

<b>APPLICATION NUMBER</b>		23/00435/FUL	
<b>SITE ADDRESS:</b>		Land adjacent Biggin View, Dog Lane, Hulland Ward	
<b>DESCRIPTION OF DEVELOPMENT</b>		Erection of 15 no. dwellinghouses with associated garages	
<b>CASE OFFICER</b>	Sarah Arbon	<b>APPLICANT</b>	Nicholas Challener – James Nicholas Homes
<b>PARISH/TOWN</b>	Biggin By Hulland	<b>AGENT</b>	Mr C Bayliss – Mathew Montague Architects
<b>WARD MEMBER(S)</b>	Cllr D Murphy	<b>DETERMINATION TARGET</b>	10 <sup>th</sup> August 2023 EOT 20 <sup>th</sup> Dec 2024
<b>REASON FOR DETERMINATION BY COMMITTEE</b>	Major application	<b>REASON FOR SITE VISIT (IF APPLICABLE)</b>	For Members to appreciate the site and context.

<b>MATERIAL PLANNING ISSUES</b>
<ul style="list-style-type: none"> <li>• Suitability of the location</li> <li>• The effect of the proposal on the character and identity of the settlement and the local landscape</li> <li>• Impact on heritage</li> <li>• Highway considerations</li> <li>• Flood risk and drainage</li> <li>• Residential amenity impacts</li> <li>• Impact on trees, biodiversity and wildlife, and</li> <li>• Developer contributions and housing mix</li> </ul>

<b>RECOMMENDATION</b>
<p>To APPROVE subject to conditions upon completion of a s106 legal agreement to secure 3 dwellings as affordable units and 1 first home on-site (with any residual amount (i.e. less than 1 unit) provided as an offsite financial contribution, Public Open Space contributions of Parks and Gardens £2191.50, Children's Play £2551.5 and Allotments £886.50 and securing 4.40-4.50 habitat units off site via a habitat bank.</p>

## **1.0 THE SITE AND SURROUNDINGS**

- 1.1 This 0.77 hectare site is a square shaped field located to the north east of Hulland Ward adjacent to the junction where the A517 meets Dog Lane. The site has a small frontage onto the A517 and its north western boundary adjoins a field adjacent to Church Cottage and its associated farm buildings known as Church Farm. Both the south western and north western boundaries are screened by existing hedging and trees with the site boundary set back from Dog Lane. Immediately adjacent to the south east is the Cameron Homes development of 33 dwellings that is nearing completion.
- 1.2 The land slopes downwards from the south-west to the north-east. The field is largely bounded by substantial hedgerows with inter-set trees. The landscape character is one of Settled Plateau Farmlands landscape type of the Needwood and South Derbyshire Claylands landscape character area. Key features include the field boundary hedges and mature hedgerow trees.
- 1.3 From the A517, the site is visual but partially screened by the existing hedgerows. From the north east on Dog Lane, the site is largely screened by the existing hedgerow screening and further north along Dog Lane beyond Church Farm the farm buildings and hedges screen the site from this direction. Long distance views of the site from the track to the north and footpath to the east are not afforded due to the land levels and intervening screening with only the adjacent Cameron Homes development viewed.
- 1.4 The site lies adjacent to the settlement boundary of Hulland Ward and share a boundary with the allocated site HC2 (s) – land off A517 and Dog Lane for 33 dwellings that has been implemented.

## **2.0 DETAILS OF THE APPLICATION**

- 2.1 This is a full application for 15 dwellings since the refusal of an outline proposal (23/00038/OUT) at planning committee on the 14<sup>th</sup> March 2023 for the following reason:-

“The development would be served by an access, which due to its close proximity to existing housing, width and lack of dedicated footways would present access difficulties, lead to pedestrian and vehicular conflict and would not provide a safe means of access by foot, thereby leading to danger and inconvenience to highway users contrary to the requirements of Policies S4 and HC19 of the Adopted Derbyshire Dales Local Plan (2017)”.
- 2.2 The applicant appealed a previous refusal (22/00008/OUT) on identical grounds with an Inspector allowing the appeal on the 2<sup>nd</sup> November 2023. This application was submitted in April 2023, however, determination was delayed until the outcome of the appeal was known. Since the appeal decision, negotiations on the layout, scale and appearance of the development have been undertaken as this is a full application rather than an outline and this resulted in the reduction of the scheme from 16 dwellings to the 15 now proposed. Further delay in determination was due to the Ecology information requiring updating as it was over 2 years old.
- 2.3 The layout plan shows 15 dwellings with the access road curving to the north slightly and linking to a junction with the road running through the centre of the site ending in a turning head adjacent to the north western boundary. The detached dwellings curved around the road at the site’s entrance and form a short street in the middle of the site. The smaller dwellings are located in the south western corner stepping back from the access road at an angle, with plot 12 detached from the terrace of three.

