

PLANNING COMMITTEE – 21 OCTOBER 2021

PART I - DELEGATED

- 15. 21/1745/FUL - Demolition of existing dwelling and construction of 4no. detached two-storey dwellings with roof and basement level accommodation, detached garages, formation of new access drive, alterations to existing access, landscaping works and other ancillary works at GLENWOOD, CHORLEYWOOD ROAD, RICKMANSWORTH, WD3 4ER (DCES)**

Parish: Chorleywood
Expiry of Statutory Period: 17.09.2021
(Extension of time agreed to 28.10.2021)

Ward: Chorleywood North & Sarratt
Case Officer: Tom Norris

Recommendation: That Planning Permission be Granted.

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

1 Relevant Planning History

- 1.1 No relevant planning history.

2 Description of Application Site

- 2.1 The application site is some 0.8ha in total area and consists of the frontage of the plot of 'Glenwood' and a section of land to the rear comprised of the rear amenity garden of Glenwood and the neighbouring plot to the west which has been subdivided from the plot formerly known as 'Riverdene'. The plot formerly known as Riverdene has been subdivided and developed to provide two dwellings known as Woodhurst and Grovelands.
- 2.2 The site contains a relatively large detached dwelling within the plot of Glenwood, set back from the public highway. The land levels slope upwards towards the dwellings from the highway on this part of Chorleywood Road. The site was previously heavily vegetated to the frontage however has undergone recent clearance to both the front and rear. The site contains TPO trees which predominantly line the southern and north-western flank boundaries.
- 2.3 The wider surroundings of the application site consists of detached dwellings on relatively spacious plots. The site adjoins the dwellings on Lime Tree Walk to its southern and eastern boundaries. The adjacent plots directly to the east contain detached dwellings known as Mayfield House and Walbrook House which front the Chorleywood Road and were constructed following the subdivision of the site formerly known as Mayfield. To the west of the site are two recently constructed dwellings known as Woodhurst and Grovelands which front the Chorleywood Road. A portion of the western site boundary to the rear adjoins the plot of Glaramara, which contains a detached dwelling that is accessed via The Clump.

3 Development description

- 3.1 This planning application proposes the demolition of the existing dwelling and the construction of 4 detached two-storey dwellings with roof and basement level accommodation, detached garages, formation of new access drive, alterations to existing access, landscaping works and other ancillary works.
- 3.2 The site would be subdivided to contain one plot occupying the front section of the site fronting Chorleywood Road and the rear portion of the site would be subdivided into three

plots. It is proposed that the existing vehicular access is amended to contain a new widened access that would assume a relatively similar position to the current vehicular access point. The vehicular access would be positioned centrally within the frontage of Glenwood and run along the western side of the site towards the proposed dwellings at the rear. Each dwelling would have its own driveway off the access road.

- 3.3 The proposed dwelling at Plot 1, which fronts the Chorleywood Road, would be set back some 45m from the public highway and 5.5m from the south-eastern flank boundary. The dwelling would assume a similar position to the existing dwelling and would largely align with the front building line of the adjoining neighbour at Walbrook House.
- 3.4 The dwelling at Plot 1 would have a maximum width of 19.1m and a maximum depth of 22.9m. The dwelling would have hipped roof forms with an eaves height of 6.1m and an overall ridge height of 9.8m. The dwelling would contain loft level accommodation served by front and dormer windows and flank rooflights. The dwelling would also contain basement level accommodation. The dwelling would contain glazing within its front, side and rear elevations at ground and first floor level.
- 3.5 Forward of the dwelling would be an access driveway of some 30m in length from the main access drive and a paved driveway large enough to accommodate at least three cars. There would be a detached garage positioned approximately 8m forward of the dwelling which would have a width of 7.0m, a depth of 6.5m and would have a hipped roof with an eaves height of 2.8m and an overall height of 4.8m. The total plot size of Plot 1 would be some 2500sqm including a rear amenity garden of some 750sqm in area.
- 3.6 The dwellings at Plots 2-4 would be sited on the section of land to the rear of the regular building line of the dwellings on the Chorleywood Road and set back approximately 80m from Chorleywood Road. The dwellings would be arranged in a linear manner however would be staggered such that the dwelling at Plot 4 would be sited some 15m forward of the dwelling at Plot 2. The dwellings themselves would be of an equal scale, all of which would have a maximum width of 18.5m and a depth of 24.5m. The dwellings would have hipped roof forms with an eaves height of 6.1m and an overall ridge height of 9.8m. These dwellings would be spaced 6.5m between one another.
- 3.7 The dwelling at Plot 2 would have a maximum spacing of 16.1m from the boundary with no.21 Lime Tree Walk. There would be a spacing of 5.1m from the dwelling at Plot 4 and the shared boundary with Glaramara. The dwellings would be spaced between 21m and 31m from the rear boundary of the site that adjoins Lime Tree Walk. Forward of each of the dwellings at Plots 2-4 would be paved driveway, large enough to accommodate at least three cars, each with a gated access drive off the main access driveway. Plots 2 and 4 would contain detached garages that would be sited forward of the dwellings, spaced approximately 3.5m from the site boundaries. The garages would have the same dimensions as described for Plot 1.

4 Consultation

4.1 Statutory Consultation

4.1.1 Hertfordshire Highways: [No objection following amended plans]

Hertfordshire Highways were consulted on the original proposal and made the following comments:

"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 recommends that permission be refused for the following reasons:

1) *Size of access.* The access from Chorleywood Road into the site is too large. The large vehicle crossover would therefore be considered dangerous by encouraging higher speed entry into the site and creating conflict for pedestrians. There is also a telegraph pole within the area in which the access is to be widened. Therefore, the access is unsafe and infringes upon Policy 5 in LTP4 (Local Transport Plan 4) and paragraph 119(c) in the National Planning Policy Framework (NPPF).

Comments/Analysis

Description of Proposal

Demolition of existing dwelling and construction of 4 detached two-storey dwellings with detached garages, alterations to existing access, landscaping works and other ancillary works.

Highway Impact

New Access

The new access to the site from Chorleywood Road is proposed to be 14.75m according to drawing number 1362/P/1 Rev E. This size vehicle crossover (VXO) is significantly larger than the maximum acceptable VXO which would be 7.2m for a double shared access. In general, the length of crossovers should be kept to a minimum to reduce conflict with, and discomfort for, footway users. An overly wide access could encourage vehicles to enter the site in an unsafe manner at high speeds and would put pedestrians at risk. The long length of the slanted footway the VXO creates would also make the footway particularly dangerous in icy conditions. A 7.2m double dropped kerb shared access is suitable for a development of less than 5 dwellings, as stated in Roads in Hertfordshire: Highway Design Guide 3rd Edition Section 2 – Highway Layout and Strategies Paragraph 8.5.4. A double dropped kerb would need to be built to the guidelines as shown in Roads in Hertfordshire: Highway Design Guide 3rd Edition Section 4 – Design Standards and Advice Figure 4.1.14.1. Furthermore, according to up-to-date satellite imagery, there is a telegraph pole within the area that the plans state the extended VXO will be. This means that the developer would have to contact the utility company and cover all costs involved with the movement of the telegraph pole.

