housing Needs

Croxley Green Neighbourhood Plan Policy H01 stipulates that applications should consider the needs of local priority groups (the aging population, starter market for young singles and couples, affordable housing for rent). This application does not meet Policy H01. Planning applications on this site were refused by TRDC in 1969, 1993 and 2005. The Committee cannot see what has changed since then to warrant permission being granted for this application.

Three Rivers District Council refused permission in 2005 for the following reasons:-

- 1. The proposed development would involve the loss of an open space which was provided as part of the original development and has subsequently become an established feature of the area and has been used and enjoyed by local residents for many years. The loss of such an open space would have a detrimental effect on the character and appearance of the area. This fails to meet the requirements of Policies GEN1, GEN3, H14, L9 and Appendices 1 and 2 of the Three Rivers Local Plan 1996 – 2011.*
- 2. The proposed development is adjacent to the Metropolitan Green Belt. The development of the site would be detrimental to the visual amenities of the Metropolitan Green Belt failing to satisfy the requirements of Policy GB1 of the Three Rivers Local Plan 1996 – 2011 and Planning Policy Guidance Note 2 (Green Belts).*

Neighbours comments must be taken into account.

If the Planning Officer is minded to approve the application, then CGPC would like it to be called into committee.

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

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

1) Prior to the first use of the development hereby permitted a visibility splay measuring 2.4 x 23 metres shall be provided to each side of the access where it meets the highway and such splays shall thereafter be maintained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.

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

2) No development shall commence until a Construction Management Plan (or Construction Method Statement) has been submitted to and approved in writing by the Local Planning Authority.

Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Management Plan / Statement shall include details of:

- a. Construction vehicle numbers, type, routing;*
- b. Access arrangements to the site;*
- c. Traffic management requirements*
- d. Construction and storage compounds (including areas designated for car parking, loading / unloading and turning areas);*
- e. Siting and details of wheel washing facilities;*
- f. Cleaning of site entrances, site tracks and the adjacent public highway;*
- g. Timing of construction activities (including delivery times and removal of waste) and to avoid school pick up/drop off times;*
- h. Provision of sufficient on-site parking prior to commencement of construction activities;*
- i. Post construction restoration/reinstatement of the working areas and temporary access to the public highway;*
- j. where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes and remaining road width for vehicle movements.*

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

3) Prior to the first use of the development hereby permitted a scheme for the parking of cycles including details of the design, level and siting of the proposed parking shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is first occupied or brought into use and thereafter retained for this purpose.

Reason: To ensure the provision of adequate cycle parking that meets the needs of occupiers of the proposed development and in the interests of encouraging the use of sustainable modes of transport in accordance with Policies 1, 5 and 8 of Hertfordshire's Local Transport Plan (adopted 2018)

Highway Informatives

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

AN 1) Construction standards for 278 works within the highway: The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> or by telephoning 0300 1234047.

AN 2) Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence.

Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

AN 3) Obstruction of public highway land: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

AN 4) Road Deposits: It is an offence under section 148 of the Highways Act 1980 to deposit mud or other debris on the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible.

Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available via the website

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.

Comments

The proposal is for the erection of a block of six apartments and a terrace of three residential dwellings, with the associated access from Sycamore Road, parking and landscaping on Land Adjacent To 62-84 & 99-121 Sycamore Road, Croxley Green. Sycamore Road is a 30mph, unclassified local access route that is maintained at public expense. The site in question sits at the end of a dead end surrounded by multi-story flats and apartments. The site is currently undeveloped land that is mostly maintained grassland.

Vehicle Access

The site currently has no designated vehicle access owing to the nature of the undeveloped site. The site being all land within the red line. Although the site does have a highway route to its west serving drives for adjacent houses as well as a shorter private route to the east serving a pedestrian access and unofficial parking for the adjacent flats. The route to the west will be maintained and a separate turning head placed within the site boundary to service parking for P7 and P8 as seen on drawing number PA-KH-100. I would note that no swept paths have been provided for this route. The private route to the east of the site is proposed to be extended to accommodate parking and a turning head for the remainder of the properties. A swept path for larger vehicles has been illustrated in drawing 20.118-001 showing the use of the turning head. HCC Highways is pleased with this drawing and is satisfied that a large vehicle such as a fire engine can enter and exit the site in forward gear in case of an emergency. Both accesses to the east and west of the site are to be maintained onto Sycamore Road, the routes are just to be extended in varying length to accommodate for the proposed dwellings. The sight is likely to increase movements to the area but to not to a level that will impact the performance of the highway network. The site accommodates 23 parking spaces which reduce the impact on on-street parking for the area. The local planning authority (LPA) is in charge of parking standards. However, HCC would like to see the inclusion of secure cycle parking as per condition 2 above to enable occupant the ability to travel sustainably.

Drainage

The proposed new private route would need to make adequate provision for drainage on site to ensure that surface water does not discharge onto the highway. Surface water from the existing and the new hardstandings would need to be collected and disposed of on site.

Sustainability

The site is 160 metres from the nearest bus stop and 1.2km from Croxley Station. Both these locations are within easy walking and or cycling distances from the dwelling and therefore are in line with HCC's Local Transport Plan objectives.

Refuse and Waste Collection

Provision would need to be made for an on-site bin-refuse store within 30m of each dwelling and within 25m of the kerbside/bin collection point. The collection method must be confirmed as acceptable by TRDC waste management.

Emergency Vehicle Access

As part of the highway authority's assessment of this planning application, we have identified emergency access issues which may benefit from input from Herts Fire and Rescue. Therefore, details of the proposal have been passed to them for attention. This response will be sent separately to the case officer by the fire service. HCC would like to back any comment made by the fire service for this application.

Conclusion

HCC as Highway Authority has considered that the proposal would not have an unreasonable impact on the safety and operation of the highway subject to a pending comment from Herts Fire and Rescue regarding the access for emergency vehicles with subject to the above highway informatives.

4.1.3 Herts Fire and Rescue: [Advisory Comments]

We have been asked to comment on this by Highways due to the fact that the distance from a parked appliance to the furthest point in the dwellings (P7 and P8) looks to be over the 45m permissible.

From the plans available on the planning portal we agree that P7 and possibly P8 are outside the requirements of ADB Vol 1 B5 13.1.

If it cannot be evidenced that the access for the fire service meets all the requirements of B5, then we would require sprinklers to BS 9251:2014 or BS EN 12845 to be fitted throughout that dwelling, which would allow the distance to be extended to 75m (in houses or flats having one floor more than 4.5 m above ground level).

A fire hydrant should be provided within 90m of the entrance to each dwelling or block of flats.

I provide these comments to help with our standard response which I have included below.

TOWN AND COUNTRY PLANNING ACT 1990

TOWN AND COUNTRY PLANNING (APPLICATION) REGULATIONS 1988

Hertfordshire Fire & Rescue service will be satisfied with the access for Fire Service emergency vehicles providing the requirements stated below are met:

ACCESS AND FACILITIES

- 1. Access for fire fighting vehicles should be in accordance with The Building Regulations 2010 Approved Document B (ADB) vol 2, section B5, sub-section 13.*
- 2. Access routes for Hertfordshire Fire and Rescue Service vehicles should meet the requirements given below:*

APPENDIX 1 - SWEEP AND TURN CIRCLES - APPLIANCES

*Maximum length.....8.1m
Maximum height.....3.3 m
Maximum width.....2.9m including mirrors
Maximum weight.....19.0 tonnes
Ground clearance.....220mm
Turning and sweep circles
Width of roadway..... 3.7m
Turning circle..... 16m*

Sweep circle..... 18m

3. *Turning facilities should be provided in any dead-end route that is more than 20m long. This can be achieved by a hammer head or a turning circle designed on the basis of diagram 15.3 in section B5.*

4.1.4 Herts Ecology: [No objection subject to condition]

The site is described by Croxley Green Parish Council as garden / communal open space for the nearby flats and houses. A Preliminary Ecological Appraisal (Ecology by Design, October 2020) found the site comprises poor semi-improved neutral grassland, scrub and scattered trees. There is potential for foraging and sheltering bats, hedgehogs and toads; and nesting birds. The habitats are assessed as being of parish/neighbourhood value.

An Arboricultural survey identified 8 trees or groups of trees. Of these, only one (a poplar T5) was in poor condition. All the others were in fair condition, with a cherry T8 in good condition. Five of the eight trees (T2, T4, T5, T6, T8), a laurel shrub, and part of a group of trees/shrubs along the southern boundary (next to the proposed car park), are proposed for removal. This loss should be compensated for, and the two grade B trees (T2, T4) should be replaced on a two-for-one basis as a minimum if they cannot be retained.