2.4 The housetypes breakdown is as follows:-

- 1 x 4 bedroom detached dwelling
- 6 x 3 bedroom detached dwellings
- 8 x 2 bed terraced and detached dwellings

2.5 The design of the dwellings are modern with contemporary windows, entrance features and brick detailing on the front elevations. Red brick, dark cladding on entrance features and side elevations and stone plinths are incorporated. External chimney stacks in red brick are proposed with solar panels on the south / west roof slopes.

### 3 PLANNING POLICY AND LEGISLATIVE FRAMEWORK

3.1. Adopted Derbyshire Dales Local Plan 2017

S1 Sustainable Development Principles

S2 Settlement Hierarchy

S4 Development within the Countryside

S9 Rural Parishes Development Strategy

PD1 Design and Place Making

PD2 Protecting the Historic Environment

PD3 Biodiversity and the Natural Environment

PD5 Landscape Character

PD6 Trees, Hedgerows and Woodlands

PD7 Climate Change

PD8 Flood Risk Management and Water Quality

PD9 Pollution Control and Unstable Land

HC4 Affordable Housing Provision

HC11 Housing Mix and Type

HC14 Open Space, Sports and Recreation Facilities

HC17 Promoting Sport, Leisure and Recreation

HC19 Accessibility and Transport

HC20 Managing Travel Demand

HC21 Car Parking Standards.

3.2. Other:

The National Planning Policy Framework (NPPF) (2021)

National Planning Practice Guide

Developer Contributions SPD (2020)

Climate Change SPD (2021)

#### 4.0 RELEVANT PLANNING HISTORY:

22/00008/OUT	Outline planning consent for the erection of up to 15no. dwellinghouses and associated garaging with approval being sought for access	REF	14/09/2022
23/00038/OUT	Outline planning consent for the erection of up to 15no. dwellinghouses and associated garaging with approval being sought for access	REF	15/03/2023
23/00001/WREP	Outline planning consent for the erection of up to 15no. dwellinghouses and	ALLOW	02/11/2023

associated garaging with approval being sought for access

## 5.0 CONSULTATION RESPONSES

Consultee Name	Position	Date	Comments
Hulland Ward Parish Council	Objects	06.06.23	<p>a) The application calls for development of a green field site outside the Derbyshire Dales Local Plan.</p> <p>b) With 101 houses already built (or in the process of being built) Hulland Ward has more than satisfied the requirement of the Local Plan, which requires 99 houses until 2033</p> <p>c) The proposed access road to the 16 house development is a privately owned single-track road which has already been rejected for being unsafe, un-adopted and unprofessional.</p> <p>d) The proposed application is adjacent to the only designated heritage asset in the Hulland Ward area, which is Christ Church, and would impinge on the integrity of that building and its surroundings.</p> <p>e) If the Planning Committee disregard points a) and b) and</p> <p>d) above then another access road must be found - possibly the Main Road gateway already in use, and adjacent to the Dog Lane turn off</p> <p>f) The Parish Council have such serious concerns about this application that a formal request has been made for a feasibility study be done for a roundabout on the A517/Dog Lane junction to give new access to the site of the proposed development.</p> <p>g) Recent problems with the Sewage System operating in Hulland Ward may preclude any further development of the village.</p>
Biggin by Hulland Parish	Objects	02.06.23	<p>1) Nature conservation issues:</p> <p>2) Effects on individual buildings:</p> <p>3) Highways, safety and issues : The entrance has already been viewed as unsuitable and unsafe in previous applications by the planning committee who refused these applications twice already. The residents house's particularly one house is on the entrance with a window opening over it. The residents share ownership of this shared access giving a right of way to the landowner for farm vehicles.</p> <p>4) Material planning considerations: external materials</p>

			5) Visual effects on area;
Highways Authority	No objection	24.05.23	<p>The note that the layout of the proposal is not acceptable for adoption and therefore the layout would need to remain private. The access road the proposal is served from is also not adopted. There are no objections to the access being served from this access road and the access and estate road being unadopted. There are no highway objections to the proposal subject to conditions in respect of submission of a construction management plan, temporary construction access from the A517, mud prevention, formation of the new access and cycle parking.</p> <p>In response to re-consultation they state that the number of dwellings has reduced from 16 to 15 and the layout has changed. The same comments and conditions as stated in their original response dated 24 May 2023 remain applicable to the current proposal.</p>
Environmental Health	No objection	16.05.23	No objection
Lead Local Flood Authority	Further information required.	20.06.23	<p>The LLFA requested further evidence on the 20<sup>th</sup> June 2023, in the form of calculations, modelling etc., that the existing pond has the additional capacity to accept surface water discharge from the proposed development and that this discharge will not result in increased flood risk either on or off the site. They require evidence that the applicant has permission or a legal right to construct an outfall on adjacent land.</p> <p>In regards to the outfall pipe, they accept that permeable paving will collect and remove some debris from the sites surface water run off before it reaches the flow control chamber. However, given the low greenfield discharge rate can the developer state the size of the vortex control device inlet, they may require evidence that can prove the vortex flow control device inlet would be protected from debris which could enter the system.</p> <p>The agent on the 15<sup>th</sup> July 2024 provided evidence in the form of a TR1 that confirms the legal right to discharge into the attenuation pond and its provision for the current development. Additional information has also been provided to answer the questions raised by the LLFA, however, on the 25<sup>th</sup> September 2024 they requested a revised site and surface water drainage</p>