Site and Surroundings Chorleywood Road, the A404, is a classified A main distributor road subject to a 40mph speed limit which is highway maintainable at public expense. HCC considers Chorleywood Road to be traffic sensitive between the hours of 6am and 8pm Monday to Sunday. In terms of sustainability, the closest bus stop to the site is approximately 160m from the site and is a stop for the 103 Chiltern Hundreds bus to High Wycombe or Watford. The nearest train station is Chorleywood which is approximately 3.4km away and is served by Chiltern Railways and the Metropolitan Line with destinations of Watford, Amersham, Chesham, Aylesbury, Aldgate and London Marylebone. Therefore, the Highway Authority are satisfied the site is in a sustainable location, which is in line with the principles set out in HCC's Local Transport Plan 4 (LTP4). There have been no accidents close to the site within the last 5 years.

Parking

Parking is a matter for the LPA, but HCC would like to comment that the garages are of an appropriate size for 2 vehicles, with there being space for 2 standard 2.4m x 4.8m bays, if the resident wished to use them for such purposes. The application proposes that cycle storage shall be within these garages with a separate shed being constructed for the dwelling without a garage. The Design Statement also states that there shall be facilities for electric vehicle charging within these garages. This is in fitting with emerging Three Rivers standards which require 1 active charging point per house; although an active EV charging point would need to be added to the dwelling without a garage to ensure this.

Drainage

The Government's flood risk maps for planning indicate parts of the carriageway to be at a medium risk of surface water flooding: <https://flood-map-for-planning.service.gov.uk/>. Therefore, a drainage solution from the new dwellings which removes the risk of expelling surface water onto Chorleywood Road should be provided to ensure flood risk does not increase.

Refuse and Waste Collection

Manual for Streets Paragraph 6.8.9 states that waste collection vehicles must be able to get within 25m of the bin storage location and residents must not carry bins for more than 30m from a dwelling. Drawing number 1362/P/1 Rev E shows a swept path drawing for a fire truck turning within the site, this also shows that a refuse vehicle would be able to enter the site and turn around. The bin stores are all within 30m from the front of the dwellings.

Emergency Vehicle Access

In accordance with Manual for Streets Paragraph 6.7, the entirety of a dwelling must be within 45m from the edge of the highway so an emergency vehicle can gain access. Drawing number 1362/P/1 Rev E shows a swept path drawing for a fire truck turning within the site, meaning that it can get to an area where all of each dwelling is within 45m. The width of the driveway is also wide enough for an emergency vehicle to enter.

Conclusion

HCC as the Highway Authority have reviewed the supporting documents and drawings and wishes to raise an objection to the application. This is due to severe highway safety concerns as the access proposals are contrary to the design standards contained in Roads in Hertfordshire: Highways Design Guide and Manual for Streets. Once these issues are resolved, the Highway Authority would be in a position to accept the proposal subject to conditions and informatives.”

During the course of the application an amended Site Layout Plan was submitted which amended the access in line with the initial comments of Hertfordshire Highways. This consultee then made the following comments:

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

1) Prior to the first occupation of the development hereby permitted the vehicular access shall be completed and thereafter retained as shown on drawing number 1362/P/1 F in accordance with details/specifications to be submitted to and approved in writing by the Local Planning Authority in consultation with the highway authority. Prior to use appropriate arrangements shall be made for surface water to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

Reason: To ensure satisfactory access into the site and avoid carriage of extraneous material or surface water from or onto the highway in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018).

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:

AN1) Works within the highway (section 278): The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an

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

AN2) 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 County Council website at: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

AN3) Obstruction of highway: 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 County Council website at: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

AN4) Debris and deposits on the highway: It is an offence under section 148 of the Highways Act 1980 to deposit compost, dung or other material for dressing land, or any rubbish on a made up carriageway, or any or other debris on a highway to the interruption of any highway user. 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 and use thereafter are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available by telephoning 0300 1234047.

Comments/Analysis

Description of Proposal

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Site and Surroundings

Chorleywood Road, the A404, is a classified A main distributor road subject to a 40mph speed limit which is highway maintainable at public expense. HCC considers Chorleywood Road to be traffic sensitive between the hours of 6am and 8pm Monday to Sunday. In terms of sustainability, the closest bus stop to the site is approximately 160m from the site and is a stop for the 103 Chiltern Hundreds bus to High Wycombe or Watford. The nearest train station is Chorleywood which is approximately 3.4km away and is served by Chiltern

Railways and the Metropolitan Line with destinations of Watford, Amersham, Chesham, Aylesbury, Aldgate and London Marylebone.

Therefore, the Highway Authority are satisfied the site is in a sustainable location, which is in line with the principles set out in HCC's Local Transport Plan 4 (LTP4). There have been no accidents close to the site within the last 5 years. As stated within the previous response, according to up-to-date satellite imagery, there is a telegraph pole close to the area that the plans state the extended VXO will be. This means that the developer would have to contact the utility company and cover all costs involved with the movement of the telegraph pole, if need be.

Access and Parking

The amended drawing, 1362/P/1 F, shows the dropped kerb altered to be 7.224m, when this kerb is installed it will be done so to exactly 7.2m as per Hertfordshire County Council Residential Dropped Kerbs Terms and Conditions. The visibility splay from the access must be 4.5m x 90m, this splay is clear from the access. There have been no collisions close to the site within the last 5 years.

Parking is a matter for the LPA, but HCC would like to comment that the garages are of an appropriate size for 2 vehicles, with there being space for 2 standard 2.4m x 4.8m bays, if the resident wished to use them for such purposes. The application proposes that cycle storage shall be within these garages with a separate shed being constructed for the dwelling without a garage. The Design Statement also states that there shall be facilities for electric vehicle charging within these garages. This is in fitting with emerging Three Rivers standards which require 1 active charging point per house; although an active EV charging point would need to be added to the dwelling without a garage to ensure this.

Drainage

The Government's flood risk maps for planning indicate parts of the carriageway to be at a medium risk of surface water flooding: <https://flood-map-for-planning.service.gov.uk/>. Therefore, a drainage solution from the new dwellings which removes the risk of expelling surface water onto Chorleywood Road should be provided to ensure flood risk does not increase.

Refuse and Waste Collection

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In accordance with Manual for Streets Paragraph 6.7, the entirety of a dwelling must be within 45m from the edge of the highway so an emergency vehicle can gain access. Drawing number 1362/P/1 Rev E shows a swept path drawing for a fire truck turning within the site, meaning that it can get to an area where all of each dwelling is within 45m. The width of the driveway is also wide enough for an emergency vehicle to enter.

Conclusion

HCC as Highway Authority has considered the application and are satisfied that the proposal would not have an unreasonable impact on the safety and operation of the adjoining highway and therefore, has no objections on highway grounds to this application."

