

## PLANNING COMMITTEE – 27 MAY 2021

### PART I - DELEGATED

9. **21/0542/FUL - Demolition of existing buildings and manege and construction of detached bungalow with associated parking, hardstanding and soft landscaping at PETHERICK PASTURES, BUCKS HILL, SARRATT, WD4 9AE (DCES)**

Parish: Sarratt  
Expiry of Statutory Period: 11.05.2021  
Extension of time: 27.06.2021

Ward: Chorleywood North And Sarratt  
Case Officer: David Heighton

Recommendation: That Planning Permission be Granted following the completion of a Section 106 Agreement.

Reason for consideration by the Committee: Called in by Sarratt Parish Council who consider that the development represents inappropriate development in the Green Belt.

#### 1 Relevant Planning History

- 1.1 8/332/92 – Retention of gate and access – Approved
- 1.2 96/0607 – Certificate of lawfulness – Proposed use for provision of new access fencing and closure of existing opening – Allowed
- 1.3 97/0924 – Erection of a horse shelter – Approved
- 1.4 01/00879/FUL – Erection of a block of 7 stables – Approved
- 1.5 03/0479/FUL – Retrospective application: Storage area to rear of stable block – Approved
- 1.6 05/1327/FUL – Change of use of land to stud farm (for breeding horses) – Approved  
APP/P1940/A06/2015157 – Appeal against planning conditions imposed – Dismissed
- 1.7 06/0776/FUL – Creation of all-weather surface menage – Withdrawn
- 1.8 06/1984/FUL – Creation of all-weather surface menage – Approved
- 1.9 16/0660/FUL – Change of use to mixed animal care use to include livery; sheep rearing, breeding and sale; dog care and grooming; and chicken care. Extension of existing stables – Withdrawn.
- 1.10 20/2233/FUL – Demolition of existing buildings and manege and erection of a 3 bedroom detached single storey dwelling with associated landscaping – Refused

R1: *The proposed partial redevelopment of the site is considered to have a greater impact on the openness of the Green Belt than the existing development within the site and therefore by definition, results in inappropriate development and also harms the openness of the Green Belt. No very special circumstances have been demonstrated which would outweigh the inappropriateness of the development and the harm to openness. The development would therefore not accord with Policy CP11 of the Core Strategy (adopted October 2011), Policy DM2 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2019).*

R2: *In the absence of an agreement under the provisions of Section 106 of Town and Country Planning Act 1990, the development would not contribute to the provision of affordable housing. The proposed development therefore fails to meet the requirements of*

## **2 Description of Application Site**

- 2.1 The application site is located on the western side of Bucks Hill and is “L” shaped incorporating existing buildings, a manege and an area of hard surfacing used for equestrian purposes accessed via Bucks Hill. The immediate area is known as Bucks Hill which is located within a rural area and predominately contains residential dwellings. The application site and the surrounding area is designated Metropolitan Green Belt.
- 2.2 Beyond the north western boundary there is a public footpath (High Spring FP) which runs along the western boundary and through High Spring, a protected woodland. The footpath provides pedestrian access between Bucks Hill and Bottom Lane. Bucks Hill Cottage is situated on the other side of this footpath approximately 40m from the footpath.
- 2.3 Within the application site there is an informal parking area and manege in front of the stables/store buildings. The wider parcel of land within the applicant’s ownership is divided up into three ‘fields’ (by ranch style fencing) and there is additional post and wire fencing within these areas. The boundary to the east is with a horse ‘lane’ which snakes around the northern and eastern edge of the site. To the other side of this is “Hill View”, a dwelling that fronts onto Bucks Hill. The land to the south eastern corner of the site is a separate land holding. All other boundaries are to local roads (Bucks Hill/Bottom Lane).
- 2.4 The application site contains a block of seven stable buildings and barn to the western end, along the northern flank of the application site, which the supporting information details is used for equestrian purposes as a personal livery yard. The buildings within the site are all single storey in design and are a mix of timber and aluminium construction. The site is screened from view from Bucks Hill due to the existing hedgerow and trees which run along the eastern boundary of the application site and parallel with the highway.

## **3 Description of Proposed Development**

- 3.1 This application seeks full planning permission for the erection of a detached dwelling following demolition and removal of a number of existing buildings to the site and removal of a mobile home and manege.
- 3.2 The new dwelling would be set back from the highway by approximately 32m at its closest point. The dwelling would be rectangular in shape measuring 15.5m in width and 8.5m in depth at its maximum, which includes a gable roof. The dwelling would contain 2 bedrooms. The proposed dwelling would have a footprint of approximately 131sqm on sloping ground from the northeast down to the southwest of the site. The dwelling would have a gable main roof form with a maximum ridge height of approximately 5.2m sloping down to an eaves height of 3.1m (taken from the rear elevation). Glazing is proposed to all elevations of the dwelling.
- 3.3 The proposed two bedroom dwelling has been reduced in width, height and depth from the previous three bedroom dwelling scheme (submitted under planning application reference 20/2233/FUL), which was 21m in width, 9.1m in depth and had a maximum height of 5.8m with a front projection, which has been removed from this proposal.
- 3.4 To the front of the dwelling the existing hard surfaced area would be utilised for parking, with the submitted plans showing that there would three spaces, including a disabled space. A turning space is also proposed which would be constructed of permeable material.
- 3.5 The manege and post and rail fencing will be removed and replaced with tree planting. The mobile home would also be removed along with existing structures comprising of stables, barn and associated outbuildings.