			layout plan, calculations that the pond has capacity and size of the vortex control device inlet on the outfall pipe.
Education Authority (DDC)	No objection	02.06.23	<p>Analysis of the current and future projected number of pupils on roll, together with the impact of approved planning applications shows that the normal area Hulland CE (VC) Primary School would have sufficient capacity to accommodate the 2 infant and 2 junior primary pupils arising from the proposed development.</p> <p>. An evaluation of recently approved major residential developments within the normal area of Queen Elizabeth Grammar School shows new development totalling 428 dwellings, amounting to an additional 120 secondary including post 16 pupils. Analysis of the current and future projected number of pupils on roll, together with the impact of approved planning applications shows that the normal area secondary school would have sufficient capacity to accommodate the 4 secondary including post 16 pupils arising from the proposed development. The County Council therefore requests no financial contributions.</p> <p>In their re-consultation response on the 1<sup>st</sup> August 2024, they had no further comments on infrastructure and services.</p>
NHS Commissioning Group	No objection	01.06.23	No S106 contributions were required as the development falls under their threshold.
Chesterfield Hospital	No objection	15.05.23	Section 106 impact on health to be considered. Initial modelling suggests that the impact of this development is up to £14k.
Director of Housing (DDDC)	No objection	30.05.23	<p>To accord to policy, 30% of the units should be provided as affordable dwellings, i.e., 4.5 units, while 25% of the affordable dwellings should be provided as First homes.</p> <p>Therefore, the breakdown should be as follows:</p> <ul style="list-style-type: none"> <li>• 1 unit as a First home,</li> <li>• 3 units as affordable housing for rent, and</li> <li>• a sum equivalent to 0.5 units provided as an off-site contribution.</li> </ul> <p>A more mixed and less dense approach to affordable housing would be welcomed.</p> <p>The provision of the affordable dwellings as 2-bed units is acceptable in terms of the profile of housing need in the area. However,</p>

			<p>these units should be provided as 2-bed 4-person dwellings rather than 2-bed 3-person dwellings. This provides scope for initial occupation by slightly larger households and also allows for slightly smaller households to increase in size over time. It therefore makes them more attractive to a wider range of potential occupants and consequently to Registered Providers. These dwellings should meet the nationally described space standards (NDSS), which for 2-bed 4-person (2 storey) dwellings means they should have minimum GIAs of 79sqm.</p>
Archaeologist (DDC)	No objection		<p>Comments on the previous 23/00038/OUT stated that the site has some archaeological potential, being very close to the site at Wheeldon Way where archaeological potential was identified by geophysical survey in the context of an application for housing 14/00698, and conditions placed to secure some archaeological work. The archaeology at Wheeldon Way possibly represents prehistoric or medieval activity, although the confirmatory fieldwork has not yet been carried out.</p> <p>Following a review of the submission of a geophysical survey, the geophysics shows no convincing archaeological targets and given the modest size of the site it is advised that there is no need for further archaeological involvement in this application.</p>
Tree and Landscape Officer (DDDC)	No objection	24.09.24	<p>Arboricultural Impact Assessment (AIA) is required due to retained trees. In terms of impact to the character and appearance of the landscape it is noted that the site is on the edge of a village on currently undeveloped agricultural land. There is therefore potential for significant change to the site and in views from the public realm into and through the site. The landscaping scheme has been reviewed and is considered acceptable.</p>
Derbyshire Wildlife Trust	No objection	03.07.23	<p>Habitat creation pertains to approximately 0.42ha of developed land sealed surface, 0.33ha of vegetated garden, 0.01ha of introduced shrubs and 0.01ha of 'Poor' condition modified grassland pertaining to small areas of flowering lawn with POS areas. Approximately 0.33km of non-native ornamental hedgerows will be planted throughout the site and along the northern, western and southern boundaries.</p>