4.1.2 Chorleywood Parish Council: [Objection]

"The Committee had Concerns with this application and with to CALL IN the application on the following grounds unless it is refused:-

Should the plans or supporting information be amended by the Applicant, please advise the Parish Council so the comments can be updated to reflect the amended scheme.

The application form is incorrect, the provision of 4 bedroom houses providing at least 6 bedrooms with multiple en-suites is not a self-build development. The proposal is for 3 storey dwellings, it is contrived that the description of development suggests the proposal provides 2-storey dwellinghouses.

The Committee agree with Herts Highways that the access is far too large. The proposal would harm the pedestrian environment along Chorleywood Road.

The proposal fails to follow the pattern of development along Limetree Walk, instead it provides very large houses with a contrived access off Chorleywood Road that would require cars to drive past the amenity space of Plot 1. During the evenings it would result in noise and light spillage that would harm the amenities of both Plot 1 and Woodhurst.

There is limited meaningful private amenity space on the proposed development, in proportion to the house. In fact, the area to the front for car parking is nearly as large as the rear gardens.

There are significant concerns over the inclusion of basements given the sloping nature of the land and topography of the development and the major risk of flooding. No basement impact assessment has been provided in support of the development and as a result the development would harm the natural and built environment.

Concern with the proposed size of the homes and the contrived layout.

The Committee support the neighbours concern with the access, it should be taken from Limetrees Walk as it is a far more logical way of building out the site and completing the pattern of development in the area. It is not understood why the access for the new dwellings isn't taken from Limetrees Walk.

There are strong objections to the lack of contribution this development makes to affordable housing. The application fails to provide affordable housing contribution. It is not supported by a robust viability assessment. It suggests the build cost is high. It is widely known that the cost of digging a basement can amount to 44% of the build cost. The basements should be omitted from the proposal so an appropriate form of development with appropriate contribution towards affordable housing is provided.

It is difficult for key workers and first home buyers to be able to afford a home in Chorleywood Parish resulting in many young people having to leave the Parish. There is no reason why huge iceberg basement should be prioritised over the need to deliver appropriate homes that meet the needs of our residents. This site is entirely capable of providing suitable 2, 3 and 4 bedroom dwellings (without basements) that would meet the needs of those living and working in the area.

Overall, for the reasons set out the proposed development, due to its layout size, scale would be out of character with its surroundings which. The development would be out of keeping in the streetscene or Limetrees Walk and result in harm to the amenities of plot1 and Woodhurst. The proposal fails to provide suitable homes to meet the needs of residents, it fails to provide a basement impact assessment to demonstrate the basements would not harm the natural and built environment in the area and nor does it contribute towards

affordable housing for which there is a pressing need in the District. Owing to its proposed size of the access it would also cause harm to the pedestrian environment. It is contrary to a number of policies in the development plan and NPPF.”

4.1.3 Hertfordshire Ecology: [No response received, any response will be verbally reported at the committee meeting]

4.1.4 Landscape Officer: [No response received, any response will be verbally reported at the committee meeting]

4.1.5 National Grid: [No response received]

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 31

4.2.2 No of responses received: 24 (23 Objection, 1 Neutral)

4.2.3 Site Notice: posted 19.08.2021, expired 10.09.2021 Press notice: Not required

4.2.4 Summary of Responses:

Objections

- Concerns relating to the amount of vehicles entering and exiting the site onto the Chorleywood Road
- Access should be sought from quieter roads to the rear
- The new access will increase traffic
- Accessing the rear plots via Lime Tree Walk should be considered
- The majority of trees on site were cleared prior to the submission of the application and suggest that a condition is imposed for the trees to be replaced
- There will be considerable noise during the course of construction
- The development will impact the privacy of our rear garden

Neutral

- I would like to make it a matter of public record that we would be willing to negotiate access to the rear of Glenwood from Lime Tree Walk

4.2.5 **Officer comments:**

It is noted that Highways did not initially support the proposed development over the width of the proposed access. This was amended during the course of the application and Highways withdrew their objection.

In respect of the comments relating to accessing the rear plots via Lime Tree Walk, the role of the LPA is to assess the acceptability of the development as proposed and would not be able to suggest alternative means of access over land outside the remit of the application site.

5 Reason for Delay

5.1 Committee cycle

6 Relevant Planning Policy, Guidance and Legislation

6.1 National Planning Policy Framework and National Planning Practice Guidance

In 2021 the new National Planning Policy Framework was published. This is read alongside the National Planning Practice Guidance (NPPG). The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another. The NPPF is clear that “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework”.

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

6.2 The Three Rivers Local Development Plan

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

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies PSP3, CP1, CP2, CP3, CP4, CP7, CP8, CP9, CP10 and CP12.

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

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

Chorleywood Neighbourhood Development Plan - Referendum Version (2020). Relevant policies include Policies 2 and 3.

6.3 Other

Affordable Housing Supplementary Planning Document (adopted June 2011).

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

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

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

7 **Planning Analysis**

7.1 Principle of Demolition

7.1.1 The dwelling to be demolished is not located within a Conservation Area and is not a Listed or Locally Important Building. As such, there are no overriding policy requirements for the retention the existing dwelling.

7.2 Principle of Development

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

7.2.2 Paragraph 119 of the NPPF sets out that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land. It should be noted that Annex 2: Glossary of the NPPF defines that 'previously developed land' excludes 'land in built-up areas such as residential gardens.' The land is therefore not considered to be previously developed however it is also recognised that the NPPF does not include a presumption against development on or within private residential gardens. The application would therefore need to be assessed against all other material planning considerations.

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

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

7.2.4 The application site is within Rickmansworth which is identified as the Principal Town in the Core Strategy. The Spatial Strategy of the Core Strategy advises that new development in the Principal Town will be focused predominately on sites within the urban area, on previously developed land.