- 3.6 Amended plans were received during the course of the current application, which slightly altered the position of the proposed dwelling to be in accordance with the accompanying arboricultural report, further away from the boundary by 0.3m. The amended plans also include details of the proposed bin store, which is set 25m from the highway and the entrance of the site, adjacent to the proposed dwelling and have confirmed that a further outbuilding, the workshop, will be demolished as part of this scheme.

## 4 Consultation

### 4.1 Statutory Consultation

#### 4.1.1 Sarratt Parish Council: [Objection]

*Objection as it represents inappropriate development in the Green Belt with no special circumstances demonstrated to justify a new dwelling. SPC respectfully request that this is called into Committee if the planning officers are minded to approve.*

#### 4.1.2 National Grid: [No comments received, any comments received will be verbally updated]

#### 4.1.3 Hertfordshire Highways: [No objection]

##### Decision

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

##### 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) 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 2) 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 3) 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.

AN 4) The Public Right of Way should remain unobstructed by vehicles, machinery, materials, tools and any other aspects of the construction during works. The safety of the public using the route and any other routes to be used by construction traffic should be a paramount concern during works, safe passage past the site should be maintained at all times. The condition of the route should not deteriorate as a result of these works. Any adverse effects to the surface from traffic, machinery or materials (especially overflows of cement & concrete) should be made good by the applicant to the satisfaction of this Authority. All materials should be removed at the end of the construction and not left on the Highway or Highway verges.

If the above conditions cannot reasonably be achieved then a Temporary Traffic Regulation Order would be required to close the affected route and divert users for any periods necessary to allow works to proceed. A fee would be payable to Hertfordshire County Council for such an order. Further information on the rights of way network is available via the website. Please contact Rights of Way, Hertfordshire County Council on 0300 123 4047 for further information in relation to the works that are required along the route including any permissions that may be needed to carry out the works.  
<https://www.hertfordshire.gov.uk/services/recycling-waste-and-environment/countryside-access/rightsof-way/rights-of-way.aspx>

#### Comments

The proposal is for the demolition of the existing buildings and manage and construction of detached bungalow with associated parking, hardstanding and soft landscaping at Petherick Pastures, Buck Hill, Kings Langley. Bucks Hill is a 30 mph classified C local distributor route that is maintained at public expense. The site was previously used by equestrians for training. The site sits adjacent a rights of way route (Sarrat Footpath 001) which must not be interfered with during construction. This is a new application in response to the refusal of a similar site layout - proposal ref: 20/2233/FUL. The prior application was consulted on in late 2020 which included a three bedroom dwelling. The new proposal includes a two bedroom dwelling. This proposal is similar to that of the previous proposal for this site regarding its highway accessibility. Therefore, some comments from that of the previous application will be repeated within this document.

#### Vehicle Access and Parking

The site is proposing that the current access for the site is maintained for use as access for the proposed residential dwelling. The current access enters the highway via Bucks Hill and consists of a small bellmouth junction leading to a large private drive. The access is situated on a 30 mph stretch of highway but is adjacent to a change of speed limit to 40 mph. HCC Highways is pleased to see that some of the foliage adjacent the access is to be removed to allow for greater visibility for vehicles entering and exiting the site. The site allows for vehicles to manoeuvre on site so they can enter and exit the highway in forward gear which is deemed necessary for a rural site such as this. HCC deems the current access's to be adequate for the proposed dwelling owing to the reduced trips between that of the previous use and the proposed use. Parking is a matter for the Local Planning Authority (LPA). However, HCC would comment that the proposed dwelling will have a reduction of 5 vehicles from that of its previous use. The inclusion of a turning heads allows emergency vehicles and refuge vehicles to enter and exit the site in forward gear which is considered to be a great addition to the site - please see drawing 1915 /02.

#### Refuge & Waste Collection

Provision has been made for on-site bin-refuse stores within 30m of the 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

The proposed dwelling is within the recommended emergency vehicle access of 45 metres from the highway to all parts of the buildings. This is in accordance with the guidance in MfS, Roads in Hertfordshire; A Design Guide and Building Regulations 2010: Fire Safety Approved Document B Vol 1 – Dwellingshouses.

### Conclusion

HCC as Highway Authority has considered that the proposal would not have an unreasonable impact on the safety and operation of the surrounding highway.

#### 4.1.4 Landscape Officer: [Approval, subject to conditions]

*The site is within Metropolitan Green Belt, and borders woodland to the North West, which is protected by Tree Preservation Order (TPO316). The woodland is also a Local Wildlife Site (83/009), and a Public Right of Way (footpath 011 Sarratt) runs through the wood approx. 10 metres from the site boundary.*

*The submitted tree report (Ref: Petherick Pastures, Bucks Hill, Herts) indicates that two poor quality, protected trees would need to be removed to facilitate the development. However, these trees appear to be outside of the site boundary, hence their removal could not be approved through this planning application, without modification of the red line boundary. Alternatively, a separate tree works application to undertake the works could be submitted to the LPA, but it could not guaranteed that approval would be given.*

*The submitted block plans (Ref: 1915/02) give some indication of the layout of the landscape following development, however, further information will be required on remedial landscaping. In Green belt it would be appropriate to retain substantial areas for soft landscaping, rather than large expanses of hard surfacing. The use of native tree, shrub and planting, appropriate to the character of the local area, should also be required. Landscaping plans should include such details as; materials; numbers, sizes & species of planting; and ground preparation and maintenance.*