			<p>Furthermore, the above proposals result in a -48.70% loss of habitat units (-4.35 units) and a +89.87% gain of hedgerow units. Trading rules have not been satisfied for habitats but are satisfied for hedgerows. It is considered that ~4.40-4.50 habitat units will be required to offset the loss and to achieve measurable gains to biodiversity, as stipulated by the NPPF 2023. It should be noted that off-setting outside of the LPA / NCA, the number of units required will increase, however this can be calculated within the metric.</p> <p>Overall, the proposal results in a biodiversity loss which is not fully mitigated by on-site measures. They have received a draft plan showing the strategy for BNG offsetting as well as correspondence with DWT and Environment Trading Platform regarding purchase of units via email. They are happy that there are options to offset the loss. The Gain Plan will not be required post determination as the application was submitted prior to mandatory BNG.</p> <p>However, they would ideally want to see something that confirms the number and type of units purchased and then ideally a copy of the management plan for the habitat bank that shows where the units will be delivered via an appropriate condition.</p> <p>Upon receipt of the Ecological Impact Assessment – Addendum Letter dated 15th August 2024 (Ramm Sanderson); it is noted that there has been no material change in the ecological receptors at the site. Therefore, the recommendations outlined within the 2021 EclA report still remain applicable. They support the recommendations outlined within the report pertaining to precautionary working measures for nesting birds, herptiles and mammals as well as a sensitive lighting scheme for bats and other nocturnal wildlife, to be secured via a CEMP : Biodiversity Condition.</p>
Environment Agency	No objection	17.05.23	This site lies within flood zone 1 and a condition on foul drainage is recommended.
Derbyshire Force Designing Out Crime Officer	No objection	05.06.23	As per previous comments, the same view is held in respect of the footpath which runs through the centre of the site, on this occasion being less desirable because garden access for plots 2 and 3 would need to be taken from the enclosed route. As this is a full application, the assumption would be



			<p>that if approved the layout would be locked, and the footpath link would remain, as opposed to the previous two refused applications which were in outline form, so details of layout could potentially subsequently be amended. Consequently, my view would be that this aspect of layout design does not accord with accepted principles of community safety, nor meet the associated aspects of the Borough Local Plan and National Planning Policy Framework.</p> <p>This footpath route to the rear of plots has been removed in the amended plan 01001 P8 but no further comments have been received.</p>
Leisure (DDDC)	No objection	13.06.23	<p>In terms of contribution, based on the requirements of the SPD, POS contributions would be:</p> <ul style="list-style-type: none"> <li>- Parks and Gardens = £2191.50</li> <li>- Children's Play = £2551.5</li> <li>- Allotments = £886.50</li> </ul>

## 6.0 REPRESENTATIONS RECEIVED

6.1 Fourteen letters of objection have been received and these are summarised below:-

- a) This is the third time this application has been submitted with the two previous applications rejected.
- b) The access is not safe for children playing in the close or for elderly residents.
- c) The Road is not up to spec for 30+ cars every day.
- d) No pavement leading to this land and therefore road not wide enough or safe for extra traffic, as only stated when built as for reasonable "access."
- e) Too close to the bay window of number 27.
- f) Not wide enough for two cars to pass.
- g) Inaccurate dimensions are drawn of the existing and proposed shared private drive
- h) The adjacent land owner has rights of access but no legal right has been reserved to alter this access corridor ( as can be seen on the solicitors letter provided by an applicant for previous proposals on this site).
- i) The Local Plan for Hlland Ward calls for 99 houses. Including the Wheeldon Way development, there are already 101 houses – 33 at Cameron Homes, 23 at Les Ardennes and 39 at Wheeldon Way, making 95, plus six fill-ins. That is a significant amount of development for a small village and was committed to suffice until 2033 within the Local Plan.
- j) The village lacks the services and capacity within existing services to accommodate the dwellings.
- k) Review of SHLAA322, this assessment was done prior to the completion of the present homes which may have resulted in a less safe and viable access.
- l) The planned access to the new development is supposed to be created by using George Rodgers Close, running via the public part of the road over the private road, which is owned by houses no. 19/21/23/25 and 27 George Rodgers Close.
- m) This part of the road is too narrow and is incredibly dangerous.

- n) Two vehicles could not safely pass each other- there is no footpath over a length of 12 metres and the proposed road would be a mere 50 centimetres from the bay window of house no. 29.
- o) Plot 16 due to its size and proposed balcony would overshadow and overlook 29 George Rodgers Close.
- p) It would appear that the Highways Authority have not conducted a site visit to confirm measurements, swept path analysis or features of the shared driveway.
- q) The proposed dwellings are large and built on a gradient with existing residents easily overlooked.
- r) The planned pedestrian and cycle route is not viable from a community safety perspective.
- s) The amenity of existing dwellings would be impacted by the increased traffic.
- t) The solution is a new roundabout on the A517 to access directly into the site.
- u) The Appeal decision and Inspectors Report of 2 November 2023 referring to application 22/00008/OUT by Mr John Yates has implications for the most recent application for the site 23/00435/FUL by Mr Challenger. Once construction is over, access to the site as approved by the Inspector would be via George Rodgers Close. Part of the access is via a private section of road built with weak foundations that are not to highway standards.
- v) The Highway Authority has refused to adopt the private section of road. The road will therefore remain private.
- w) The Inspector concentrated on the road safety implications of the access and did not consider that safety issues were significant enough to prevent approval of access via the private road. The inspector's decision does not mean that all access issues have been resolved.
- x) The Inspector acknowledged that the weak state of the foundations of the private road had been raised but made no investigation of this and left the matter open. Her report stated that, at paragraph 31 " *I do not have substantive technical evidence to question the structural integrity of the existing shared surface and note that it is clearly used by vehicles at present*". In no way can this be considered an adequate investigation of the problem.
- y) The Inspector has left unresolved the structural concerns and right of access regarding the access.
- z) Condition 11 in the Inspector's decision means that access maintenance is a concern of the District Council.
- aa) The existing Management Company for George Rodgers Close does not include maintenance of roads.
- bb) The legal issue with regard rights of access should be resolved before granting planning permission.
- cc) Hulland Ward has fulfilled and exceeded its quota for new build houses.
- dd) Any right of access should be reasonable and considerate to adjoining residents safety
- ee) The shared driveway is not sufficient for the highways authority to adopt and is too narrow to accommodate safe pedestrian and disabled access.
- ff) If the road is private then who is responsible for its maintenance.
- gg) The access from Georges Rodgers Close will be used for construction access as the 'easy option'.
- hh) It is important that the detailed plans for the temporary site access being sought for construction traffic are produced and fully reviewed prior to any planning decision being made.
- ii) The shared driveway has not been constructed to withstand HGVs.
- jj) There is concern for the safety of their children with the increased traffic to the front of their property.
- kk) The private drive is 5.1m wide at its narrowest point with no raised kerbs to protect pedestrians from traffic movement.
- ll) The plans submitted do not correlate with the conveyance plans for plot 23 as the road curves and is not straight.