7.3 Impact on Character and Street Scene

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

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

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

- 7.3.3 Policy 2 of the Chorleywood Neighbourhood Plan sets out that all developments must demonstrate how they are in keeping with, and where possible enhance, the Special Characteristics of Chorleywood, based on a proportionate site and contextual analysis which includes details of the sustainability of the site and its location for the development. Policy 3 of the plan refers to the efficient use of land and states that applications for development on brownfield land will be encouraged.
- 7.3.4 The application proposal consists of the demolition of the dwelling at Glenwood and the construction of one new dwelling in its place and an additional three new dwellings on land to the rear. The Chorleywood Road is characterised by large detached dwellings of varied architectural design on relatively sizeable plots. The character of the road has evolved in recent years with larger plots being subdivided and multiple dwellings being reconstructed in their place. The proposed plots, and garden sizes, would have a scale which is characteristic of both the immediate vicinity and the Chorleywood Road generally. In terms of the general arrangement of the dwellings, it is considered that the layout is acceptable in that the dwelling at Plot 1 would follow the established building frontage of the Chorleywood Road whilst the dwellings at Plots 2-4 would, although they would not front it, follow the building line of the dwellings on Lime Tree Walk and would provide a continuation to the dwelling at Glaramara. The proposed development would result in a tandem arrangement however, given the relationship with the rear dwellings to the building line of Lime Tree Walk, it is not considered that this would result in harm.
- 7.3.5 Appendix 2 of the Development Management Policies LDD states that at first floor level a minimum distance of 1.5m should be achieved in spacious areas. The proposal would meet this criteria with the dwellings achieving a spacing of at least 5m between their adjoining flank walls and the flank boundaries of the site. The separation of the buildings is considered to achieve acceptably spacious arrangement so as not to appear cramped or unduly prominent and to ensure the spacing reflects that found in the wider area.
- 7.3.6 It is considered that the proposed access driveway would be an acceptable arrangement that would not appear incongruous in the streetscene. The driveway would involve the widening of the existing vehicular access point and would continue past the northern flank of the dwelling at Plot 1 to enable access to the dwellings proposed at the rear. It is considered, given the width of the site, that the drive would not give rise to an awkward arrangement. Factoring in the above considerations collectively, it is considered that the proposed development would provide a layout that would maintain the character of the area.
- 7.3.7 Both the local and wider context of the Chorleywood Road is heavily varied in terms of architectural design and as such, it is not considered that the design of the proposed dwellings would result in any material harm to the visual amenities of the streetscene. The proposed dwellings would be of two storey appearance, with loft accommodation served by dormer windows and rooflights. The dwellings would each contain basement level accommodation however this would not be perceptible from public vantage points. The dwellings would be of relatively similar style to one another however there is variation in terms of design details so they do not appear identical. The dwellings would be relatively large but would contain traditional hipped roof forms with front and rear projections set lower than the main ridge of the dwellings.

- 7.3.8 It is considered that general siting of the dwelling at Plot 1 would be acceptable, and whilst it is noted that the scale of this dwelling would appear slightly wider than the general street scene on this part of Chorleywood Road, it is not considered that it would result in harm by virtue of its scale.
- 7.3.9 The proposed dwellings would all contain front dormers which are not always considered appropriate in the streetscene however, given the varying design of the area and the subordinate nature of the dormers in comparison to the main roof, the dormers are not considered to result in an incongruous or obtrusive feature within the streetscene. Similarly, the dwellings would incorporate a flat roof element which is generally discouraged by Appendix 2 of the Development Management Policies LDD. In this instance however the flat roof elements would be relatively minor and the dwellings would be sited a significant distance back and elevated from the road such that they would be unnoticeable in the street scene. Furthermore, it is noted that there are numerous examples of flat roof elements to dwellings on the Chorleywood Road.
- 7.3.10 The Design Criteria at Appendix 2 states that ridge height will be assessed on their own merits at the time of the planning application and where roof forms are of a uniform style/height and appearance, it is unlikely that an increase in ridge height will be supported by the Council. The indicative streetscene provided indicates that the proposed ridge heights of the dwellings would largely align with those of the Chorleywood Road and Lime Tree Walk and it is not considered that these would result in visual harm or would be prominent within the street scene.
- 7.3.11 The dwellings at Plots 1, 2 and 4 would each contain a detached garage sited forward of them. It is considered that the proposed garages would be acceptable in terms of their general scale and siting and would not harmfully erode the spacious character of the site. Plot 3 would not contain a front garage as the central plot which would contribute to maintaining the central openness of the site when approaching along the access drive at the rear. It is noted that there are plentiful examples of detached garages within plot frontages that are visible from the Chorleywood Road and these would therefore not appear out of character. The proposed site layout plan indicates each dwelling to contain a gated access although no elevational details have been provided of these. The proposal to include gates is not considered to result in harm, given the local character and similar forms of development, and a condition will be included on any permission requiring details of all boundary treatment including gates.
- 7.3.12 It is considered that the proposed development would comply with the Chorleywood Neighbourhood Plan. The proposed development would involve the redevelopment of a current residential site and the design of the scheme is considered to be in keeping with the character and appearance of the area and would not result in harm. The concerns of the Parish Council are noted in relation to the scale of the dwellings however it is considered that a larger quantity of smaller dwellings, as suggested, would be less appropriate in terms of upholding the general character of the area, as discussed above.
- 7.3.13 Overall, the proposed development is considered to maintain appropriate spacing in character with the locality and the scale, bulk and design of the proposed dwellings would not result in material harm to the character or appearance of the streetscene or wider area. The development is therefore considered to be in accordance with Policies CP1, CP3 and CP12 of the Core Strategy and Policies DM1 and DM3 and Appendix 2 of the Development Management Policies LDD and Policies 2 and 3 of the Chorleywood Neighbourhood Plan (2020).

7.4 Housing Mix

- 7.4.1 Policy CP3 sets out that the Council will require housing proposals to take into account the range of housing needs as identified by the Strategic Housing Market Assessment (SHMA) and subsequent updates. The need set out in the Core Strategy is 30% one-bedroom units,

35% two-bedroom units, 34% three-bedroom units and 1% four bedroom and larger units. However, the most recent SHMA (South West Hertfordshire Strategic Housing Market Assessment 2016) advises that in terms of the size of accommodation need to 2036 in Three Rivers, the overall requirement is for approximately 19% 1-bedroom units, 28% 2-bedroom units, 37% 3-bedroom units and 16% 4+ bedroom units.

7.4.2 The SHMA and the Core Strategy recognise that these proportions may need to be adjusted taking account of market information, housing needs and preferences and specific site factors. The nature of the proposed development means that it would provide 100% 4+ bedroom units and would not strictly accord with Policy CP3 of the Core Strategy, however it is considered that a development of this nature would not prejudice the ability of the Council to deliver overall housing targets and the development is therefore considered acceptable in accordance with Policy CP3 of the Core Strategy (adopted October 2011).

7.5 Affordable Housing

7.5.1 **Appendix A** of this report sets out the position of the Council and evidence relating to the application of the affordable housing threshold in Core Strategy Policy CP4: Affordable Housing.

7.5.2 As a net gain of three units, the proposed development would be liable for a commuted sum payment towards affordable housing. This site lies within the “Highest Value Three Rivers” market area where the figure is £1,250 per square metre. The Council have calculated the affordable housing payment requirement to be £2,047,125. This is based on the habitable internal area of the four new dwellings, average adjusted to the proposed net gain of three.

7.5.3 The application has been accompanied by a Viability Assessment which concludes that the proposed development cannot support any element of affordable housing contribution. The applicant’s assessment has been reviewed by the Council’s independent viability consultant, Adams Integra who have reviewed the viability assessment and conclude that the scheme is not able to support an affordable housing payment and remain viable and, should the Council be minded to grant approval, are of the opinion that the applicant should not be required to provide an affordable housing contribution.

7.5.4 In summary, given the findings of Adams Integra, the Council will not be seeking an affordable housing contribution for the proposed development. The proposed development would therefore be acceptable in this respect in accordance with Policy CP4 of the Core Strategy (adopted October 2011) and the Affordable Housing Supplementary Planning Document (approved June 2011).