Enhancements for species are suggested (bat and bird boxes, insect boxes, hedgehog highways in close-boarded garden fencing, hibernaculum for reptiles, amphibians and invertebrates) and these are welcomed. Any biodiversity enhancements will contribute to the local biodiversity resource; however they may not fully replace the semi-natural habitats lost.

Some of the grassland (albeit of low intrinsic ecological value), scrub and trees will be lost to the proposals and this loss should be adequately mitigated for. The Planning Statement (Nova Planning 22 January 2021) states that the planting of trees and hedges as part of the landscaping scheme will provide net gain (iv. Ecology, p 9).

To bring all these mitigation and net gain measures together, I advise a Landscape and Ecological Management Plan is secured by condition. The LEMP should provide details to demonstrate no net loss to biodiversity and ideally a net gain can be achieved from the development.

Finally, if external lighting is proposed, this should be designed to minimise light spill, in particular directing light away from the boundary vegetation and the canal to ensure dark corridors remain for use by wildlife as well as directing lighting away from potential roost / nesting sites.

4.1.5 Affinity Water: [No objection]

Risk of contamination to public water supply

You should be aware that the proposed development site is located within an Environment Agency defined groundwater Source Protection Zone 1 (SPZ1) corresponding to Tolpits Lane Pumping Station. This is a public water supply, comprising a number of Chalk abstraction boreholes, operated by Affinity Water Ltd.

The construction works and operation of the proposed development site should be done in accordance with the relevant British Standards and Best Management Practices, thereby significantly reducing the groundwater pollution risk. It should be noted that the construction works may exacerbate any existing pollution. If any pollution is found at the site then the appropriate monitoring and remediation methods will need to be undertaken.

Any works involving excavations below the chalk groundwater table (for example, piling or the implementation of a geothermal open/closed loop system for a ground source heat pump) should be avoided. If these are necessary, a ground investigation should first be carried out to identify appropriate techniques and to avoid displacing any shallow contamination to a greater depth, which could impact the chalk aquifer.

For further information we refer you to CIRIA Publication C532 "Control of water pollution from construction - guidance for consultants and contractors".

Water efficiency

Being within a Government designated 'water stressed area', we expect that the development will include water efficient fixtures and fittings to meet the requirement of 110/litres/person/day.

Measures such as rainwater harvesting and grey water recycling help the environment by reducing pressure for abstractions in chalk stream catchments. These measures minimise potable (i.e. treated to a level suitable for drinking) water use by reducing the amount of potable water used for washing, cleaning and watering gardens. Recent research (attached) suggests that rainwater harvesting is viable at most development scales, and greywater recycling for larger developments.

The measures also reduce the carbon emissions associated with treating this water to a standard suitable for drinking and will help reduce carbon emissions in Three Rivers.

You may be aware that water efficiency measures are also required by the Building Regulations. The building regulations set a specific water use standard that is appropriate for all new development proposals. Part G2 of the Regulations requires a maximum of 110 litres per person per day in an areas designated as water stressed areas where a condition that the dwelling should meet the optimum requirement is imposed as part of the process of granting planning permission.

Affinity Water requests the following condition is imposed on the site:

Prior to works commencing on site, details of how the development will incorporate a mix of rainwater and greywater harvesting, and water efficient fixtures, fittings and landscaping to achieve compliance with the target of 110/litres/person/day must be submitted to the Local Planning Authority for approval. The development will be constructed in accordance with the approved details and maintained in perpetuity.

Reason: To improve the sustainability of new development, with regard to the efficient use of water, as required by the National Planning Policy Framework and Part G2 of the Building Regulations. Infrastructure connections and diversions

There are potentially water mains running near the proposed development site. If the development goes ahead as proposed, the developer will need to get in contact with our Developer Services Team to discuss asset protection or diversionary measures. This can be done through the My Developments Portal (<https://affinitywater.custhelp.com/>) or aw_developerservices@custhelp.com.

If a water mains plan is required, this can also be obtained by emailing maps@affinitywater.co.uk. Please note that charges will apply.

In this location Affinity Water will supply drinking water to the development. To apply for a new or upgraded connection, please contact our Developer Services Team by going through their My Developments Portal (<https://affinitywater.custhelp.com/>) or aw_developerservices@custhelp.com.

4.1.6 National Grid: [No objection]

Affected Apparatus

The apparatus that has been identified as being in the vicinity of your proposed works is:

Low or Medium pressure (below 2 bar) gas pipes and associated equipment. (As a result it is highly likely that there are gas services and associated apparatus in the vicinity)

Requirements

BEFORE carrying out any work you must:

- Carefully read these requirements including the attached guidance documents and maps showing the location of apparatus.
- Contact the landowner and ensure any proposed works in private land do not infringe Cadent and/or National Grid's legal rights (i.e. easements or wayleaves). If the works are in the road or footpath the relevant local authority should be contacted.
- Ensure that all persons, including direct labour and contractors, working for you on or near Cadent and/or National Grid's apparatus follow the requirements of the HSE Guidance Notes HSG47 - 'Avoiding Danger from Underground Services' and GS6 – 'Avoidance of danger from overhead electric power lines'. This guidance can be downloaded free of charge at <http://www.hse.gov.uk>
- In line with the above guidance, verify and establish the actual position of mains, pipes, cables, services and other apparatus on site before any activities are undertaken.

4.1.7 Landscape Officer: [Objection]

There are trees on the site protected by Tree Preservation Order (TPO693). The site comprises of a substantial area of amenity grass, with occasional scattered trees, including a mature, open grown Sycamore, that is protected by TPO. The south and eastern boundary of the site comprises of a mature hedge / tree screen, beyond which is the Grand Union Canal (GUC). To the west housing borders the site, and to the north and east boundary is a low hedge; leading to a tree-lined section of Sycamore Road and existing blocks of low rise flats.

Whilst the site is not designated open space, it has the appearance of publically accessible outdoor space, with picnic benches and a Barbeque area giving the impression of a well-used open space.

The tree report would suggest that the impact on trees resulting from the proposed development would be broadly acceptable and the removal of poorer quality trees could be mitigated by new planting. The protected Sycamore would appear to have sufficient space between the proposed dwellings, and the orientation of the housing would indicate that the tree is unlikely to result in problems, such as shading, for future residents.

However, the development would result in almost the entire loss of the existing open space, to be replaced by new housing and car parking. This would be of significant detriment to existing residents, in particular those in neighbouring flats. The proposed development does not include provision for any new or enhanced open space, sports or recreational facilities that would be of sufficient benefit to local recreational provision to outweigh the loss of the space.

The site, shares a substantial boundary with the GUC, with the towpath providing a well-used recreational walking and cycling route. The route provides a vital green corridor

through what is a predominately urban area, and development of the site would diminish this open aspect. The GUC is a priority for Green Infrastructure in the Three Rivers District and is a focus for conservation and enhancement. The development would compromise the integrity of the GUC as part of the district's Green Infrastructure network by fragmenting and diminishing the asset. It would also fail to contribute to the delivery of new Green Infrastructure and would instead damage the aim of creating a linked network of new and enhanced open spaces and corridors.

The proposal is contrary to the Development Management Policy DM11 (2013), and Core Policy CP9, of Three Rivers Core Strategy 2011 – 2026.

4.1.8 Thames Water: [No objection]

WATER:

There are public sewers crossing or close to your development. If you're planning significant work near our sewers, it's important that you minimize the risk of damage. We'll need to check that your development doesn't limit repair or maintenance activities, or inhibit the services we provide in any other way. The applicant is advised to read our guide working near or diverting our pipes. <https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-near-or-diverting-our-pipes>.

With regard to SURFACE WATER drainage, Thames Water would advise that if the developer follows the sequential approach to the disposal of surface water we would have no objection. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. Should you require further information please refer to our website. <https://developers.thameswater.co.uk/Developing-a-large-site/Apply-and-pay-for-services/Wastewater-services>

Thames Water recognises this catchment is subject to high infiltration flows during certain groundwater conditions. The scale of the proposed development doesn't materially affect the sewer network and as such we have no objection. In the longer term Thames Water, along with other partners, are working on a strategy to reduce groundwater entering the sewer network.