- mm) There are ancient hedgerows and a Ash tree on the site with the site supporting wildlife and landscape biodiversity.
- nn) The Hlland Ward and District Millennium Village Hall would be impacted as users would suffer the noise from the construction of the development and this may affect bookings and result in a loss of income for the hall.
- oo) The Village Hall hosts weddings and parties late into the evenings and allowing houses closer to the hall may result in noise complaints by future residents.
- pp) The existing gated access proposed for construction is very close to the junction with the A517 and Dog Lane.
- qq) The site plan does not correctly show the layout inside the gateway which raises the question if there is sufficient space for the terrace of properties.
- rr) The Hlland Ward speed camera report provides details of existing traffic volumes.
- ss) The site is adjacent to the Turnpike Road which has a monument record.
- tt) The existing properties on Moss Lane have been impacted by increased sewage flows from the estate on Biggin View so why has Severn Trent not been consulted.
- uu) The proposed dwellings are not in keeping with existing properties within the estate.
- vv) Bungalows are the dominant housetype in the area.
- ww) In a previous application, officers recommended approval to committee subject to the developer reaching an access agreement with the owners of the private drive.

## **7.0 OFFICER APPRAISAL**

- 7.1 This application seeks full permission for up to 15 dwellings on the site.
- 7.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission under the Act are determined in accordance with the development plan unless material considerations indicate otherwise. The development plan for the purposes of the Act is the Adopted Derbyshire Dales Local Plan (2017). The National Planning Policy Framework (2021) is a material consideration in respect of this application.
- 7.3 The Council is unable to demonstrate a 5 year housing land supply at this time and the tilted balance in favour of the development is engaged by virtue of Para 11d) of the National Planning Policy Framework (2023).
- 7.4 As part of the consideration of future housing needs and the Council's aspirations for growth and economic recovery, a call for sites as part of the Strategic Housing Land Availability Assessment process was undertaken between 26th May and 7th July 2021. The application site was put forward as part of this exercise. The assessment of the site, in terms of its deliverability is considered in the issues section of this report.
- 7.5 Having regard to the above, consultation responses and representations received and the relevant provisions of the development plan and guidance contained within the National Planning Policy Framework, the main issues to assess are:
  - Suitability of the location
  - The effect of the proposal on the character and identity of the settlement and the local landscape
  - Impact on heritage
  - Highway considerations
  - Flood risk and drainage
  - Residential amenity impacts
  - Impact on trees, biodiversity and wildlife, and
  - Developer contributions and housing mix

### Suitability of Location

- 7.6 Notwithstanding that the Council cannot demonstrate a 5 year housing land supply at this time and the presumption in favour of the development is engaged, there are provisions in the Development Plan for housing development on the edge of first, second and third tier settlements (Policy S2) in circumstances where there is no 5 year housing land supply, subject to consideration against other policies in the Local Plan and the provisions of the NPPF. This policy recognises that the higher order settlements in the Derbyshire Dales District are best suited in terms of access to services, facilities and employment opportunities to accommodate new housing development in such a scenario.
- 7.7 Although the site is located beyond the existing strategic land allocations in the development plan, it is well connected to and would be serviced off the Biggin View development built out by Cameron Homes on the edge of the existing settlement framework boundary. Hulland Ward is an accessible settlement with some facilities. The village has a primary school, medical centre, shop and two pubs. Whilst it is recognised that an accessible settlement Hulland Ward will provide for reduced levels of development in comparison to higher order settlements, a development of 15 houses is considered to be an appropriate amount of additional growth in the village that would help underpin local facilities and provide for greater self-containment.
- 7.8 The appeal decision for application 22/00008/OUT mentions that “the Council has raised no concerns with the principle of housing in this location. It has however been suggested by interested parties that the area does not have sufficient shops and services for the increased number of residents. There is little conclusive evidence in this regard thus I cannot determine that existing infrastructure in the locality would not be able to service the development. I am therefore unable to attribute significant weight to those arguments”.