7.6 Impact on amenity of neighbours

7.6.1 Policy CP12 of the Core Strategy states that development should ‘protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space’. Policy DM1 and Appendix 2 of the Development Management Policies document set out that development should not result in loss of light to the windows of neighbouring properties nor allow overlooking, and should not be excessively prominent in relation to adjacent properties. To avoid loss of light and an overbearing impact on neighbours, two storey development at the rear of properties should not intrude a 45 degree splay line drawn across the rear garden. The line should be taken from a point on the joint boundary level with the rear wall of the adjacent property. This principle is dependent on the spacing and relative positions of properties.

7.6.2 The proposed dwelling at Plot 1 would not intrude into a 45 degree line of Walbrook House or Woodhurst. Furthermore, a spacing of 5m would be retained between the flank walls of the dwelling at Plot 1 and the boundary with Walbrook House which would further reduce the prominence of the development and any impact to light that may occur. There would be a 15m spacing between the flank of the dwelling at Plot 1 and the boundary with Woodhurst.

- 7.6.3 The proposed dwellings at Plots 2-4 would not intrude into a 45 degree line of either of the existing neighbouring properties or the 45 degree line of one another. Furthermore, significant spacing would be retained between the flank walls of the dwellings and the adjacent flank boundaries which would further reduce the prominence of the development and any impact to light that may occur. The dwellings at Plot 2 and Plot 4 would be spaced at least 5m to the flank boundary with no.21 Lime Tree Walk and Glaramara respectively. The guidance within Appendix 2 of the Development Management Policies LDD regarding the 45 degree line relates solely to development to the rear of properties. However, it is also a useful indicator for development to the front and it is noted that neither dwelling would intrude the 45 degree line to the front of the neighbouring properties either. As such, the proposed development is not considered to result in a significant loss of light or appear overbearing to existing or proposed neighbouring properties.
- 7.6.4 In relation to privacy, Appendix 2 of the Development Management Policies LDD sets out that distances between buildings should be sufficient so as to prevent overlooking, particularly from upper floors. As an indicative figure, 28m should be achieved between the faces of single or two storey buildings backing on to each other. Distances should be greater in situations where there are site level differences involved. Windows of habitable rooms at first floor level should not generally be located in flank elevations. Flank windows of other rooms should be non-opening below 1.7m from the internal floor level and obscure glazed.
- 7.6.5 The proposed dwellings would contain windows to all elevations. It is not considered that the proposed front and rear glazing would detrimentally overlook the rear gardens of adjoining neighbours. It is considered appropriate to attach a condition to any permission granted requiring windows above ground level within the flank elevations to be obscure glazed and non-opening below 1.7m internally.
- 7.6.6 A separation distance of at least 30m would be maintained between the proposed dwellings at Plots 3 and 4 and the rear site boundary. There would be a distance of some 20m from the rear of Plot 2 to the rear boundary however this would adjoin the frontage and public area of Lime Tree Walk. The shorter. There would be a spacing of approximately 45m between the rear elevation of Plot 1 and the front of Plot 2. It is not considered that the proposed development would result in significant harm to the residential amenities of these dwellings.
- 7.6.7 It is not considered that the comings and goings along the proposed access drive, which runs adjacent to the shared boundary with Woodhurst, would cause detrimental harm to the residential amenities of these or any other neighbours. Given the number of dwellings it is considered that the comings and goings would be relatively minimal. Furthermore, any noise impact would be mitigated by the presence of boundary fencing and planting between the access drive and site boundary.
- 7.6.8 Overall, it is not considered that the proposed dwellings would result in any detrimental impact to the residential amenities of existing neighbouring dwellings or one another. The development would therefore be acceptable in this regard in accordance with Policies CP1 and CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies LDD.

7.7 Trees and Landscaping

- 7.7.1 Policy DM6 of the Development Management Policies LDD sets out that development proposals should seek to retain trees and other landscape and nature conservation features, and that proposals should demonstrate that trees will be safeguarded and managed during and after development in accordance with the relevant British Standards.
- 7.7.2 The application site contains a number of large, mature trees predominantly positioned to the flank boundaries of the site, some of which are covered by Tree Preservation Orders.

The proposed development would avoid the root protection zones of protected trees within the site. It is considered appropriate to include a condition for details of tree protection measures to be submitted prior to the commencement of the development.

- 7.7.3 It is acknowledged that the site was subject to a relatively significant clearance of trees prior to the submission of the application. This is being investigated by the planning enforcement team however it is acknowledged that none of the trees that were removed were protected. Notwithstanding, it is considered appropriate and reasonable for a hard and soft landscaping scheme to be reserved by condition in order to soften and integrate the proposed development into the character of the wider area.

7.8 Highways, Access and Parking

- 7.8.1 Policy CP10 of the Core Strategy requires development to demonstrate that it will provide a safe and adequate means of access. Policy DM13 and Appendix 5 of the Development Management Policies LDD advises on off street car parking requirements.

- 7.8.2 The access to the site would remain in its existing position however would be subject to widening to accommodate access to more than a single dwelling. Hertfordshire County Highways (HCH) were consulted on the proposed development and initially raised an objection to the width of the access. During the course of the application, the applicant provided an amended site plan which amended the access in line with the comments of Highways. HCH were then consulted on the amended site plan and withdraw their objection to the proposed development. Given the sensitive location of the site, the Council consider it appropriate to include a condition for a Construction Management Plan.

- 7.8.3 Appendix 5 sets out the following parking standards:

- 4+ bedroom dwelling: 3 spaces per dwelling (3 assigned spaces)

- 7.8.4 The proposed dwellings would each be served by a driveways large enough to accommodate at least three parking spaces and would each have an integral garage which provides an additional space. The proposed development is therefore acceptable in accordance with Policy CP10 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies document (adopted July 2013).

7.9 Sustainability

- 7.9.1 Paragraph 152 of the NPPF states that “Planning plays a key role in helping to shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure”.

- 7.9.2 Policy CP1 of the Core Strategy requires the submission of an Energy and Sustainability Statement demonstrating the extent to which sustainability principles have been incorporated into the location, design, construction and future use of proposals and the expected carbon emissions.

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

- 7.9.4 The application is accompanied by an energy statement prepared by DDA. The report confirms that a range of energy efficiency measures are to be incorporated into the building fabric in order to reduce energy demand and confirms that the proposed scheme is to

secure at least a 5% reduction in CO2 emissions below the baseline emission rate based on Part L 2013 edition.

7.10 Refuse and Recycling

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

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

7.10.2 Hertfordshire Highways have acknowledged that bin stores would be sited within 30m from the front of the dwellings which is considered to be appropriate for collection by refuse crews. Highways do not raise any objection in relation to the ability of refuse vehicles to enter and exit the site. Details of siting and scale of bin stores have not been provided with the application therefore it is considered reasonable to secure these details by condition.

7.11 Wildlife and Biodiversity

7.11.1 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.

7.11.2 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.

7.11.3 The application has been submitted with a Biodiversity Checklist and Herts Ecology have been consulted as part of the application. It is not considered that the proposed development would result in any harm to protected species. The site was recently cleared of vegetation therefore its ability to support on-site species is limited.