## 4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 10

4.2.2 No of responses received: 9

4.2.3 Site Notice: Posted 15.03.2021 - Expired: 07.04.2021

Press Notice: N/A

4.2.4 Summary of Responses: 9 – 8 Objections & 1 Support

- Inappropriate development in the Green Belt, no special circumstances exist
- Harm to openness
- Negative effect on the rural nature of area
- Disproportionate
- Habitat disturbed
- Set precedent

#### Support comment:

- Strongly support this application

## 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**

6.1.1 On 19 February 2019 the new National Planning Policy Framework was published. This is read alongside the National Planning Practice Guidance (NPPG). The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another. The 2019 NPPF is clear that “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework”.

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

### **6.2 The Three Rivers Local Plan**

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

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies CP1, CP2, CP3, CP4, CP8, CP9, CP10, CP11 and CP12.

The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM1, DM2, DM4, DM6, DM7, DM10, DM13 and Appendices 2 and 5.

### **6.3 Other**

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

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

Affordable Housing Supplementary Planning Document (adopted June 2011).

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

## **7 Planning Analysis**

### **7.1 Principle of Residential Development**

7.1.1 The National Planning Policy Framework (NPPF) supports economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. In order to promote sustainable development in rural areas the NPPF makes

it clear that housing should be located where it will enhance or maintain the vitality of rural communities. As a result, local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as 'where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting'.

7.1.2 The application site is not identified as part of the District's housing supply in the Site Allocations LDD (SALDD) (adopted November 2014). Policy CP2 of the Core Strategy (adopted October 2011) stipulates that in assessing applications for development not identified as part of the District's housing 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.

Policy CP3 of the Core Strategy stipulates that housing development should make the most efficient use of land, without compromising the quality of the environment and existing residential uses.

7.1.3 The application site is not positioned within a sustainable location, it is outside of the urban areas identified within the Spatial Strategy of the Core Strategy and is a significant distance from larger settlements such as Croxley Green, Kings Langley and local transport services. However, in regard to paragraph 79 of the NPPF, the application site is located near other properties and is close to the main linear development of Bucks Hill such that it cannot be said to fall within an isolated location. Notwithstanding the above, the principle of the redevelopment of the application site would be subject to the development fitting within the immediate rural setting. The impact of the proposed development on the immediate setting and all other material planning considerations are set out in detail below.

## 7.2 Impact on Metropolitan Green Belt

7.2.1 The application site is located within the Metropolitan Green Belt with the local area characterised by its openness and rural appearance. The fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open; the most important attributes of Green Belts is their openness. Green Belts can shape patterns of urban development at sub-regional and regional scale; and to help to ensure that development occurs in locations allocated in Development Plans. They help to protect the countryside, be it in agricultural, forestry or other use. They can assist in moving towards more sustainable patterns of urban development.

7.2.2 As with previous Green Belt policy, the NPPF identifies the five purposes of including land in Green Belts:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns from merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

7.2.3 The requirements of the revised NPPF are considered to reflect adopted policies of the Three Rivers District Council Local Plan. Policy CP11 of the Core Strategy (adopted October 2011) states that there will be a general presumption against inappropriate development that would not preserve the openness of the Green Belt. Paragraph 145 of the NPPF states that a Local Planning Authority should regard the construction of new buildings as inappropriate in the Green Belt. However, it states that exceptions to this are:

- a) Buildings for agriculture and forestry;
- b) Provision of appropriate facilities (in connection with the existing use of land or change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it
- c) The extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original buildings
- d) The replacement of a building, provided that the new building is in the same use and not materially larger than the one it replaces
- e) Limited infilling in villages
- f) Limited affordable housing for local community needs under policies set out in the Development Plan (including policies for rural exception sites) and;
- g) Limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings) which would:**
  - not have a greater impact on the openness of the Green Belt than the existing development; or
  - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the Local Planning Authority.

- 7.2.4 Annex 2 of the NPPF defines previously developed land as: *'Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.'* The site by virtue of its equestrian use falls within the definition of previously developed land.
- 7.2.5 Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The NPPF states that when considering proposals, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt and that very special circumstances will not exist unless harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 7.2.6 The application site currently contains a block of seven stable buildings, a barn, two ancillary buildings and a shelter. The site also comprises a manege, shed and mobile home (not considered to comprise development). The site is privately used for equestrian purposes in connection with a private livery yard. An appeal was previously dismissed in relation to the conditions attached to planning permission 05/1327/FUL and in particular with regards to the temporary period of use of the land and buildings. This proposed commercial use of the site as a stud farm was considered as a material change of use of the land and there was concern about the enhancement and increase to the existing development on the site along with vehicle movements on and off the site, all of which would have had an effect on openness of the Green Belt and amenities of neighbouring occupants.
- 7.2.7 The application scheme would redevelop the application site, which includes the removal of the majority of existing buildings and structures on site with their replacement with a two bedroom detached dwelling. Having regard to the nature of the proposal and the fact the application site falls within previously developed land, it is considered that paragraph 145(g) is relevant, in so far as it relates to the first point, i.e. not having a greater impact on the openness of the Green Belt than the existing development.