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

Thames Water would advise that with regard to WASTE WATER NETWORK and SEWAGE TREATMENT WORKS infrastructure capacity, we would not have any objection to the above planning application, based on the information provided

WATER:

With regard to sewerage and sewage treatment, this comes within the area covered by the Severn Trent Water. For your information the address to write to is Severn Trent Water, 2308 Coventry Road, Sheldon, Birmingham B26 3JZ Tel - (0121) 7226000

The applicant is advised that their development boundary falls within a Source Protection Zone for groundwater abstraction. These zones may be at particular risk from polluting activities on or below the land surface. To prevent pollution, the Environment Agency and Thames Water (or other local water undertaker) will use a tiered, risk-based approach to regulate activities that may impact groundwater resources. The applicant is encouraged to read the Environment Agency's approach to groundwater protection (available at

<https://www.gov.uk/government/publications/groundwater-protection-position-statements>) and may wish to discuss the implication for their development with a suitably qualified environmental consultant.

4.1.9 Environmental Health: [No objection subject to conditions]

Online historical mapping suggests that the site may have had an agricultural use, inferred by the presence of nearby field boundaries on the map published in 1899, the Grand Junction Canal is shown to the south, a towing path is also shown, Croxley Mills is shown to the south west, some filter tanks and settling ponds are shown adjacent to the Mills, watercress beds are also shown, Croxley Green Station (Croxley Green Branch) is shown on the map published in 1920, Cassiobridge Sewage Farm (Watford U.D. Council) is shown to the south east, the area to the west is starting to become developed with residential dwellings, the entrance of Sycamore Road is shown on the map published in 1944, the site remained undeveloped during this period.

The WBC historical maps indicate that Croxley Mills was a paper mill, the Mills are labelled Croxley Mills (Paper) on the map for the 1871 to 1876 epoch, a large building is shown adjacent to the watercress beds on the map for the 1913 to 1924 epoch, due to its size and configuration it is likely that the building was commercial/industrial in nature, a feature with sloping sides is shown adjacent to Croxley Mills during this period, the feature may be an excavation of some description, a works is shown to the south and south east on the map for the 1958 to 1964 epoch, the feature with the sloping sides is shown as being much larger during this period, the feature appears to be some sort of workings.

An area of historic landfill is located to the south west (EAHLD12356, Land at Croxley Mills, Croxley Green, John Dickenson and Company, first input 31/12/1936, last input 31/12/1982, industrial). A part of the workings described above, appears to have been infilled under this licence.

The site does not appear to have had a previous potentially contaminative use. The site has remained undeveloped. Surrounding land uses could have given rise to contamination in the area. However, it is considered unlikely that the site has been impacted by anything more than diffuse anthropogenic contamination. The site will have a sensitive end use. Any unexpected contamination identified during the development should be reported to the LPA. Based on this, the following contaminated land condition is recommended on this and any subsequent applications for the site.

- 1. Reporting of Unexpected Contamination: In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken, and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.*

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

4.1.10 Canal & Rivers Trust: No comment at time of writing. Any comments will be reported at committee.

4.2 **Public/Neighbour Consultation**

- 4.2.1 Number consulted: 40
- 4.2.2 No of responses received: 71 objections
- 4.2.3 Site Notice: 25.01.2021 Press notice: Not required

4.2.4 Summary of Responses:

- Space used as garden by the community
- Time and money spent on upkeep
- Not affordable housing
- Loss of open space
- Lack of parking
- Impact on wildlife
- Impact on community
- Design not in keeping
- Contrary to neighbourhood plan
- Flood risk impacts
- Higher insurance premiums due to flood risk
- Impact on Green Belt
- Will cause congestion
- Impact on views/setting
- Developer has not contributed to upkeep of land
- Not an allocated site
- Not suitable for development
- Nothing has changed since previous refusal- population density has increased
- Emergency Access
- Concerns regarding tree
- Overdevelopment
- Adverse impact on character of the area

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 Development Plan

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

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

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

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

The Croxley Green Neighbourhood Plan Referendum Version was adopted in December 2018. Relevant policies include: CA1, HO1, HO2 and HO3 and Appendix B

6.3 Other

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

Affordable Housing Supplementary Planning Document (adopted June 2011).

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

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

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

7 **Planning Analysis**

7.1 Background, including 2005 Appeal and current policy context

7.1.1 The most recent appeal decision from 2005 'APP/P1940/A/05/1193800' proposed a two storey building fronting Sycamore Road comprising of 8 units in a similar location to the apartment block currently proposed. Planning permission was refused by TRDC on two grounds. The second (R2) ground relating to the impact on the Green Belt was not upheld and for clarification the application site is not located within the current extent of designated Metropolitan Green Belt. The first reason for refusal (R1) related to the loss of the existing open space and the Inspector identified harm in two respects. Firstly the impact on the character and setting of the area contrary to the planning policies at the time and secondly the loss of the parcel of land which was said to fulfil a 'recreational and social function'.

7.1.2 Since this appeal decision the National Planning Policy Framework and statutory Development Plan Policies have changed and over 15 years has elapsed. Therefore the weight which can be attributed to the appeal decision has diminished to a degree although its findings cannot be dismissed entirely.

7.1.3 Nevertheless this current proposal is assessed below against the current planning policy and site circumstances. It is considered that the proposal now complies with local and national policies and is therefore acceptable on its own merits.

7.1.4 The prevailing policy context in respect of housing need is also noted however it is considered for the reasons outlined below that the proposal is acceptable on its own merits without the need to consider the 'titled balance' and presumption in favour of sustainable development. The development is considered to be sustainable development by virtue of its policy compliance.

7.2 Principle of Development

7.2.1 The proposed development would result in a net gain of 12 residential units. 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 for development, it may still come forward through the planning application process where it will be tested in accordance with relevant national and local policies.

7.2.2 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.

7.2.3 The application site is within Croxley Green which is identified as a Key Centre in the Core Strategy. The Spatial Strategy of the Core Strategy advises that new development will be directed towards previously developed land and appropriate infilling opportunities within the urban areas of Key Centres. Policy PSP2 advises that Key Centres will provide approximately 60% of the District's housing requirements over the plan period. PSP2 outlines that development should predominately be on sites within the urban area on previously developed land.

7.2.4 The application site is not previously developed land however given the location of the site within the Key Centre of Croxley Green and its setting within an existing residential area, there is no in principle objection to residential development on the site subject to compliance with the Policies set out in the Core Strategy (adopted October 2011) and the Development Management Policies LDD (adopted July 2013) and subject to assessment against all other material considerations as discussed below.

7.3 Impact on Character and Street Scene

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

7.3.2 In terms of new residential development, Policy DM1 of the DMLDD advises that the Council will protect the character and residential amenity of existing areas of housing from forms of 'backland', 'infill' or other forms of new residential development which are inappropriate for

the area. Development will only be supported where it can be demonstrated that the proposal will not result in:

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

7.3.3 Policy CA1 of the Croxley Green Neighbourhood Plan (2018) relates to new developments and advises that;

‘New development should seek to conserve and, wherever possible, enhance the key elements of the character and appearance of the Character Areas described in Appendix B through careful design and massing of new buildings and the protection and enhancement of private gardens and open space without inhibiting innovative design’

7.3.4 When considering the requirements above as outlined in Policy DM1 and Policy CA1 it is not considered that the development would be contrary to these criteria as discussed below.

7.3.5 In relation to the flatted block this element would be set in a minimum of 5.6m from the site boundary to the west and 14m from the boundary to the east. The proposed building would also be set back 4.5m from the front boundary facing Sycamore Road. The proposed block would be significantly narrower than the existing flatted developments to the north and east of the application site. As such when considering the size and plot frontage width the proposed building would be respectful of its surroundings. The existing vegetation which comprises of tall mature trees protected by TPO. would be retained to the front boundary which not only aids in screening the building to a degree it also maintains the existing character which includes mature vegetation and soft landscaping buffering built form from the highway. A separation distance of over 25m from the nearest existing built form would also be which further adds to the perception of spaciousness and preservation of the open and verdant character of the vicinity.

7.3.6 In relation to height and design the proposed flatted block would reflect the design of the existing apartment blocks and neighbouring dwellings with its flat roof form, the use of brick and render and timber cladding. The neighbouring apartment blocks are also three storeys in height with flat roofs and front balconies. The proposed design including stepped elevations and central feature aid in breaking up the visual impact of the built form within the streetscene and add visual interest to the elevations.

7.3.7 The proposed terraced row would not be street facing in the same traditional relationship which prevails within the area with front gardens and driveways fronting the highway. Nevertheless there is some variation with the presence of cul de sac comprising of smaller rows of four dwellings such as to the immediate west of the site. As such whilst not street facing the proposed row would read in a similar context of a row of houses which would be visible from Sycamore Road. It is also noted that the proposed plots serving the three dwellings are slightly shorter than those which prevail along the southern side of Sycamore Road and Valley Walk however their width and plot frontage cover would not be at odds when considered in the wider context of the area including the plot sizes on the northern side of some of Sycamore Road and Mayfare. The central plot would be 7m wide with plot generally 8-9m wide within the immediate vicinity.