#### The effect of the proposal on the character and identity of the settlement and the local landscape

- 7.8 A key consideration in respect of this application is the impact of the development on the local landscape and character, identity and setting of the existing settlement. Policy S1 of the Adopted Derbyshire Dales Local Plan (2017) advises that development will conserve and where possible enhance the natural and historic environment, including settlements within the plan area.
- 7.9 Policy PD1 requires all development to be of high quality design that respects the character, identity and context of the Derbyshire Dales townscapes and landscapes.
- 7.10 Policy PD5 deals specifically with landscape character and advises that development that would harm or be detrimental to the character of the local and wider landscape or the setting of a settlement will be resisted.
- 7.11 In considering the suitability of the site for development as part of the local plan review call for sites exercise, the County Council Landscape Officer commented that the site is a single field enclosed by mature hedgerows and abutting new residential development to the south-east off Biggin Way. It was acknowledged that the site is visually contained by residential properties to the south and east and boundary vegetation.
- 7.12 Although the comments of the Parish Council relating to the impact on the Biggin landscape and those making representations are noted, the applicant has prepared a series of viewpoints from the main receptors. Having regard to the visibility of the site, the amount of development and its relationship with existing development it is not considered that a development of up to 15 dwellings on the site with the amended layout, scale and appearance of the dwellings would result in harm to the local landscape or character and identity of this part of the settlement. The development would be well related to existing

development and contained by existing landscape features which presents the opportunity to create a more natural edge to the settlement. A detailed landscaping scheme has been submitted with this application and is considered acceptable.

- 7.13 The layout links with the road and positioning of the existing dwellings and the plots at the site's entrance have gables with chimneys and a curved grassed area to the front of plot 3. The dwellings all face the road frontages with front gardens 5m in length. Existing trees and boundary hedges are to be retained. The dwellings are shown as red brick with stone plinths and a dark grey sections. The window styles are contemporary as are the porch details. The dwellings are all two storey and of a scale commensurate with the existing dwellings. It is considered that the layout and the dwellings are considered in keeping with the character and context of the surrounding area.

### Impact on Heritage

- 7.14 A Grade II listed church, Christ Church is located to the west of the site on the opposite side of Dog Lane. In the assessment of the site as part of the call for sites exercise the District Council's Conservation and Design Officer concluded that some harm may be caused to heritage assets by development at this site and that special attention should be given to mitigate against this harm, especially on Christ Church.
- 7.15 Policy PD2 of the Adopted Derbyshire Dales Local Plan seeks to conserve heritage assets in a manner appropriate to their significance. The position of the site relative to church and existing residential development beyond and intervening landscaping is such that redevelopment of the site would result in harm at the lower end of less than substantial harm in NPPF terms which would be mitigated by a development of an appropriate layout, scale and appearance and with appropriate landscaping. Paragraph 208 of the NPPF advises that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 7.16 In the appeal, the Inspector completed this weighting exercise as below:-

*"The appeal site is located within the setting of the nearby Grade II listed Christ Church. Its significance appears to be derived from its three bay nave plan form, with projecting chancel and west tower, and its interior quality. The appeal site makes a positive contribution to its setting due to its rural and open characteristics. It seems to me that, during the call for sites, the Council determined that development at the appeal site may cause some harm to its setting however, at worst, this would likely be at the lower end of less than substantial harm. Given the intervening landscaping and distance between the heritage asset and the appeal site, along with the adjoining residential development and thus existing presence of built form, I concur with this view.*

*In accordance with the Framework, great weight should be given to the asset's conservation and this harm should be weighed against the public benefits of the proposal. Up to 15 new dwellings, including the provision of affordable units, has the potential to deliver significant public benefits and thus I afford this matter very substantial weight. They would therefore outweigh any harm which the principle of the development and the proposed access would have on the setting of the heritage asset. Moreover, there would be potential for mitigation during the detailed design of the proposal".*

- 7.17 It is considered that the amended scheme where the layout has been improved and the scale of properties reduced has mitigated any low level of harm to an acceptable degree and as such the public benefits of housing provision outweigh the less than substantial harm identified. The proposal therefore accords with Policy PD2.