7.2.8 In order to assess whether there is any greater impact on openness a judgement is required based on a number of matters which include, but are not limited to spatial and visual aspects, volume, floorspace and the degree of activity likely to be generated.

7.2.9 Green Belt calculations:

- Existing area covered by buildings excluding manege and mobile home: 533sqm
- Retained stable footprint: 74sqm
- Proposed footprint loss within application site: 440sqm
- Proposed dwelling footprint: 132sqm
- Overall footprint: Proposed dwelling and stable - 274sqm = 61% reduction

7.2.10 It is acknowledged that the development would result in a reduction in footprint. The manege and mobile home are not incorporated into this figure (mobile home does not constitute development). Additionally, in comparison to the previous scheme, the proposed dwelling has been reduced in size by 34sqm from a three bedroom to a two bedroom dwelling. The total existing footprint of built form on site currently amounts to approximately 533sqm, 74sqm would be retained and the total footprint of the proposed built form equates to approximately 132sq. metres, a decrease of 61% compared to the existing. A further outbuilding/workshop is being proposed to be removed. With regards to volume, there is a reduction of approximately 51% across the site, a 20% improvement on the previous scheme. It is acknowledged that this is a significant reduction in built form, which would have a direct positive impact on the openness within the site, although it is recognised that floorspace and volume are just two factors to consider in the overall balance.

7.2.11 It is also noted that the proposed new dwelling would have a ridge height of between 4.6m - 5.2m, which would be a reduction of 0.6m in comparison to the previous scheme. Whilst it would be 0.9m higher than the tallest building currently on the site, this would be a further improvement in comparison to the previous scheme by 0.8m. This height would not be considered significant in comparison to the existing single storey low rise buildings, with the proposed dwelling appearing single storey in nature.

7.2.12 The proposed 15.5m width, has been reduced by 5.5m in comparison with the previous scheme and further in comparison to the widest individual outbuilding at 12m, would not be significantly greater than any existing outbuilding on site. Further, the existing built form collectively stretches a total distance of approximately 57.3m into the site, with a distance of 72.5m including the existing workshop. The proposal would drastically reduce the overall spread of built form across the site, reducing the spread to an individual stable block (11.5m) and the proposed dwelling (15.5m) at a maximum spread distance of approximately 38.5m. The proposed dwelling would be located in a similar location to the existing stable block building within the site. Movements to and from the site would not materially increase as a result of the proposed dwelling; however, it will be important to ensure that the use of the stable block is conditioned to be used solely by the occupiers of the new dwelling to prevent unacceptable levels of movements on and off the application site. Whilst it would appear that there would be an increase in the proposed height, by virtue of its design the proposed gabled roof forms would appear in keeping with the existing outbuildings. It is considered that given the reduction in overall footprint and volume of the built form on site, and the proposed dwelling's overall scale, despite a marginal increase height and width, it would not have a greater impact on openness in the Green Belt when compared with the existing outbuildings it would replace.

7.2.13 The existing buildings are relatively inconspicuous on site and from views into the site from Bucks Hill and are considered appropriate forms of development found within the Green Belt. The proposed dwelling would have a timber clad exterior with slate roof to replicate a barn style building providing a rural appearance. Whilst the introduction of a residential dwelling is considered as a more urbanising form of development, the gable roof is considered to be in keeping with the existing buildings and given the reduction of the size

of the proposed dwelling being single storey in nature and the reduction in the amount of glazing proposed to the principle elevation, the proposed scheme is of a rural appearance and would be inconspicuous against the existing tree line.

- 7.2.14 The extent of the curtilage would not appear to spread beyond the existing site boundaries and retains the existing fencing. However, to ensure an appropriate boundary treatment, further details with regard to the design and height of the boundary treatment and associated residential curtilage is considered necessary and a condition would be attached to any permission in the event of an approval. An additional condition would also be attached to any permission requiring further details of all hard and soft landscaping and external lighting. Whilst the very use of the new dwelling would result in domestic paraphernalia, this would be within the defined curtilage which surrounds the building, which has been reduced in comparison to the existing. This therefore would improve the openness of the Green Belt.
- 7.2.15 The existing use of the land is conditioned and restricted to a personal use and not a commercial entity. The proposed development seeks to retain the stable block for the use and enjoyment of the owners/occupiers of the new dwelling. To avoid any mixed use of land, any grant of planning permission would need to tie the use of the stable block to the new dwelling (to be used for purposes ancillary to the dwelling) to avoid any intensification of use of the land which would have a harmful impact on the Green Belt.
- 7.2.16 In light of the above assessment, it is considered that the replacement building would be of a scale and height in keeping with the existing buildings and would reduce the spread of built form given the improvements in respect of volume and floorspace across the site. Further, given the limited extent of the residential curtilage any urbanising features such as domestic paraphernalia would be contained and would not spread across the application site. As such, when balancing the above factors together, it is considered that the proposed redevelopment of the site is not considered to have a greater impact on the openness of the Green Belt and thus would meet the requirement of paragraph 145 (g) of the NPPF. On that basis, the development is considered appropriate development in the Green Belt and therefore automatically would not harm openness. The proposed development would therefore comply with Policy CP11 of the Core Strategy, Policy DM2 of the DMP LDD and the NPPF (2019).