7.3.8 Amended plans were received during the application in order to simplify the design and elevational detailing of the terrace to better integrate the proposed houses with the

character of the area. A slight difference in design does identify this development as a later addition to the streetscene and design criteria does not prescribe that new development must match existing design. The proposed dwellings would also reflect the materials of the flatted block which ties the two elements together and ensures they read as one new development within the streetscene.

- 7.3.9 It is not disputed that the introduction of both the flatted block and terrace row would change the setting of the site and result in the loss of the entire area of existing open space. However spacing would be retained between and surrounding the two buildings which would maintain a degree of openness. It is noted that the existing open space has a contribution towards the character of the area however the wider character is more attributed to the set back nature of buildings with mature vegetation and parcels of soft landscaping rather than just this parcel of land. All these features would be maintained with the retention of the existing trees to the front, central protected trees and spacing between buildings. Additional details in respect of replacement planting will also be required by condition. The existing parcel of land is in private ownership and is not designated public open space within the development plan. As such it is not considered that the proposed development would result in demonstrable harm to the character and appearance of the streetscene so as to justify the refusal of planning permission.
- 7.3.10 In summary the proposed development is considered to be acceptable in this respect in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011), Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013) and Policies CA1, HO1, HO2 and HO3 of The Croxley Green Neighbourhood Plan 2018 and the NPPF.

7.4 Housing Mix

- 7.4.1 Policy CP3 sets out that the Council will require housing proposals to take into account the range of housing needs as identified by the Strategic Housing Market Assessment (SHMA) and subsequent updates. The need set out in the Core Strategy is 30% one-bedroom units, 35% two-bedroom units, 34% three-bedroom units and 1% four bedroom and larger units. However, the most recent SHMA (South West Hertfordshire Strategic Housing Market Assessment 2016) advises that in terms of the size of accommodation need to 2036 in Three Rivers, the overall requirement is for approximately 19% 1-bedroom units, 28% 2-bedroom units, 37% 3-bedroom units and 16% 4+ bedroom units.
- 7.4.2 Policy HO1 of the Croxley Green Neighbourhood Plan stipulates that applications should consider the needs of local priority groups (the aging population, starter market for young singles and couples, affordable housing for rent)
- 7.4.3 The proposal includes the provision of 6 x 2 bedroom flats and 3 x 4 bedroom houses. As such the development would not strictly accord with the unit mix recommended in the SHMA. Nevertheless the scheme would provide 6 x 2 bed units which are in the second highest demand in the district and owing to the limited overall scale of the development it is not considered that the failure to fully accord with the SHMA would prejudice the overall delivery across the district.

7.5 Affordable Housing

- 7.5.1 **Appendix A** of this report sets out the position of the Council and evidence relating to the application of the affordable housing threshold in Core Strategy Policy CP4: Affordable Housing.
- 7.5.2 As a net gain of nine units, the proposed development would be liable for a commuted sum payment towards affordable housing. This site lies within the "The Langleys and Croxley" market area where the figure is £750 per square metre. The Council have calculated the net gain in habitable floorspace to be 605sqm. The affordable housing payment required is,

therefore, £750 x 605sqm = £453,750. The applicant has confirmed that they are willing to enter into a Section 106 agreement with the LPA to secure this amount as a financial contribution in lieu of on-site provision of affordable housing. Subject to the completion of the S106 Agreement, the proposed development would therefore be acceptable in this respect in accordance with Policy CP4 of the Core Strategy (adopted October 2011) and the Affordable Housing Supplementary Planning Document (approved June 2011).

7.6 Impact on amenity of neighbours

- 7.6.1 Policy CP12 of the Core Strategy states that development should 'protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space'. Policy DM1 and Appendix 2 of the Development Management Policies document set out that development should not result in the loss of light to the windows of neighbouring properties nor allow overlooking, and should not be excessively prominent in relation to adjacent properties.
- 7.6.2 Appendix 2 of the Development Management Policies document also advises that windows of habitable rooms at first floor level should not generally be located in flank elevations and that flank windows of other rooms should be non-opening below 1.7m and obscure glazed. Development should not incorporate balconies or first floor conservatories which overlook neighbouring properties to any degree.
- 7.6.3 The proposed flatted block would be sited approx. 25m from the existing units to the east, 27m from the units to the north and 24m from the dwellings to the west. Owing to the separation distances it is not considered that the proposed apartment block would result in adverse impact by virtue of an overbearing impact or loss of light to these neighbours.
- 7.6.4 The windows within the flank elevations of the proposed flatted development would be secondary windows serving the kitchen, dining, living areas. Whilst these windows and those within the rear elevations would afford views towards the neighbours to the west and the existing apartment block given the separation distances and the existing relationship with the shared amenity space to the south of the existing units it is not considered that the proposal would result in unacceptable overlooking to existing residential amenity.
- 7.6.5 The proposed terraced row would be sited 17m from the closest neighbour to the west and 31m from the existing flatted development to the north east. Whilst flank windows are also proposed owing to the separation distances it is not considered that the proposed dwellings would result in harm to existing neighbouring amenity by virtue of an overbearing impact, loss of light or adverse overlooking.
- 7.6.6 Balconies are proposed to the front elevation of the apartment block however these would face onto Sycamore Road with a separation distance of 27m from the existing flatted development to the north which is considered sufficient to prevent unacceptable overlooking in the case owing to its separation by the highway. There is also existing mature vegetation along the front boundary however this is not relied upon to make the development acceptable.
- 7.6.7 The proposed development would result in the loss of open space which has been informally used by residents of the neighbouring units for a number of years. The agent has advised that the parcel of land subject to this application is not included within the ownership of the surrounding existing units with their shared amenity space solely pertaining to the land immediately south of the existing blocks. Therefore the proposal would not result in the loss of formal amenity space which is lawfully available for the use by these residents. In any event any separate legal restriction would not be outweighed by planning consent and would be a civil matter to be enforced separate. Legal covenants or similar legal restrictions cannot, in themselves, justify the refusal of planning permission.

7.6.8 It is noted at section 7.1 that the 2005 appeal decision that at the time of their decision the Inspector had regard to the social and recreational function that this parcel of land had to existing residents. Whilst the use of the land over the years as fulfilling an area of social gatherings by the community is not disputed the owner of the land could enclose it and restrict access with immediate effect. Notwithstanding this the parcel of land subject to this application is not designated open space nor does it have any other formal designation that would hold weight in planning policy terms to justify the refusal of permission based on the loss of its function.

7.7 Quality of accommodation for future occupants

7.7.1 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.

7.7.2 Section 3 of Appendix 2 of the Development Management Policies LDD sets out indicative levels of amenity space dependent on the number of bedrooms outlining that 2 bed flats should provide 31sqm of amenity space which would result in a requirement for 186sqm of space to serve the 6 flats which can be provided either via private or communal space. Appendix 2 advises that 4 bedroom dwellings should be provided with 105sqm of amenity space each.

7.7.3 The first and second floor flats would each have a balcony which would provide 4sqm of private amenity space in addition to over 400sqm of amenity space provided within the site for use by residents. This would exceed the policy requirement for the flats.

7.7.4 Appendix 2 of the DMP LDD outlines that 4 bedroom dwellings should provide 105sqm of amenity space. Dwellings 7 and 9 would each have over 105sqm of amenity space which would meet the policy requirement set out within Appendix 2 however Plot 8 would have a shortfall in amenity space provision of 30sqm as this plot would have a rear garden 75sqm in area. However owing to the siting of the site within a 1 mile (20 minute) of Cassiobury Park and siting adjacent to the Grand Union Canal it is not considered that the shortfall in amenity space would result in harm to the future occupiers of this unit because of the extensive opportunities for recreation and use of public open space for amenity in the immediate locality

7.7.5 The existing flatted development to the north east are sited approx. 27m from the proposed flatted block and as such would not result in an unacceptable impact on the new block by virtue of an overbearing impact, loss of light or adverse overlooking. There is a 31m separation distance from the existing block to the north east to the proposed row of terraces with the front elevations of these units facing the existing built form. As such it is not considered that the existing block would be overbearing or result in unacceptable overlooking to these units.