## Highway considerations

- 7.18 Development plan policies require that the access serving a development is safe and the highway network can satisfactorily accommodate traffic generated by the development or can be improved as part of the development. The applicant has both served notice of the relevant parties in relation to the access off George Rodgers Close as per the previous applications. Evidence has been provided to indicate a legal right of access to the land. It is not within the remit of planning permission to address legal issues with respect of land ownership or access rights as they are not overridden, however, sufficient notice has been served as required by planning legislation.
- 7.19 In the appeal decision for 23/00008/OUT the main issue was the 'effect of the proposal on highway safety'. This full application proposes the same access and identical number of dwellings as the appeal proposal and as such this decision is a material consideration in assessment of this current application. The Inspector stated that "*as set out in the Department for Transport Manual for Streets, motorists entering shared spaces will tend to drive more cautiously and negotiate the right of way with pedestrians and other road users on a more conciliatory level*". Furthermore the Inspector states that "*there would be scope at the reserved matters stage to not only ensure that satisfactory visibility along the approach from the appeal development could be achieved, but to also ensure the route could be appropriately designed, be that a change in level and/or surface material or other features, so as motorists approaching the shared space from within the development would be well aware of it and adjust their driving accordingly*". It is considered that road layout with a junction and a short curved section before it links to the existing road achieves this end.
- 7.20 In terms of traffic flow, the appeal decision states that "*as evidenced by the appellant's Access Technical Note 1, total vehicle movements generated by the proposed development throughout the day and particularly during peak times would be relatively low. Even together with the vehicle movements associated with the four existing dwellings which use the private drive for vehicular access, I consider overall traffic flow would be limited*". Consideration of the width of the access, shared surface and open windows was taken into account when determining the appeal with the Inspector concluded that "*the design characteristics of the shared space and proposed access creates an environment conducive to low travelling speeds and encourages considerate use by all highway users. The likelihood of conflict would be further reduced by the low traffic flows and good visibility. Thus, I see no reason why the safety of all road users would be unacceptably compromised by the proposal. Accordingly, the proposed access to the appeal site would not give rise to an unacceptable impact on highway safety*".
- 7.21 The Highways Authority had no objections to the appeal proposal nor the subsequent 23/00038/OUT application which was also refused on highway safety grounds. Their comments on the most recent refusal considered that the length of the 5.5m private drive is relatively short and clearly would have a low design speed and concludes that the available width and geometry would result in a conflict with the locally adopted street design guidance, but due to the swept path analysis, available street widths, alternative pedestrian facilities and being mindful of national guidance, that there are no safety or capacity harms arising and as such the proposal does not conflict with paragraph 115 of the NPPF. A similar view was reached by the Inspector. In responding to consultation on this application, they confirm that the access or estate road would not be adopted and that access, parking and turning is acceptable and in accordance with Policies HC19 and HC21.

7.22 The concerns raised by those making representations with regard to traffic are noted, however, the junction of Biggin View with the A517 is considered acceptable to serve further residential development of the scale proposed. Construction traffic would access the site via the existing field access directly off the A517 and the noise and disturbance associated with such activity is noted. Issues in relation to the structural integrity of the existing shared surface were considered by the inspector and in light the Highways Authority's comments and lack of any evidence to substantiate this claim any refusal on these grounds would be considered unreasonable and is unlikely to be sustained at appeal with a risk of costs awarded. Evidence in terms of right of access has been provided by the applicant and legal issues are in any case not overridden by planning permission.

### Flood risk and drainage

7.23 Adopted Local Plan Policy PD8 directs new development away from areas of current or future flood risk and states that the development should not increase the risk of flooding elsewhere. The whole of the application site lies within Flood Zone 1 which is described as land having a less than 1 in 1,000 annual probability of river or sea flooding. The site is therefore at low risk from flooding.

7.24 A Flood Risk Assessment (FRA) has been submitted in support of the application in accordance with the requirements of the National Planning Policy Framework. A drainage strategy has also been submitted which includes an indicative Sustainable Urban Drainage Scheme (SuDS) showing the installation of permeable pavement features and a flow control chamber discharging to a headwall to the existing pond to the north east of the site.

7.25 The report states that a SuDS scheme would be capable of satisfactorily managing surface runoff without increasing the flood risk to other people while providing multiple benefits with respect to the sustainable management of surface water runoff. The report makes a number of recommendations in regard to flood risk mitigation and drainage provision including finished floor levels, provision and maintenance of a SuDS scheme.

7.26 The agent provided evidence in the form of a TR1 that confirms the legal right to discharge into the attenuation pond and its provision for the current development. They state that the open wet pond to the north of the site currently receives greenfield runoff from the site via overland flows, based on the topography. The site would restrict the discharge rate to QBAR for all events up to and including the 1 in 100 year plus 40% climate change. As such, the proposed drainage scheme would not increase the risk of flooding to the existing pond given the control rate and the fact that this pond already receives greenfield runoff from the site. They state with regards to the outfall pipe, it is accepted that permeable paving would collect and remove some debris from the sites surface water run off before it reaches the flow control chamber. The drainage consultant has stated that they are happy to include a proprietary treatment device upstream of the flow control to reduce the risk of siltation and blockage.

7.27 The LLFA remain of the view that further information is required prior to them recommending conditions and outstanding matters include confirmation and agreement of the outfall rate to the pond and submission of a site and surface water drainage layout plan. Due to the timescale of this application being over a year already due to the requirement to await the outcome of the appeal, it is considered that a committee resolution is required to give certainty to the applicants prior to undertaking detailed drainage work and there are cases within the district where suitable SUDs conditions have been attached and in consultation with the LLFA discharged. On this basis, it is considered reasonable to bring this to committee and either prior to the meeting the LLFA may be in a position to provide conditions or committee may give delegated powers for officers to resolve the issue prior to granting as a S106 has to be secured in any case.