### 7.3 Impact on Character and Street Scene

- 7.3.1 Policy CP1 of the Core Strategy seeks to promote buildings of a high enduring design quality that respect local distinctiveness and Policies CP3 and CP12 of the Core Strategy set out that development should make efficient use of land but should also 'have regard to the local context and conserve or enhance the character, amenities and quality of an area', and should 'conserve and enhance natural and heritage assets'.
- 7.3.2 In terms of new residential development, Policy DM1 of the Development Management Policies document (adopted July 2013) 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 Traffic generation, access for service vehicles and impact on residential amenity are discussed in the relevant sections below and it is noted that the proposal would not result in tandem development.
- 7.3.4 Policy DM1 and the Design Guidelines at Appendix 2 of the Development Management Policies document also set out that new development should not be excessively prominent in relation to the general street scene and should respect the character of the street scene, particularly with regard to the spacing of properties, roof form, positioning and style of windows and doors and materials.
- 7.3.5 The application site is located within a rural location and is well screened by mature trees and significant amounts of vegetation along the north western boundary. Given the site circumstances and proposed location of the dwelling it would be well set back from the highway facing south and be screened to the north by a line of mature woodland trees. It therefore would not be apparent from the existing street scene, whereby dwellings are of a particular architectural design or scale.
- 7.3.6 The proposed dwelling is considered to be in keeping and would not be out of character with the area including in comparison with the existing built form. As previously stated above, there are a number of mature trees and extensive hedging along the north western and eastern boundaries, which does act as some screening; however, these cannot be relied upon to screen the proposed dwelling from the street scene and the adjacent neighbouring dwelling. Should these trees and vegetation be lost or removed the proposed new dwelling would be readily visible. Despite this, the dwelling would be set approximately 32m and bin store at approximately 25m at its closest point from the highway. As such it is not considered that the dwelling would become a prominent feature within the street scene.
- 7.3.7 Policy DM7 requires proposals to make a positive contribution to the surrounding landscape. Proposals that would unacceptably harm the character of the landscape in terms of siting, scale, design or external appearance will be refused planning permission. It is not considered that the proposal will have any significant or detrimental impact on the character of the area. The proposed building would be sited at the top of a valley in a prominent position within the landscape and would be visible from the other side of the valley and also partly from Bottom Lane. However, subject to the use of appropriate materials/fenestration detailing and the fact that the new dwelling would have a wooded backdrop it would ensure that the proposed development would not have an adverse impact on the landscape character of the area.
- 7.3.8 In summary, it is not considered that the proposed development would result in any significant adverse impact on the character or appearance of the streetscene or area and the development would be acceptable in this regard in accordance with Policies CP1 and CP12 of the Core Strategy and to Policies DM1, DM7 and Appendix 2 of the Development Management Policies.

#### 7.4 Impact on amenity of neighbours

- 7.4.1 Policy CP12 of the Core Strategy advises that development will be expected to 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 LDD set out that development should not result in loss of light to the windows of neighbouring properties not allow overlooking, and should not be excessively prominent in relation to adjacent properties.
- 7.4.2 There are two residential properties that lie adjacent to the site. However, "Hill View" is located to the southeast of the site away from the existing buildings and parking areas. Given the separation distance, it is not considered that the proposed development would result in any detrimental impact on this neighbouring residential dwelling.

- 7.4.3 The adjacent neighbour to the north, Bucks Hill Cottage, is closer to the existing and proposed built form of the site, however, the proposed development would be set back approximately 20m from this property. Furthermore, it is also the case that the Cottage is screened from the site by existing trees and there is both a footpath and a stable block belonging to the Cottage in between. Bucks Hill Cottage fronts onto Bucks Hill and is therefore already subject to traffic noise at all times of the day. Other than the noise, traffic movements would overall decrease given the proposed use. It is not therefore considered that the proposed use will increase disturbance to this adjacent neighbouring property.
- 7.4.4 In summary, the proposed development would not result in any adverse impact on the residential amenity of any neighbouring dwelling and the development would therefore be acceptable in accordance with Policy CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies.
- 7.5 Amenity Space Provision for future occupants
- 7.5.1 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. The Design Criteria at Appendix 2 of the Development Management Policies document (adopted July 2013) provides indicative levels of amenity space for dwellings in relation to the number of bedrooms. For a dwelling containing two bedrooms the indicative level is 63sqm.
- 7.5.2 The application site benefits from amenity space measuring in excess of 250sqm to the southwest of the proposed dwelling. There is also space measuring approximately 67sqm to the northeast of the proposed dwelling. This is well in excess of the indicative levels for a dwelling of this size and is considered sufficient for future occupiers of the dwelling. Parts of the amenity space would comprise a track which would run through the application site. The track would be retained as existing and would take up approximately 140sqm of space.
- 7.6 Affordable Housing
- 7.6.1 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.
- 7.6.2 The LPA is satisfied that the evidence at Appendix A enables more weight to be attached to the need to comply with Policy CP4 of the Core Strategy. The most up to date evidence confirms that small site contributions make a material contribution to affordable housing within the District. As such, applications will continue to be assessed in accordance with the requirements of the Development Plan and will seek monetary contributions on developments resulting in a net gain of one to nine dwellings unless viability demonstrates otherwise.
- 7.6.3 The proposed development would result in a requirement for a commuted sum of £62,700 towards affordable housing based on a habitable floor-space of 66sqm multiplied by £950 per sqm, which is the required amount in the Rickmansworth and Hinterland Three Rivers' market area.
- 7.6.4 The applicant has agreed to pay the required affordable housing contribution of £62,700. A S106 Agreement has yet to be completed. Subject to the completion of a Section 106 Agreement, the proposed development would comply with the requirements of Policy CP4 of the Core Strategy (adopted October 2011) and the Affordable Housing Supplementary Planning Document (approved June 2011).
- 7.7 Parking & Access
- 7.7.1 Core Strategy Policy CP10 requires development to make adequate provision for all users, including car parking. Appendix 5 of the Development Management Policies document sets out parking standards for developments within the District. The proposal would result in a

three bedroom dwelling which the Parking Standards set out should provide two assigned spaces within the curtilage.