7.7.6 There is a 20m separation distance between the proposed flatted block and the proposed terraced row which would be orientated south of this block. Owing to the separation distance and orientation it is not considered that the proposed flatted block would result in an overbearing impact or overlooking towards the proposed houses.

7.8 Wildlife and Biodiversity

7.8.1 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.

7.8.2 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.

7.8.3 The application has been submitted with a Biodiversity Checklist and Herts Ecology have been consulted as part of the application. It is not considered that the proposed development would result in any harm to protected species however the proposed loss of vegetation should be addressed by a suitable mitigation plan. Whilst some mitigation is referred to within the submitted documentation it is considered reasonable that a Landscape and Ecological Management Plan (LEMP) should be reserved by condition to provide further details and to combine the suggested mitigation into one which ensures biodiversity net gain. A condition ensuring that no external lighting is affixed to the flats or houses without the prior permission of the LPA is also considered reasonable.

7.9 Trees and Landscaping

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

7.9.2 There are 2 TPOs on site, a Sycamore tree and a group of Norway Maple trees to the north of the site.

7.9.3 The Landscape Officer has commented to advise that the development itself would not result in harm to the onsite protected trees and it is unlikely the trees would be subject to future pressures of felling or lopping owing to the siting and orientation of the new development relative to the trees.

7.9.4 The comments from the Landscape Officer in relation to the loss of open space are noted and addressed in previous sections above. The site is not identified public open space and whilst the value of the green buffer surrounding the GUC is noted the proposed dwellings would be set back from the towpath by more than 10m. The presence of built form along the canal would not be incongruous within the area with a number of residential and commercial units adjacent to or backing on to the canal. A scheme of hard and soft landscaping and tree protection will be reserved by condition to ensure suitable replanting is provided and the on site trees are safeguarded during construction.

7.10 Highways, Access and Parking

7.10.1 Appendix 2 of the DMP LDD outlines the following parking standards

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

4 or more bedroom dwellings: 3 spaces per dwelling (3 assigned spaces within curtilage)

7.10.2 The proposal development would require 21 onsite parking spaces (15 assigned).

7.10.3 Each four bed house would require 3 spaces each (9 in total). Plot 7 would have an adjoining garage and a drive for 2 cars. Plots 8 and 9 would each have a garage in addition to two parking spaces. As such all three of the four bed units would have 3 parking spaces therefore complying the standards sets out in Appendix 5.

7.10.4 12 spaces would be provided within the site to serve the 6 x two bedroom flats. Therefore providing 2 spaces per unit in accordance with the parking standards set out in Appendix 5.

7.10.5 Subject to a condition requiring further details relating to visibility splays the Highways Officer does not consider that the proposal would result in any adverse impact to highway safety. A construction management plan and parking management plan will also be required

by condition. Whilst indicative cycle store housing its proposed location is not shown on the floor or site plans submitted. As such further details are required by condition.

7.11 Sustainability

- 7.11.1 Paragraph 93 of the NPPF states that “Planning plays a key role in helping to shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure”.
- 7.11.2 Policy CP1 of the Core Strategy requires the submission of an Energy and Sustainability Statement demonstrating the extent to which sustainability principles have been incorporated into the location, design, construction and future use of proposals and the expected carbon emissions.
- 7.11.3 Policy DM4 of the DMLDD requires applicants to demonstrate that development will produce 5% less carbon dioxide emissions than Building Regulations Part L (2013) requirements having regard to feasibility and viability. This may be achieved through a combination of energy efficiency measures, incorporation of on-site low carbon and renewable technologies, connection to a local, decentralised, renewable or low carbon energy supply. The policy states that from 2016, applicants will be required to demonstrate that new residential development will be zero carbon. However, the Government has announced that it is not pursuing zero carbon and the standard remains that development should produce 5% less carbon dioxide emissions than Building Regulations Part L (2013) requirements having regard to feasibility and viability.
- 7.11.4 An energy and sustainability statement has been submitted with the application prepared by ‘Blue Sky unlimited’. This report outlines an energy saving result of 6.39% therefore exceeding the minimum 5% reduction required by Policy DM4. A condition will be included to ensure the development is carried out in accordance with this report.
- 7.11.5 Affinity Water have provided comments in respect of rainwater harvesting and water recycling. Given that this is not a requirement of any policies set out within the current development plan. As such it would not be reasonable to require further details by planning condition. An advisory informative however will be added.

7.12 Flood Risk and Drainage

- 7.12.1 The application site is not located within a Flood Risk Zone. Thames Water have raised no objections to the development and a condition will be added to ensure further details to the LPA should any contamination be discovered. Concerns regarding existing pressures are noted however conditions attached to this development cannot be used to rectify existing issues. The proposed built form is set back from the watercourse to the south with plentiful areas of soft landscaping also retained. As such it is not considered that harm would result in this respect.

7.13 Refuse and Recycling

- 7.13.1 Policy DM10 (Waste Management) of the DMLDD advises that the Council will ensure that there is adequate provision for the storage and recycling of waste and that these facilities are fully integrated into design proposals. New developments will only be supported where:
- i) The siting or design of waste/recycling areas would not result in any adverse impact to residential or work place amenity
 - ii) Waste/recycling areas can be easily accessed (and moved) by occupiers and by local authority/private waste providers
 - iii) There would be no obstruction of pedestrian, cyclists or driver site lines

7.13.2 Refuse and recycling stores are proposed adjacent to the access with the terrace row accommodating refuse and food pod bins within their plots. The proposed bin store would be 2.5m in height and would not appear incongruous within the setting of the development or streetscene. They are sited adjacent to the access which is considered to be appropriate for collection by refuse crews.

7.14 Summary

7.14.1 For the reasons outlined above the development is considered to be acceptable on its own merit. As such regard does not need to be had at this stage to the 'titled balance' as set out in Paragraph 11 of the NPPF. However the social and economic benefits of the scheme in respect of 9 additional residential units are noted in addition to environmental benefits of additional planting and the opportunity for increased biodiversity and habitat creation. By virtue of its compliance with the current policies the development would be a form of sustainable development.

8 **Recommendation**

That the decision be delegated to the Head of Regulatory Services to consider any representations received and that PLANNING PERMISSION BE GRANTED, subject to the following conditions and subject to the completion of a Section 106 Agreement:

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

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

C2 The development hereby permitted shall be carried out in accordance with the following approved plans:

PA-KH-10
PA-KH-100
PA-KH-101
PA-KH-102
PA-KH-103
PA-KH-104
PA-KH-105
PA-KH-106
PA-KH-107
PA-KH-109
PA-KH-11
PA-KH-110
PA-KH-111
PA-KH-112 A
PA-KH-113 A
PA-KH-114A
PA-KH-115A
PA-KH-116
PA-KH-117

Reason: For the avoidance of doubt, in the proper interests of planning and in accordance with Policies PSP2, CP1, CP2, CP3, CP4, CP8, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011), Policies DM1, DM4, DM6, DM8, DM9, DM10, DM11, DM13, Appendix 2 and Appendix 5 of the Development Management Policies LDD (adopted July 2013), Policies CA1, HO1, HO2 and HO3 of The Croxley Green Neighbourhood Plan (2018) and the NPPF (2019).

- C3 No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of hard and soft landscaping, which shall include the location of all existing trees and hedgerows affected by the proposed development, and details of those to be retained, together with a scheme detailing measures for their protection in the course of development.

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

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

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

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

- C4 Before any building operations above ground level hereby permitted are commenced, samples and details of the proposed external materials shall be submitted to and approved in writing by the Local Planning Authority and no external materials shall be used other than those approved.

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

- C5 The development shall not be occupied until the energy saving and renewable energy measures detailed within the Energy Statement submitted as part of the application are incorporated into the approved development.

Reason: To ensure that the development meets the requirements of Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM4 and Appendix 2 of the Development Management Policies LDD (adopted July 2013) and to ensure that the development makes as full a contribution to sustainable development as possible.

- C6 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:

- i. parking of vehicles of site operatives and visitors
- ii. construction of access arrangements including the routing of vehicles
- iii. loading and unloading of plant and materials
- iv. storage of plant and materials used in constructing the development
- v. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- vi. wheel washing facilities
- vii. measures to control the emission of dust and dirt during construction

- viii. a scheme for recycling/disposing of waste resulting from demolition and construction works
- ix. Details of any temporary refuse and recycling collection arrangements which ensure refuse and recycling collection access are available to all occupied properties at each stage of the works.

The approved Construction Method Statement shall be adhered to throughout the construction period.

Reason: This condition is a pre commencement condition in the interests of highway safety and convenience in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011) and Policy DM10 of the Development Management Policies LDD (adopted July 2013).