7.12 Tilted Balance

7.12.1 The LPA cannot currently demonstrate a 5 year housing land supply, and therefore Paragraph 11 of the NPPF (2021) is required to be considered. In the context of decision-taking, the NPPF states that if the policies which are most important for determining the application are out-of-date (which includes where the LPA cannot demonstrate a five year supply of deliverable housing sites) then planning permission should be granted unless i) the application of policies in this Framework that protect areas or assets of particular importance provides clear reason for refusing the development proposed or ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

7.12.2 In respect of part (d)(ii) the development is not considered to result in demonstrable harm in any regard and would not conflict with the NPPF in respect of promoting sustainable development. It is recognised that the development would contribute to the shortfall in housing by the provision of three additional houses. It is considered that in relation to paragraph 11 part (d)(ii) of the NPPF there are no adverse impacts that significantly and demonstrably outweigh the benefits of the development.

8 Recommendation

That PLANNING PERMISSION IS GRANTED 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: 1362/P/9A, 1362/P/8A, 1362/P/7A, 1362/P/6A, 1362/P/5A, 1362/P/4A, 1362/P/3B, 1362/P/2B, 1362/P/1F, 1362/P/14, 1362/P/13, 1362/P/12B, 1362/P/11B, 1362/P/10

Reason: For the avoidance of doubt and in the proper interests of planning in accordance with Policies PSP1, CP1, CP2, CP3, CP4, CP8, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011), Policies DM1, DM4, DM6, DM10, DM11 and DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013), Policy SA1 of the Site Allocations LDD (adopted November 2014) and Policies 2 and 3 of the Chorleywood Neighbourhood Plan (2020)

- C3 Before any building operations above ground level hereby permitted are commenced, samples and details of the proposed external materials shall be submitted to and approved in writing by the Local Planning Authority and no external materials shall be used other than those approved.

Reason: To ensure that the external appearance of the development is satisfactory in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

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

Reason: This is a pre-commencement condition in order to minimise danger, obstruction and inconvenience to users of the highway in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011).

- C5 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).

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

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

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

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

Reason: This condition is required to ensure the completed scheme has a satisfactory visual impact on the character and appearance of the area in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

- C7 Prior to the first occupation of the dwellings hereby permitted the first floor flank windows shall be fitted with purpose made obscured glazing and shall be top level opening only at 1.7m above the floor level of the rooms in which the window is installed. The windows shall be permanently retained in that condition thereafter.

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

- C8 Prior to the first occupation of the dwellings hereby permitted details indicating the positions, design, materials and type of all boundary treatments, including gates, to be erected shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall thereafter be erected prior to occupation and only in accordance with the approved details.

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

- C9 Prior to the first occupation of the development hereby permitted the vehicular access shall be completed and thereafter retained as shown on drawing number 1362/P/1 F

in accordance with details/specifications to be first submitted to and approved in writing by the highway authority.

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

- C10 The development hereby permitted shall be implemented in accordance with the details of the Energy Statement prepared by DDA prior to the occupation of the development and shall be permanently maintained thereafter. No photovoltaics shall be installed unless details have first been submitted to and approved in writing by the LPA.

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

- C11 Immediately following the implementation of this permission, notwithstanding the provisions of Part 1, Classes A, B, C, D, E & F or Part 2, Class A & C of Schedule 2 to 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 of any of the above classes shall be constructed or placed on any part of the land subject of this permission without such consent as aforesaid.

Reason: To ensure adequate planning control over further development having regard to the visual amenities of the locality, the residential amenity of neighbouring occupiers and to protect the openness of the Green Belt in accordance with Policies CP1, CP9, CP10, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM2, DM6, DM13 and Appendices 2 and 5 of the Development Management Policies LDD (adopted July 2013).

8.1 **Informatives:**

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

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

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

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

(where applicable), lose any exemptions already granted, and a surcharge will be imposed.

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

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

- 12 The applicant is reminded that the Control of Pollution Act 1974 allows local authorities to restrict construction activity (where work is audible at the site boundary). In Three Rivers such work audible at the site boundary, including deliveries to the site and running of equipment such as generators, should be restricted to 0800 to 1800 Monday to Friday, 0900 to 1300 on Saturdays and not at all on Sundays and Bank Holidays.
- 13 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The applicant and/or their agent and the Local Planning Authority engaged in pre-application discussions which result in a form of development that maintains/improves the economic, social and environmental conditions of the District.
- 14 Works within the highway (section 278): The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the County Council website at: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> or by telephoning 0300 1234047.
- 15 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 County Council website at: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

- 16 Obstruction of highway: 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 County Council website at: <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 Debris and deposits on the highway: It is an offence under section 148 of the Highways Act 1980 to deposit compost, dung or other material for dressing land, or any rubbish on a made up carriageway, or any or other debris on a highway to the interruption of any highway user. 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 and use thereafter are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available by telephoning 0300 1234047.

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

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

Background

- 1.1 In November 2014, the Minister of State for Housing and Planning issued a Written Ministerial Statement (WMS) setting out changes to national planning policy. The WMS stated that financial contributions towards affordable housing should no longer be sought on sites of 10 units or less and which have a maximum combined gross floor area of 1,000sqm. National Planning Practice Guidance (NPPG) was amended to reflect this. However on 31st July 2015 the High Court held (*West Berkshire Council v SSCLG [2015]*) that the policy expressed through the WMS was unlawful and the NPPG was changed to reflect this. On 11th May 2016 the Court of Appeal reversed the High Court decision. The NPPG was subsequently amended to reflect the WMS on 19th May 2016.
- 1.2 In light of the above developments, between November 2014 and August 2015 and May 2016 and 1st September 2017 the Council gave greater weight to the WMS policy and associated NPPG guidance in it than to adopted Policy CP4 of its Core Strategy in respect of development proposals for 10 dwellings or less and which had a maximum combined gross floor area of 1000 sq metres. However, having undertaken an analysis of up to date evidence of housing needs (**The Needs Analysis**), officers advised in 2017 that when considering the weight to be given to the WMS in the context of breaches of the adopted development plan policy, the local evidence of housing need contained in the Needs Analysis should generally be given greater weight. On 1st September 2017 the Council resolved to have regard to the Needs Analysis as a consideration of significant weight when considering the relationship between Policy CP4 and the WMS for the purposes of Section 70(2) Town and Country Planning Act 1990 and Section 38(6) Planning and Compulsory Purchase Act 2004 in respect of development proposals of 10 dwellings or less.
- 1.3 On 24th July 2018 a new version of the National Planning Policy Framework¹ (the Framework) was published with immediate effect for development management purposes. Paragraph 63 of the Framework advises that *“Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer).”* Annex 2 of the NPPF defines *“major development”* as *“for housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more.”*
- 1.4 The Council's current affordable housing policy is set out in Policy CP4 of the Core Strategy (adopted in October 2011) and establishes that :
 - a) “...All new development resulting in a net gain of one or more dwellings will be expected to contribute to the provision of affordable housing.”
 - e) “In most cases require affordable housing provision to be made on site, but in relation to small sites delivering between one and nine dwellings, consider the use of commuted payments towards provision off site. Such payments will be broadly equivalent in value to on-site provision but may vary depending on site circumstances and viability.”
- 1.5 The supporting text to Policy CP4 summarises the justification for it:

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

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

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

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

1.8 In addition to the £2.1 million already received, small scale (1-9 unit) schemes have secured to date a further **£2.5million to £3.8million²** of affordable housing contributions in respect of unimplemented but current planning permissions. All of those schemes were agreed to be viable with those sums secured. The Council has several large scale future residential developments planned which will aim to deliver substantial quantities of further affordable housing in the District in the medium term future, utilising those additional affordable housing contributions as and when they are received.