- 7.7.2 The proposed dwelling would benefit from a permeable driveway which would be located to the east of the dwelling which is sufficient to provide off-street parking provision for three vehicles which would meet the Parking Standards including a disabled space and is considered acceptable.
- 7.7.3 There is no new or altered vehicular access proposed and the proposal would utilise the existing access. The Highways Officer was consulted on the application and considered that the inter vehicle to vehicle visibility and pedestrian forward visibility from this access aided by the removal of approximately 4m of hedging and inclusion of a turning head would be satisfactory and acceptable for the residential use of the site. The Highways Officer also considered that the traffic generation of vehicles in connection to the residential use of the site would be lower than its current use and would not have a significant or detrimental impact on the local highway network. The new permeable driveway would also allow for vehicles to enter and leave the site in forward gear.
- 7.7.4 The Highways Officer considered the proposal would not have an unreasonable impact on the safety and operation of the nearest highway and therefore raised no objections subject to conditions/informatives.

## 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 Both Herts Ecology & Herts & Middlesex Wildlife Trust were consulted on the application, however, no response was received from either. A Preliminary Roast Appraisal (Version 1) dated May 2020 was submitted with the application and states that no protected species or biodiversity interests will be affected as a result of the application. It recommends mitigation and enhancement measures that would be subject of a condition to any consent.
- 7.8.4 It is suggested that a precautionary approach to the demolition works is taken and an informative added to any permission granted should bats roosts be found.

## 7.9 Trees and Landscaping

- 7.9.1 Policy CP12 of the Core Strategy expects development proposals to 'have regard to the character, amenities and quality of an area', to 'conserve and enhance natural and heritage assets' and to 'ensure the development is adequately landscaped and is designed to retain, enhance or improve important existing natural features'.
- 7.9.2 Policy DM6 of the Development Management Policies document sets out requirements in relation to trees, woodlands and landscaping and sets out that:
- i) Proposals for new development should be submitted with landscaping proposals which seek to retain trees and other important landscape and nature conservation features. Landscaping proposals should also include new trees and other planting to enhance the landscape of the site and its surroundings as appropriate.

- ii) Development proposals on sites which contain existing trees and hedgerows will be expected to retain as many trees and hedgerows as possible, particularly those of local amenity or nature conservation value or hedgerows considered to meet the Hedgerow Regulations 1997.
- iii) Development proposals should demonstrate that existing trees, hedgerows and woodlands will be safeguarded and managed during and after development in accordance with the relevant standards.
- iv) Development should be designed in such a way as to allow trees and hedgerows to grow to maturity without causing undue problems of visibility, shading or damage. Development likely to result in future requests for significant topping, lopping or felling will be refused.
- v) Planning permission will be refused for any development resulting in the loss or deterioration to protected woodland (including ancient woodland), protected trees (including aged or veteran trees) and hedgerows, unless conditions can be imposed to secure their protection.

7.9.3 The proposed development would not result in the loss of any existing trees located within the application site. However, the submitted tree report indicates that two protected trees would need to be removed to facilitate the development, which are located on the land belonging to the adjacent neighbouring property.

7.9.4 The Landscape Officer was consulted on the application and notes that a separate tree works application to undertake the works to trees outside the site would need to be submitted to the LPA. As such, an informative would be added to any permission granted to obtain separate tree work approval prior to any works taking place. Further, whilst the submitted block plan (Ref: 1915/02) gives some indication of the layout of the landscaping following development, a condition would be attached to any consent requiring the submission of a hard and soft landscaping scheme, tree protection and an arboriculture implications report, to avoid harm to protected trees. A tree report was submitted, which also highlights that the proposed dwelling can be built without damaging the protected trees, however, this would need to be carefully managed and therefore would be subject to a condition.

## 7.10 Sustainability

7.10.1 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.

7.10.2 Policy DM4 of the Development Management Policies LDD states that from 2016, applications for new residential development will be required to demonstrate that the development will meet a zero carbon standard (as defined by central government). However, the Government is yet to provide a definition for zero carbon and the Council is therefore continuing to apply the 2013 requirements, i.e. applicants will be required to demonstrate that development will produce 5% less carbon dioxide emissions than Building Regulations Part L (2013) requirements having regard to feasibility and viability.

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

## 7.11 Refuse and Recycling

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

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

7.11.2 A bin and recycling area is proposed within the curtilage of the proposed dwelling, specific design details have been provided with regards to the storage of refuse and recycling facilities to serve the new dwelling, which would be in the form of a 1.8m timber enclosure, 3m in width and 2.2m in depth, 25m from the highway. As such the details provided would ensure an adequate provision would be made to serve the new dwelling in accordance with Policy DM10 of the Development Management Policies document.