- C7 No operations (including tree felling, pruning, demolition works, soil moving, temporary access construction, or any other operation involving the use of motorised vehicles or construction machinery) whatsoever shall commence on site in connection with the development hereby approved until the branch structure and trunks of all trees shown to be retained and all other trees not indicated as to be removed and their root systems have been protected from any damage during site works, in accordance with a scheme designed in accordance with BS5837:2012, to be submitted to and approved in writing by the Local Planning Authority.

The protective measures, including fencing, shall be undertaken in full accordance with the approved scheme before any equipment, machinery or materials are brought on to the site for the purposes of development, and shall be maintained as approved until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made. No fires shall be lit or liquids disposed of within 10.0m of an area designated as being fenced off or otherwise protected in the approved scheme.

Reason: This condition is a pre commencement condition to ensure that no development takes place until appropriate measures are taken to prevent damage being caused to trees during construction and to meet the requirements of Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

- C8 Prior to commencement of the development hereby permitted, a Landscape and Ecological Management Plan (LEMP) shall be prepared, detailing how biodiversity will be incorporated within the development scheme to achieve net gain. The plan shall include details of native-species planting, replacement trees, and/or fruit/nut tree planting, as well as the location of any habitat boxes / structures to be installed. The plan shall be submitted to the Local Planning Authority for written approval and the development shall be carried out in accordance with the approved plan unless otherwise agreed in writing with the Local Planning Authority.

Reason: This is a pre commencement condition to maintain wildlife habitat and to meet the requirements of Policies CP1, CP9 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

- C9 Prior to the first use of the development hereby permitted a visibility splay measuring 2.4 x 23 metres shall be provided to each side of the access where it meets the highway and such splays shall thereafter be maintained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.

Reason: In the interests of highway safety and convenience in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011).

- C10 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken, and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that the proposed development will not cause pollution of the environment, in accordance with Policy CP1 of the Core Strategy (adopted October 2011) and Policy DM9 of the Development Management Policies LDD (adopted July 2013).

- C11 Prior to occupation of the development hereby permitted, a plan indicating the positions, design, materials and type of boundary treatment to be erected on the site shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be erected prior to occupation in accordance with the approved details and shall be permanently maintained as such thereafter.

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

- C12 A parking management plan, including details of the allocation of vehicle parking spaces and cycle storage spaces within the development; management and allocation of disabled parking spaces; and long term management responsibilities and maintenance schedules for all communal parking areas, shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development hereby approved. The parking management plan shall thereafter be carried out in accordance with the approved details.

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

- C13 Detailed proposals for fire hydrants serving the development as incorporated into the provision of the mains water services for the development, whether by means of existing water services or new mains or extension to or diversion of existing services or apparatus, shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of development. The development shall thereafter be implemented in accordance with the approved details prior to occupation of any building forming part of the development.

Reason: To ensure that there is adequate capacity for fire hydrants to be provided and to meet the requirements of Policies CP1 and CP8 of the Core Strategy (adopted October 2011).

- C14 No external lighting shall be installed on the site or affixed to any buildings on the site unless the Local Planning Authority has first approved in writing details of the position,

height, design and intensity. The lighting shall be installed in accordance with the approved details.

Reason: In the interests of visual amenity and the amenities of the occupiers of neighbouring residential properties and to meet the requirements of Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM9 of the Development Management Policies LDD (adopted July 2013).

- C15 Prior to occupation of the development hereby permitted, details of provision for the secure storage of bicycles shall be submitted to and approved in writing by the Local Planning Authority. The storage shall be provided prior to occupation of the building(s), in accordance with the approved details and shall be permanently retained as such thereafter.

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

8.1 **Informatives:**

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

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

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

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

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

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

- 12 The applicant is reminded that the Control of Pollution Act 1974 allows local authorities to restrict construction activity (where work is audible at the site boundary). In Three Rivers such work audible at the site boundary, including deliveries to the site and running of equipment such as generators, should be restricted to 0800 to 1800 Monday to Friday, 0900 to 1300 on Saturdays and not at all on Sundays and Bank Holidays.
- 13 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The applicant and/or their agent and the Local Planning Authority engaged in pre-application discussions which result in a form of development that maintains/improves the economic, social and environmental conditions of the District.
- 14 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).

- 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.
- 16 The applicant is encouraged to incorporate a mix of rainwater and greywater harvesting, and water efficient fixtures, fittings and landscaping to achieve compliance with the target of 110/litres/person/day

**APPENDIX A: Evidence Relating to the
Application of the Affordable Housing
Threshold in Core Strategy Policy CP4:
Affordable Housing**

Evidence Relating to the Application of the Affordable Housing Threshold in Core Strategy Policy CP4: Affordable Housing

Background

- 1.1 In November 2014, the Minister of State for Housing and Planning issued a Written Ministerial Statement (WMS) setting out changes to national planning policy. The WMS stated that financial contributions towards affordable housing should no longer be sought on sites of 10 units or less and which have a maximum combined gross floor area of 1,000sqm. National Planning Practice Guidance (NPPG) was amended to reflect this. However on 31st July 2015 the High Court held (*West Berkshire Council v SSCLG* [2015]) that the policy expressed through the WMS was unlawful and the NPPG was changed to reflect this. On 11th May 2016 the Court of Appeal reversed the High Court decision. The NPPG was subsequently amended to reflect the WMS on 19th May 2016.
- 1.2 In light of the above developments, between November 2014 and August 2015 and May 2016 and 1st September 2017 the Council gave greater weight to the WMS policy and associated NPPG guidance in it than to adopted Policy CP4 of its Core Strategy in respect of development proposals for 10 dwellings or less and which had a maximum combined gross floor area of 1000 sq metres. However, having undertaken an analysis of up to date evidence of housing needs (**The Needs Analysis**), officers advised in 2017 that when considering the weight to be given to the WMS in the context of breaches of the adopted development plan policy, the local evidence of housing need contained in the Needs Analysis should generally be given greater weight. On 1st September 2017 the Council resolved to have regard to the Needs Analysis as a consideration of significant weight when considering the relationship between Policy CP4 and the WMS for the purposes of Section 70(2) Town and Country Planning Act 1990 and Section 38(6) Planning and Compulsory Purchase Act 2004 in respect of development proposals of 10 dwellings or less.
- 1.3 On 24th July 2018 a new version of the National Planning Policy Framework¹ (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.”*
- 1.4 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.”*
- 1.5 The supporting text to Policy CP4 summarises the justification for it:

¹ The revised National Planning Policy Framework was updated in February 2019 and retains the policies as stated in Paragraph 1.3 of this document.

- 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.

- 1.6 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.
- 1.7 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.
- 1.8 In addition to the £2.1 million already received, small scale (1-9 unit) schemes have secured to date a further **£2.5million to £3.8million²** of affordable housing contributions in respect of unimplemented but current planning permissions. All of those schemes were agreed to be viable with those sums secured. The Council has several large scale future residential developments planned which will aim to deliver substantial quantities of further affordable housing in the District in the medium term future, utilising those additional affordable housing contributions as and when they are received.
- 1.9 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 1 October 2011 and 31 March 2020 226 planning permissions were granted for minor residential developments which contribute a net dwelling gain. Of those only 21 have been permitted to lapse which is only 9% of all such schemes.

² The sums payable secured by Sec 106 will be subject to indexation, in most cases from June 2011 which will not be calculable until the date of payment. 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.

- 1.10 Current evidence of housing need in the District is noted below at 2.4 to 2.11. It confirms that the needs underlying the adopted development plan policy remain pressing.

Importance of Small Sites to Three Rivers

- 1.11 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: from 1 April 2017 to 31 March 2020, 177 planning applications for residential development involving a net gain of dwellings were determined³ by the Council. Of these, 158 applications (89%) 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.
- 1.12 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.

2 Development Plan Policies and the WMS

- 2.1 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.

- 2.2 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"

- 2.3 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":

³ Includes refused and approved applications. Excludes prior approval developments.

“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”

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.

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.

2.4 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

2.5 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 2016⁴, 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 six local authority areas (see table 1 below).

Number	Local Authority Name	Lowest Quartile House Prices (2016)
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⁴ ONS (2020) *Dataset: House price to residence-based earnings ratio Table 6a*
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

1	Elmbridge	£375,000.00
2	South Bucks	£370,000.00
3	St Albans	£355,000.00
4	Windsor and Maidenhead	£345,000.00
5	Chiltern	£335,000.00
6	Herstmere	£330,000.00
7	Three Rivers	£325,000.00

Table 1.