1.9 Policy CP4 makes it clear that a requirement for a scheme to contribute towards the provision of affordable housing is subject to viability considerations and is therefore consistent with paragraph 122 of the Framework. The application of CP4, which includes this in built viability allowance, cannot properly be said to be a barrier to delivery. Indeed between 1 October 2011 and 31 March 2020 226 planning permissions were granted for minor residential developments which contribute a net dwelling gain. Of those only 21 have been permitted to lapse which is only 9% of all such schemes.

² The sums payable secured by Sec 106 will be subject to indexation, in most cases from June 2011 which will not be calculable until the date of payment. The quoted upper limit includes a policy compliant contribution of £1,341,250.00 which relates to a minor development PP subject to a late stage viability review mechanism. The AHC, whilst capped at this figure, will only be known once viability is re-run at occupation when actual build costs and realised sales values are understood. The contribution paid could therefore be substantially less than the policy compliant sum referred to above, hence the range specified.

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

Importance of Small Sites to Three Rivers

- 1.11 It is important to acknowledge the percentage of residential development schemes which tend to come forward in the District which propose the delivery of less than 10 dwellings: from 1 April 2017 to 31 March 2020, 177 planning applications for residential development involving a net gain of dwellings were determined³ by the Council. Of these, 158 applications (89%) were for schemes which proposed a net gain of 1-9 units. Having a large number of small sites is an inevitable consequence of the District being contained within the Metropolitan Green Belt. The contribution to both market housing supply and affordable housing supply are therefore both material to overall identified needs and adopted development plan objectives. This is dealt with in more detail below.
- 1.12 If the weight to be given to the Framework is greater than the adopted development plan, this large proportion of Three Rivers' expected new housing delivery will contribute nothing towards affordable housing. This would compromise Three Rivers' ability to deliver its objectively assessed need for affordable housing.

2 Development Plan Policies and the WMS

- 2.1 The content of the Framework is a material consideration in any planning decision, and one which the decision making authority must weigh against the development plan as the starting point under section 38(6) of the 2004 Planning and Compulsory Purchase Act. The correct approach is to:

- Consider the starting point under the development plan policies
- Have regard to the Framework and its objectives if those development plan policies would be breached – it is officers' view that the Framework should be given considerable weight as a statement of national policy post-dating the Core Strategy
- Consider up to date evidence on housing needs
- Consider whether the Framework should outweigh the weight to be given to the local evidence of affordable housing need and the breach of the adopted development plan policy.

- 2.2 This approach reflects the Court of Appeal's judgment in West Berkshire, which held that whilst the government, whether central or local, could state policy "rules" absolutely, decision makers must consider them without treating them as absolute: their discretion to weigh material considerations in the balance and do something different cannot be fettered by policy:

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

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

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

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

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

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

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

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

General House Price Affordability in Three Rivers

2.5 Due to the District’s close proximity to London, Three Rivers has traditionally been situated within a high house price area. According to data published by the Office of National Statistics (ONS) in the third quarter of 2016⁴, the lowest quartile house price in Three Rivers in 2016, representing the cheapest properties in the District was £325,000.00, making it the **seventh** most expensive local authority area in England and Wales (excluding London), out of a total of three hundred and six local authority areas (see table 1 below).

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

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

Table 1.

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

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

Table 2.

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

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

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

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

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

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

Table 3.

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

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

Table 4.

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

It is clear from the above that the affordability of housing in Three Rivers is getting worse with time.

Affordable Housing Requirements in Three Rivers

- 2.6 The South West Hertfordshire Strategic Housing Market Assessment January 2016 (SHMA) found that at that time there were approximately 658 households within Three Rivers that were situated in unsuitable housing. Unsuitability is based on the number of households shown to be overcrowded in the 2011 Census (updated to a 2013 base for the purposes of the SHMA). 59.4% of these households were unable to afford market housing, which meant the revised gross need was reduced to 391 households.⁹
- 2.7 The SHMA also looked into newly-arising (projected future) need within the District, which was accepted as arising from newly forming households and existing households falling into this need. In South West Herts, the SHMA estimated a need totalling 2,760 new households per annum from 2013-2036. 15% of this need falls within Three Rivers, which equates to an estimated level of affordable housing need in the District from newly forming households of 419 per annum.

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

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

2.8 With these figures in mind, the SHMA calculated the net affordable housing need within the five local authority areas of the South West Herts area as being 54,997 units over the 23 year period from 2013 to 2036. This is 2,391 units per annum.¹⁰ The net need within Three Rivers was calculated as being 357 units per annum or 8,211 units over the same 23 year period. The SMHA identified the district's OAN for the next plan period as being 514 dwellings a year; thus affordable housing need equates to 69% of total housing need.

Affordable Housing Provision in Three Rivers

2.9 Core Strategy CP4 requires around 45% of all new housing in the District to be affordable. As stated previously, prior to the WMS, all new developments that had a net gain of one or more dwellings would, subject to viability, be expected to contribute towards this.

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

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

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

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

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

¹⁰ Table 38: South West Hertfordshire Housing Market Assessment (January 2016). Net need = Current Need + Need from Newly-Forming Households + Existing Households falling into Need – Supply of Affordable Housing.

¹¹ Sites with completions in 2019/20

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

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

- 2.13 In terms of numbers of completed dwellings proposed by those small site schemes, between 2011-2020 (financial years) some 341 net dwellings were completed which equates to 38 net dwellings per annum and to 20.8% over the 2011-2020 period. 20.8% is a significant proportion of the overall supply. Whilst such numbers are significant, it is acknowledged that major developments, whilst far less frequent, provided significantly greater quantities of housing. However CP4(e) does not generally require small site schemes to provide on-site affordable housing (small-scale piecemeal development is unattractive to RP's). Instead commuted sums in lieu of on-site provision are required and thus it is the sums of money secured and the contribution those make towards the provision of additional much needed affordable housing in the District which the policy should be tested against. This has been acknowledged by Planning Inspectors on appeal, as referred to at paragraph 2.21 below: APP/P1940/W/19/3230999, 27 Gable Close, Abbots Langley: *"It also identifies the importance of small sites in providing affordable housing with contributions from small sites amounting to over £2.1 million since 2011 being spent towards the delivery of 38 affordable dwellings."*

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

- 2.14 As set out at paragraphs 1.7 and 1.8 above, the commuted payments (£2.1 million) to be spent on the provision of affordable housing which have been collected by the Council to date have made a direct contribution towards the identified affordable housing shortfall in the district: providing some 21 units with some of the monies being utilised to assist in the delivery of a further 17 units (38 in total). Furthermore, as set out at paragraph 1.8 above, small scale (1-9 unit) schemes have (as at December 2019) secured a further **£2.5million - £3.8million** (see footnote 2) in respect of unimplemented but current planning permissions. The Council has several large scale future residential developments planned which will aim to deliver substantial quantities of further affordable housing in the District in the medium term future, utilising those additional affordable housing contributions as and when they are received. It is clear therefore that CP4(e) has made and will continue to make a significant contribution towards the provision of much needed affordable housing in the District in the future.