## 8 **Recommendation**

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

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

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

C2 The development hereby permitted shall be carried out in accordance with the following approved plans: 1915/01A, 1915/02C & 1915/03B.

Reason: For the avoidance of doubt and in the proper interests of planning and in the interests of the visual amenities of the locality, the openness of the Green Belt and residential amenity of neighbouring occupiers, in accordance with Policies CP1, CP2, CP3, CP4, CP8, CP9, CP10, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM2, DM4, DM6, DM7, DM10 and DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013).

C3 No development shall take place whatsoever until there has been submitted to and approved in writing by the Local Planning Authority a scheme of hard and soft landscaping.

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

The soft landscaping scheme shall include details regarding the type of trees proposed, their initial planting height and density across the site and how the land will be restored following the removal of structures / buildings including manege and fencing as required per Condition 9. The soft landscaping scheme shall be carried out as approved before the end of the first planting and seeding season following first use 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 (i.e. November to March inclusive).

Reason: This is a pre-commencement condition to ensure the completed scheme has a satisfactory visual impact on the character and appearance of the area 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 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).

- C5 Before any building operations above ground level hereby permitted are commenced, samples and details of the proposed external materials to the new dwelling 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 new dwelling from being constructed in inappropriate materials in accordance with Policies CP1, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C6 Prior to the first occupation of the dwelling hereby permitted, the biodiversity mitigation set out at 'Enhancement Opportunities' of the Preliminary Roost assessment Emergence Survey prepared by Samsara Ecology dated May 2020 have been erected on site. Once erected the mitigation measures shall be permanently retained thereafter.

Reason: 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).

- C7 Prior to the first occupation of the dwelling 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 the first 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 openness of the Metropolitan Green Belt and the character of the locality in accordance with Policies CP1, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM2 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C8 Prior to the first occupation of dwelling hereby permitted, plans and details of the energy saving measures shall be submitted to and approved in writing by the Local Planning Authority. The approved details and energy saving measures detailed within the submitted Energy Statement shall be implemented prior to occupation of the development and permanently maintained thereafter.

Reason: This condition is to ensure that the development meets the requirements of Policy CP1 of the Core Strategy (adopted October 2011) and Policy DM4 of the Development Management Policies LDD (adopted July 2013) and to ensure that the development makes as full a contribution to sustainable development as possible.

- C9 Prior to the first occupation of the dwelling hereby permitted, all structures (including mobile home), buildings, manège and fencing shown to be removed on drawing number 1915/02C shall be demolished with all resultant materials permanently removed from the site.

Reason: In the interests of the visual amenities of the area, to preserve the character and appearance of the dwellinghouse and to ensure the development is an appropriate form of development in the Green Belt in accordance with Policies CP1, CP11 and CP12 of the Core Strategy (adopted October 2013), Policies DM1, DM2, DM3 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C10 Immediately following the implementation of this permission, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any other revoking and re-enacting that order with or without modification) no development within the following Classes of Schedule 2 of the Order shall take place within the residential curtilage of the new dwelling as shown on drawing number 1915/02C.

Part 1

Class A - enlargement, improvement or other alteration to the dwelling

Class E - buildings incidental to the enjoyment of a dwellinghouse

Class F - hard surfaces incidental to the enjoyment of a dwellinghouse

Part 2

Class A - a gate, fence, wall or other means of enclosure

No development of any of the above classes shall be constructed or placed on any part of the land subject of this permission.

Reason: To ensure adequate planning control over further development having regard to the limitations of the site, in the interests of the visual amenities of the site and to preserve the openness of the Green Belt, in accordance with Policies CP1, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1 and DM2 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C11 The retained stable block (including the stable shown hatched in black on drawing number 1915/02C) shall not be used at any time other than for purposes ancillary to the residential use of the proposed dwelling (shown cross hatched in black on drawing number 1915/02C) and shall not be used as an independent dwelling or for commercial purposes at any time.

Reason: Any such further use would require a full evaluation of the impact upon the rural locality in the Metropolitan Green Belt and the amenities of nearby residential properties in accordance with Policies CP11 and CP12 of the Core Strategy (adopted October 2011) and Policy DM2 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C12 No external lighting shall be installed on the application site or affixed to any buildings on the application site unless the Local Planning Authority has first approved in writing details of the position, height, design and intensity (for those which do not comprise development in their own right). The lighting shall be installed in accordance with the approved details before the first occupation of the dwelling hereby permitted.

In the interests of maintaining wildlife habitats, visual amenity and openness of the Green Belt to meet the requirements of Policies CP1, CP9, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM2, DM6 and DM9 of the Development Management Policies LDD (adopted July 2013).

- C13 The bin store/enclosure shall be built in accordance with drawing number xxx and shall be kept permanently available for the occupiers of the house and permanently maintained thereafter.

Reason: To ensure that satisfactory refuse and recycling provision is maintained for the residents of Petherick Pastures in accordance with DM10 of the Development Management Policies document (adopted July 2013).

## **8.1 Informatives:**

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

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

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

Community Infrastructure Levy (CIL) - Your development may be liable for CIL payments and you are advised to contact the CIL Officer for clarification with regard to this. If your development is CIL liable, even if you have been granted exemption from the levy, please be advised that before commencement of any works it is a requirement under Regulation 67 of The Community Infrastructure Levy Regulations 2010 (As Amended) that CIL form 6 (Commencement Notice) must be completed, returned and acknowledged by Three Rivers District Council before building works start. Failure to do so will mean you lose the right to payment by instalments (where applicable), and a surcharge will be imposed. However, please note that a Commencement Notice is not required for residential extensions IF relief has been granted.