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), the lowest quartile house price in Three Rivers in September 2019 was £347,000⁵. The lowest quartile house price of £347,000 continues to place Three Rivers as the **seventh** most expensive local authority area in England and Wales (excluding London), out of a total of three hundred and six local authority areas (see table 2 below). Whilst Three Rivers' position as the seventh most expensive local authority area remains consistent, the lowest quartile house price has risen by £22,000 from 2016 to 2019.

Number	Local Authority Name	Lowest Quartile House Prices (2019)
1	South Bucks	£410,000
2	Elmbridge	£400,500
3	St Albans	£385,000
4	Chiltern	£370,000
5	Epsom and Ewell	£357,000
6	Windsor and Maidenhead	£355,667
7	Three Rivers	£347,000

Table 2.

Lowest quartile earnings in Three Rivers in 2016 were £24,518.00 and £24,811.00 in 2019, 13.3 times worsening to 14 below the lowest quartile house prices (ratio of lower quartile house prices to lower quartile gross annual, residence based earnings⁶). In a mortgage market where lenders are traditionally willing to lend 3.5 times a person's income, clearly a lending requirement at 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 2019 to have a deposit of £260,161.00, or (without such a deposit) to earn £99,143.00 per annum to get onto the lowest/cheapest rung of the property ladder. An additional Stamp Duty payment would also have been due (subject to COVID related temporary relaxation).

When one considers the median affordability ratio⁷ for Three Rivers compared to the rest of England and Wales, the position is even more serious: in 2016, the median quartile income to median quartile house price affordability ratio was 13.77, the fifth worst affordability ratio in England and Wales (excluding London), as set out in table 3 below, again when compared against three hundred and six local authorities.

⁵ Office for National Statistics (2020) *Dataset: House price to residence-based earnings ratio Table 6a* <https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

⁶ Office for National Statistics (2020) *Dataset: House price to residence-based earnings ratio Table 6b* <https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

⁷ Affordability ratio statistics are revised annually by the ONS to reflect revisions to the house price statistics and earnings data.

Number	Local Authority Name	Median quartile house price affordability ratio ⁸ (2016)
1	South Bucks	14.49
2	Hertsmere	14.23
3	Mole Valley	14.18
4	Elmbridge / Chiltern	13.87
5	Three Rivers	13.77

Table 3.

The median quartile house price affordability ratio has worsened since 2016. In 2019, Three Rivers had the third worst affordability ratio in England and Wales (excluding London), with its median quartile house affordability ratio measured at 14.53⁸, as set out in table 4 below. In 2017 and 2018, the median quartile house affordability ratios were 14.31 and 13.75 respectively. Whilst the ratio slightly improved from 2016 to 2018 with a decrease to 13.75, the 14.53 ratio measured in 2019 demonstrates a worsening position over the longer term 2016-2019 period.

Number	Local Authority Name	Median quartile house price affordability ratio ¹ (2019)
1	Isles of Scilly	17.71
2	Mole Valley	14.87
3	Three Rivers	14.53

Table 4.

Looking at the ratio of lower quartile house prices to lower quartile to gross annual, residence based earnings, in 2016 the ratio was 13.26. By September 2019 that had risen to 13.99, showing a worsening ratio over the period from 2016 to 2019.

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

- 2.6 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.⁹
- 2.7 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.

⁸ Office for National Statistics (2020) *Dataset: House price to residence-based earnings ratio Table 5c*
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

⁹ Table 33: Estimated Current Need, South West Hertfordshire Housing Market Assessment (January 2016).

2.8 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.¹⁰ 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

2.9 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.

2.10 Since the start of the plan period from 1 April 2001 to 31st March 2020 (the latest date where the most recent completion figures are available), 4,689 gross dwellings were completed. From this, 1,037 were secured as affordable housing, a total of 22.1%. This percentage is significantly below the Core Strategy target of 45% which means there was a shortfall of 1,073 or 23% in order to fulfil the 45% affordable housing requirement up to 31 March 2020. This shortfall only exacerbates the already pressing need for small sites to contribute towards the provision of affordable housing.

2.11 In the latest monitoring period of 2019/20 (financial year), 17 sites¹¹ delivered a net gain of one or more dwellings and would therefore be required to contribute to affordable housing under Policy CP4 (either through an on-site or off-site contribution). These were made up of five major developments (29%) and 12 minor developments (71%). Only five schemes contributed to affordable housing provision:

- Four out of the 17 provided viability justification, in line with CP4 policy, for the absence of affordable housing provision.
- Eight of the applications were determined during the 2014/15 and 2016/17 periods noted at 1.2 above (when the Council was dealing with applications on the basis that the WMS should be given overriding effect regardless of the viability position on specific schemes). Affordable housing provision was forgone on them on this basis, which is now reflected in the low affordable provision as they are built out.
- Of the five sites which contributed to affordable housing delivery in 2019/20 four were major developments and one was a minor development (17/2628/FUL – Thrive Homes (Registered Provider) scheme). This reflects the pattern of on-site delivery from large schemes, with commuted sums from minor developments (see para. 2.12).

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

2.12 In 2017/2018 (financial year), there were 67 planning applications determined¹² for net gain residential schemes, of which 57 were small site schemes (85%). In 2018/19 (financial year), there were 50 planning applications determined for net gain residential schemes, of which 46

¹⁰ 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.

¹¹ Sites with completions in 2019/20

¹² Includes refused and approved applications. Excludes prior approval developments.

were small site schemes (92%). In 2019/20 (financial year), there were 60 planning applications for net gain residential schemes determined, of which 55 were small sites schemes (92%). It is therefore clear that a high proportion of small site schemes have been proposed in the District, equating to 89% of applications over the past three years.

- 2.13 In terms of numbers of completed dwellings proposed by those small site schemes, between 2011-2020 (financial years) some 341 net dwellings were completed which equates to 38 net dwellings per annum and to 20.8% over the 2011-2020 period. 20.8% is a significant proportion of the overall supply. 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 2.21 below: APP/P1940/W/19/3230999, 27 Gable Close, Abbots Langley: *"It also identifies the importance of small sites in providing affordable housing with contributions from small sites amounting to over £2.1 million since 2011 being spent towards the delivery of 38 affordable dwellings."*

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

- 2.14 As set out at paragraphs 1.7 and 1.8 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 **£2.5million - £3.8million** (see footnote 2) 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

- 2.15 As set out at paragraph 1.9 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 1 October 2011 and 31 March 2020 there were 226 planning permissions granted for minor (net gain) residential developments in the District. Of those only 21 have lapsed (9%). This demonstrates that the application of CP4 has not acted as a brake on small scale residential developments.

Relevant Appeal Decisions

- 2.16 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. Copies of these three appeals are attached to Appendix 1. The Council considers these appeal decisions to be of continuing relevance post the new Framework.
- 2.17 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.
- 2.18 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. A copy of this letter is attached to Appendix 2.
- 2.19 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.
- 2.20 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."¹³*
- 2.21 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.
- 2.22 The Council's stance has been tested on appeal on numerous occasions and the Planning Inspectorate have repeatedly concluded (16 decisions as at the date of this document) that

¹³ Paragraph 7, Planning Inspectorate Letter, March 2017.

whilst the NPPF carries considerable weight, it does not outweigh CP4 of the Councils development plan given the acute and substantial need for affordable housing in the District and the important contribution small sites make towards addressing this shortfall. Below are extracts from a few of those decisions:

- **APP/P1940/W/19/3222318, Eastbury Corner, 13 Eastbury Avenue, Northwood, Decision date: 21st June 2019:**
“The Council has however provided robust evidence to demonstrate high affordable housing need locally and that affordability in the District continues to deteriorate. Indeed, needs analysis carried out by the Council highlights the importance of small sites in addressing shortfall and the lack of affordability that exists in the District. I apply substantial weight to this local evidence due to its recentness and the clear conclusions that can be drawn from it. Policy CP4 makes it clear that site circumstances and financial viability will be taken into account when seeking affordable housing provision.”
- **APP/P1940/W/19/3221363, The Swallows, Shirley Road, Abbots Langley Decision date: 27th June 2019:**
“The Council has however provided robust evidence to demonstrate high affordable housing need locally and that affordability in the District continues to deteriorate. Indeed, needs analysis carried out by the Council highlights the importance of small sites in addressing shortfall and the lack of affordability that exists in the District. I apply substantial weight to this local evidence due to its recentness and the clear conclusions that can be drawn from it.”
- **APP/P1940/W/19/3225445, 6 Berkely Close, Abbots Langley Decision date 5th August 2019:**
“The Council has provided robust evidence of high affordable housing need in the District, and in line with the findings of other appeal decisions cited by the Council, I attribute substantial weight to that need as a consequence and consider that a contribution towards the provision of affordable housing is necessary.”
- **APP/P1940/W/19/3230999, 27 Gable Close, Abbots Langley Decision Date: 1st November 2019:**
*“The Council has provided detailed evidence of acute affordable housing need locally: a Needs Analysis was undertaken in May 2016 after the publication of the Written Ministerial Statement which introduced the affordable housing thresholds now included in the Framework. Based on the Needs Analysis, the Council’s evidence highlights the issue of general house price affordability in the District, plus an exceptionally high need for affordable housing exacerbated by a significant shortfall in supply. It also identifies the importance of small sites in providing affordable housing with contributions from small sites amounting to over £2.1 million since 2011 being spent towards the delivery of 38 affordable dwellings.
A further Needs Analysis following publication of the revised Framework in July 2018 demonstrated that housing stress had increased since 2016. The Council has therefore revisited its position following the update to national policy. There is no evidence before me that affordable housing contributions are acting as a brake on development. Rather, the evidence is that contributions from small sites collected since the policy was adopted in 2011 are delivering affordable housing on the ground. Due to its recentness and the clear conclusions that can be drawn from it, I give this local evidence substantial weight. It underpins the approach in Policy CP4 as an exception to national policy.”*
- **APP/P1940/W/19/3230911, 67 & 69 St Georges Drive, Carpenders Park, Decision date 22nd October 2019:**
“The Council has undertaken several needs analyses, the latest being July 2018, to demonstrate the acute shortage of affordable housing in the District, especially in light of high house prices and that much of the District is also constrained by the Metropolitan Green Belt. It further highlights the importance small sites make to the

contribution to the overall provision of affordable housing. Up until the end of March 2017 there has only been 22.6% of affordable housing provision which falls short of the policy requirement of 45%. The shortfall demonstrates that the provision of affordable housing is still very much needed, such that Policy CP4 should continue to apply to small sites, despite the Framework and the WMS. In light of the Council's body of evidence that demonstrates the particular housing circumstances and needs of the District, I attach substantial weight to this local evidence and consider that the national policy position does not outweigh the development plan and Policy CP4 in this instance."

- **APP/P1940/W/19/3230458, 19 Lynwood Heights, Rickmansworth,**

Decision date 11th October 2019:

"The Council states that its Strategic Housing Market Assessment (2010) has demonstrated that there is a significant affordable housing need locally due to very high house prices and rents and a constricted supply of suitable housing sites. Further, the South West Hertfordshire Strategic Housing Market Assessment (2016) estimated a net affordable housing need of 14,191 in the District between 2013-36 and there is also a worsening situation with regards to affordability. Based on the 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/18/3213370: No.9 Lapwing Way, Abbots Langley.**

Decision Date 22nd May 2019:

"In considering whether provision should be made for affordable housing, there are two matters that need to be addressed. Firstly, whether in principle the provisions of Policy CP4 are outweighed by more recent Government policy. Secondly, if not, whether for reasons of financial viability a contribution is not required... There is no evidence before me that the application of Policy CP4 has put a brake on small windfall sites coming forward. Indeed, such sites have contributed over £2m to the affordable housing pot since 2011... Decisions should be made in accordance with the development plan unless material considerations indicate otherwise. There are very important factors in support of the continued application of Policy CP4. These factors are not unique to Three Rivers. Government policy does not suggest that areas where affordability is a particular issue should be treated differently. Nonetheless, although a weighty matter, the national policy threshold is not a material consideration which outweighs the conflict with the development plan in this case. In making this policy judgment I have given considerable but not full weight to Policy CP4. I have also had regard to the other appeal decisions in the south-east referred to by the Council where Inspectors considered development plan policies seeking affordable housing against national policy. My approach is consistent with these decisions."

- **APP/P1940/W/19/3219890: 4 Scots Hill, Croxley Green**

Decision Date 5th May 2019:

Whilst the appeal was allowed the Inspector considered that when "having regard to TRDCS Policy CP4 and the Council's Affordable Housing Supplementary Planning Document 2011, I consider that a contribution towards the provision of affordable housing is necessary. A draft unilateral undertaking was submitted at appeal stage and was agreed by the Council."

- **APP/1940/W/19/3229274: 101 Durrants Drive, Croxley Green**
Decision Date 16th August 2019:
“Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise... Therefore, I find that the proposal would fail to make appropriate provision for affordable housing and as such, would be contrary to policy CP4 of the CS which seeks to secure such provision, which although does not attract full weight, in light of the evidence provided, attracts significant weight sufficient to outweigh paragraph 63 of the Framework.”
- **APP/P1940/W/19/3238285: Bell Public House, 117 Primrose Hill, Kings Langley**
Decision Date 9th March 2020
“Even taking the appellants figures that 22.8% of affordable units have arisen from non major sites, I consider this to be an important and meaningful contribution...even taking the appellant’s figures my conclusion remains unaltered.”
- **APP/P1940/W/19/3229189: Glenwood, Harthall Lane, Kings Langley**
Decision Date 7th May 2020
“The Council’s evidence sets out the acute need for affordable housing in the area and the importance of small sites in contributing to the provision of such housing. They also highlighted a large number of recent appeal decisions for small residential schemes where it has been considered that the exceptional local need should outweigh government policy, as set out in the Framework... 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.”
- **APP/P1940/W/20/3249107: 2 Church Cottages, Old Uxbridge Road, West Hyde**
Decision Date: 21st October 2020
“The Framework at paragraph 63 sets out that the provision of affordable housing should not be sought for residential developments that are not major developments other than in designated rural areas where policies may set out a lower threshold of 5 units or fewer. That said, there is clear evidence to suggest that there is an acute need for affordable housing in the Three Rivers District and there have been several appeal decisions which supported this view... I agree that there are special circumstances which justify the provision of affordable housing below the Framework’s suggested threshold... As a result, the proposal would be contrary to Policy CP4 of the CS which amongst other matters seeks to increase the provision of affordable homes including by means of a commuted sum payment for sites of between one and nine dwellings... I have also had regard to the obvious benefits in relation to the provision of a much-needed new dwelling. However, the benefits of this are outweighed by the lack of provision for affordable housing”

Conclusion

- 2.23 Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Having regard to the Framework as a material consideration of significant weight, officers' view is that the local evidence of affordable housing need continues to deserve significant weight in deciding whether, for the purposes of Section 38(6), the revised Framework policies weigh sufficiently against the Core Strategy Policy CP4. Having undertaken this assessment in 2017 and further reviewed it post the new NPPF in 2018, in December 2019 and 2020 with regard to more up to date evidence, where available, officers are of the view that the Framework does not outweigh the weight to be

attached to the local evidence of affordable housing need. That evidence shows that the need for affordable housing in Three Rivers is great and the contribution that small sites have made has been significant. Furthermore comparisons between 2016 and 2019 ONS data shows that the affordability of housing in Three Rivers is deteriorating year on year and the need for affordable housing is growing. As such proposals for the residential development of sites of 10 dwellings or less (not “major development”) will currently be expected to contribute towards the provision of affordable housing in accordance with Policy CP4 as a condition of grant. The Council will keep this evidence under review.

Appendix 1: Appeal Decisions 3146699 (Elmbridge Borough Council), 315661 (Reading Borough Council), 3142834 (South Cambridgeshire District Council) and Islington Borough Council (3154751, 3164313, 3174582, 3177927 and 3182729), Three Rivers District Council (3222318, 3221363, 3225445, 3230999, 3230911, 3230458, 3213370, 3219890, 3229274, 3238285, 3229189, 3249107)

Appendix 2: Letter from the Planning Inspectorate to Richmond and Wandsworth Councils, March 2017

Sources Used:

1. Core Strategy (October 2011)
<http://www.threerivers.gov.uk/eqcl-page/core-strategy>
2. Annual Monitoring Report 2019/2020 (December 2020)
<http://www.threerivers.gov.uk/eqcl-page/annual-monitoring-report>
3. Affordable Housing Supplementary Planning Document (June 2011)
<http://www.threerivers.gov.uk/eqcl-page/supplementary-planning-documents>
4. South West Hertfordshire Strategic Housing Market Assessment (January 2016)
<http://www.threerivers.gov.uk/eqcl-page/shma-and-economic-study-for-future-review-of-local-plan>
5. Office of National Statistics Housing Data 2002-19
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>

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