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

- 2.15 As set out at paragraph 1.9 above, Policy CP4 makes it clear that a requirement for a scheme to contribute towards the provision of affordable housing is subject to viability considerations and is therefore consistent with paragraph 122 of the Framework. The application of CP4, which includes this in built viability allowance, cannot properly be said to be a barrier to delivery. The Council accepts that if, properly tested, viability cannot be established on current day costs and values then a scheme should not currently be required to provide or contribute to affordable housing delivery. Between 1 October 2011 and 31 March 2020 there were 226 planning permissions granted for minor (net gain) residential developments in the District. Of those only 21 have lapsed (9%). This demonstrates that the application of CP4 has not acted as a brake on small scale residential developments.

Relevant Appeal Decisions

- 2.16 There have been a number of appeal decisions since the WMS was upheld by the High Court in May 2016. As an example, the Planning Inspectorate has dismissed appeals that were submitted against the decisions made by Elmbridge Borough Council (appeal no: 3146699), Reading Borough Council (appeal ref: 315661), South Cambridgeshire District Council (appeal ref: 3142834) and Islington Borough Council (3154751, 3164313, 3174582, 3177927 and 3182729). These were for small scale housing schemes where those Councils had attached greater weight to their affordable housing policy than to the WMS as a consequence of local evidence of substantial affordable housing need. Copies of these three appeals are attached to Appendix 1. The Council considers these appeal decisions to be of continuing relevance post the new Framework.
- 2.17 The Inspectors appointed to determine these appeals stated that the WMS needed to be addressed alongside existing Local Plan policy. Within each case, the Inspectors found that there was substantial evidence of a pressing need for affordable housing within these three local authority areas. On this basis, it was considered that local policy had significant weight and there was strong evidence to suggest that these issues would outweigh the WMS within these three cases.
- 2.18 In March 2017 the Planning Inspectorate issued a response to a letter from Richmond and Wandsworth Councils regarding the perceived inconsistency of approach by the inspectorate in relation to a further five appeal decisions made in 2016, regarding the weight that was made to the WMS. A copy of this letter is attached to Appendix 2.
- 2.19 Out of these five decisions, the Planning Inspectorate considered that three appeal decisions were reasonable, and fairly reflected the Court of Appeal's decision that although great weight should be attached to the WMS as a material circumstance; planning applications must be decided in accordance with the development plan, unless material considerations indicate otherwise.
- 2.20 However, the Planning Inspectorate considered that the decision taken on the two remaining appeals which stated that lesser weight was afforded to local policies because they were now, in part, inconsistent with national policy, was not appropriate. The seventh paragraph in the response from the Inspectorate, summarised the approach that the Inspectorate acknowledges should be taken:
- “...an Inspector to start with the development plan and any evidence presented by the LPA supporting the need for an affordable housing contribution, establish whether the proposal is in conflict with those policies if no contribution is provided for, and, if there is conflict, only then go on to address the weight to be attached to the WMS as a national policy that post-dates the development plan policies.”¹³*
- 2.21 It is clear therefore that the Planning Inspectorate considered that although the WMS (and now the Framework) was a material consideration, this should be balanced against the policies within a plan along with any further evidence that supports a Local Planning Authority's application of the policy.
- 2.22 The Council's stance has been tested on appeal on numerous occasions and the Planning Inspectorate have repeatedly concluded (16 decisions as at the date of this document) that

¹³ Paragraph 7, Planning Inspectorate Letter, March 2017.

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

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

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

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

Decision date 11th October 2019:

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

- **APP/P1940/W/18/3213370: No.9 Lapwing Way, Abbots Langley.**

Decision Date 22nd May 2019:

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

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

Decision Date 5th May 2019:

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

- **APP/1940/W/19/3229274: 101 Durrants Drive, Croxley Green**
Decision Date 16th August 2019:
“Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise... Therefore, I find that the proposal would fail to make appropriate provision for affordable housing and as such, would be contrary to policy CP4 of the CS which seeks to secure such provision, which although does not attract full weight, in light of the evidence provided, attracts significant weight sufficient to outweigh paragraph 63 of the Framework.”
- **APP/P1940/W/19/3238285: Bell Public House, 117 Primrose Hill, Kings Langley**
Decision Date 9th March 2020
“Even taking the appellants figures that 22.8% of affordable units have arisen from non major sites, I consider this to be an important and meaningful contribution...even taking the appellant’s figures my conclusion remains unaltered.”
- **APP/P1940/W/19/3229189: Glenwood, Harthall Lane, Kings Langley**
Decision Date 7th May 2020
“The Council’s evidence sets out the acute need for affordable housing in the area and the importance of small sites in contributing to the provision of such housing. They also highlighted a large number of recent appeal decisions for small residential schemes where it has been considered that the exceptional local need should outweigh government policy, as set out in the Framework... Despite the appellant’s evidence, which included reference to a Local Plan Consultation Document (October 2018) and an analysis undertaken by them based on the Council’s Housing Land Supply Update (December 2018), it was clear to me, in the light of all the evidence before me, that a pressing need for affordable housing in the area remains. It was also clear that small sites play a key role in ensuring this provision. As such, in this case, I am satisfied that although considerable weight should be given to the Framework, it does not outweigh the development plan policy.”
- **APP/P1940/W/20/3249107: 2 Church Cottages, Old Uxbridge Road, West Hyde**
Decision Date: 21st October 2020
“The Framework at paragraph 63 sets out that the provision of affordable housing should not be sought for residential developments that are not major developments other than in designated rural areas where policies may set out a lower threshold of 5 units or fewer. That said, there is clear evidence to suggest that there is an acute need for affordable housing in the Three Rivers District and there have been several appeal decisions which supported this view... I agree that there are special circumstances which justify the provision of affordable housing below the Framework’s suggested threshold... As a result, the proposal would be contrary to Policy CP4 of the CS which amongst other matters seeks to increase the provision of affordable homes including by means of a commuted sum payment for sites of between one and nine dwellings... I have also had regard to the obvious benefits in relation to the provision of a much-needed new dwelling. However, the benefits of this are outweighed by the lack of provision for affordable housing”

Conclusion

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

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

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

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

Sources Used:

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

December 2020