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

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

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

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

The UK Bat Helpline: 0845 1300 228

Natural England: 0300 060 3900

Herts & Middlesex Bat Group: [www.hmbg.org.uk](http://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 advised that the proposed development appears to be sited in close proximity to trees protected by Tree Preservation Orders. Prior to undertaking any works in connection with the development subject of this application, you should seek advice from the Tree and Landscape team as to whether a separate tree works application is required in order to ensure that appropriate construction techniques area used to ensure no harm or damage is caused to the trees or their rooting systems from the proposal.
- 16 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.
- 17 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.

- 18 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.

- 19 The Public Right of Way should remain unobstructed by vehicles, machinery, materials, tools and any other aspects of the construction during works. The safety of the public using the route and any other routes to be used by construction traffic should be a paramount concern during works, safe passage past the site should be maintained at all times. The condition of the route should not deteriorate as a result of these works. Any adverse effects to the surface from traffic, machinery or materials (especially overspills of cement & concrete) should be made good by the applicant to the satisfaction of this Authority. All materials should be removed at the end of the construction and not left on the Highway or Highway verges.

If the above conditions cannot reasonably be achieved then a Temporary Traffic Regulation Order would be required to close the affected route and divert users for any periods necessary to allow works to proceed. A fee would be payable to Hertfordshire County Council for such an order. Further information on the rights of way network is available via the website. Please contact Rights of Way, Hertfordshire County Council on 0300 123 4047 for further information in relation to the works that are required along the route including any permissions that may be needed to carry out the works.

<https://www.hertfordshire.gov.uk/services/recycling-waste-and-environment/countryside-access/rightsof-way/rights-of-way.aspx>

- 110 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.

**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 31<sup>st</sup> July 2015 the High Court held (*West Berkshire Council v SSCLG [2015]*) that the policy expressed through the WMS was unlawful and the NPPG was changed to reflect this. On 11<sup>th</sup> May 2016 the Court of Appeal reversed the High Court decision. The NPPG was subsequently amended to reflect the WMS on 19<sup>th</sup> May 2016.
- 1.2 In light of the above developments, between November 2014 and August 2015 and May 2016 and 1<sup>st</sup> 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 1<sup>st</sup> 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 24<sup>th</sup> July 2018 a new version of the National Planning Policy Framework<sup>1</sup> (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:
- 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.

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

- 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 £3.8million<sup>2</sup> 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.
- 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 determined<sup>3</sup> 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

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<sup>2</sup> 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.

<sup>3</sup> Includes refused and approved applications. Excludes prior approval developments.

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":  
*"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 2016<sup>4</sup>, 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)
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 £347,000<sup>5</sup>. 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)
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<sup>4</sup> ONS (2020) Dataset: House price to residence-based earnings ratio Table 6a

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

<sup>5</sup> Office for National Statistics (2020) Dataset: House price to residence-based earnings ratio Table 6a

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

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 earnings<sup>6</sup>). 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 ratio<sup>7</sup> 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.

Number	Local Authority Name	Median quartile house price affordability ratio <sup>8</sup> (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 14.53<sup>8</sup>, 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 <sup>1</sup> (2019)
1	Isles of Scilly	17.71

<sup>6</sup> Office for National Statistics (2020) *Dataset: House price to residence-based earnings ratio Table 6b*

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

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

<sup>8</sup> Office for National Statistics (2020) *Dataset: House price to residence-based earnings ratio Table 5c*

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

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.<sup>9</sup>
- 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.
- 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.<sup>10</sup> 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 sites<sup>11</sup> 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:

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

<sup>10</sup> 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.

<sup>11</sup> Sites with completions in 2019/20

- 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 determined<sup>12</sup> 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 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.

<sup>12</sup> Includes refused and approved applications. Excludes prior approval developments.

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."*<sup>13</sup>

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<sup>13</sup> Paragraph 7, Planning Inspectorate Letter, March 2017.

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 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: 21<sup>st</sup> June 2019:

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

- APP/P1940/W/19/3221363, The Swallows, Shirley Road, Abbots Langley Decision date: 27<sup>th</sup> 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 5<sup>th</sup> August 2019:

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

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

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

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

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

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

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

*“The Council states that its Strategic Housing Market Assessment (2010) has demonstrated that there is a significant affordable housing need locally due to very high house prices and rents and a constricted supply of suitable housing sites. Further, the South West Hertfordshire Strategic Housing Market Assessment (2016) estimated a net affordable housing need of 14,191 in the District between 2013-36 and there is also a worsening situation with regards to affordability. Based on the Councils evidence the District is the 7<sup>th</sup> 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 22<sup>nd</sup> 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 5<sup>th</sup> 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 16<sup>th</sup> 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 9<sup>th</sup> 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 7<sup>th</sup> 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: 21<sup>st</sup> 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/egcl-page/core-strategy>

2. Annual Monitoring Report 2019/2020 (December 2020)

<http://www.threerivers.gov.uk/egcl-page/annual-monitoring-report>

3. Affordable Housing Supplementary Planning Document (June 2011)

<http://www.threerivers.gov.uk/egcl-page/supplementary-planning-documents>

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

<http://www.threerivers.gov.uk/egcl-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>

**December 2020**