- 7.28 The Environment Agency raise no objection to the development because the site is within Flood Zone 1 and advises that foul drainage should be to the main sewer as proposed.
- 7.29 The application demonstrates that the development would not be at risk of flooding and subject to planning conditions to secure the approval, implementation and maintenance of an appropriate SuDS scheme and finished floor levels that the development would not increase the risk of flooding elsewhere. Foul drainage would be to the main sewer which is acceptable. The application is therefore in accordance with Policy PD8 and National Planning Practice Guidance.

#### Residential amenity impacts

- 7.30 Adopted Local Plan Policy S1 seeks to secure development which provide a high standard of amenity for all existing and future occupants of land and buildings, ensuring communities have a healthy, safe and attractive living environment.
- 7.31 The submitted amended layout shows that there is sufficient space within the site for a development of this scale to be accommodated with sufficient separation distances from proposed dwellings to the existing residential properties to the south east of the site. These relationships have been improved through amendments to the scheme. The development would not be overbearing or lead to any significant loss of light or privacy to any neighbouring property.
- 7.32 The development would be accessed through the residential development to the south east which would be acceptable in principle. Additional vehicle traffic would not harm the amenity of occupants of existing properties. An improvement to the previously refused scheme is that construction vehicle traffic would utilise the existing field access directly of the A517 and noise and disturbance during construction would be for a limited period and would not constitute a reason for refusal of planning permission subject to appropriate working hours.
- 7.33 The development would therefore provide occupants a high standard of amenity and conserve the amenity, security and privacy of occupants of neighbouring properties and the living environment of the local community in accordance with policy S1 and PD1.

#### Impact on trees, biodiversity and wildlife

- 7.34 Policy PD6 of the Adopted Derbyshire Dales Local Plan requires that Trees, hedgerows, orchards or woodland of value should be retained and integrated within development wherever possible.
- 7.35 The Trees and Landscape Officer has reviewed the tree survey submitted. Retained trees would be afforded protection through the requirement of an Arboricultural Impact Assessment (AIA) that includes a drawing showing retained trees, their canopy spreads and root protection areas. A drawing to show temporary tree protection measures to be used during development works, and their specifications, should also be included. Plots 1, 8 and 15 are close to retained trees, however, in comparing the tree survey plan and the site layout plan, the dwellings would not involve incursion of the RPA of retained trees. The landscaping scheme has been reviewed and is considered acceptable. Therefore, securing an Arboricultural Impact Assessment by condition would result in sufficient mitigation in relation to retained trees in accordance with Policy PD6.
- 7.36 The Adopted Derbyshire Dales Local Plan (2017) seeks enhancement of biodiversity (Policy PD3) and is supported by the NPPF, paragraph 174 of which advises that planning decisions should provide net gains for biodiversity. The direction of travel and importance of improving



biodiversity is also clear from the Environment Act 2021, even though the 10% requirement is not yet in force.

7.37 Derbyshire Wildlife Trust states that the Biodiversity Metric highlights that the majority of modified grassland and mixed scrub would be cleared to facilitate the development, however a small area of modified grassland would be enhanced to 'Good' condition 'other neutral grassland' to the north of the site. The proposals result in a -48.70% loss of habitat units (-4.35 units) and a +89.87% gain of hedgerow units. Trading rules have not been satisfied for habitats but are satisfied for hedgerows. It is considered that ~4.40-4.50 habitat units will be required to offset the loss and to achieve measurable gains to biodiversity, as stipulated by the NPPF 2023. It should be noted that off-setting outside of the LPA / NCA, the number of units required will increase, however this can be calculated within the metric.

Overall, the proposal results in a biodiversity loss which is not fully mitigated by on-site measures. A draft plan showing the strategy for BNG offsetting as well as correspondence with DWT and Environment Trading Platform regarding purchase of units via email has been received. DWT are happy that there are options to offset the loss. The Gain Plan will not be required post determination as the application was submitted prior to mandatory BNG. Therefore there is no objection subject to securing 4.40-4.50 habitat units off site via a habitat bank through the S106 and a condition together with CEMP biodiversity condition. On this basis the proposal accords with Policy PD3 and BNG requirements.

#### Developer contributions and housing mix

7.38 Policy S10 advises that suitable arrangements will be put in place to improve infrastructure, services and community facilities, where necessary when considering new development, including providing for health and social care facilities, in particular supporting the proposals that help to deliver the Derbyshire Health and Wellbeing Strategy and other improvements to support local Clinical Commissioning Groups (CCG) and facilitating enhancements to the capacity of education, training and learning establishments throughout the Plan Area.

7.39 No health contribution has been sought by the CCG in this case, as the development falls below their threshold for seeking a contribution. The Education Authority re-assessed the application and whilst previously they identified that a contribution towards the provision of 3 secondary and 1 post 16 places at Queen Elizabeth's Grammar School and additional education facilities was required, it is now considered that the school would have sufficient capacity to accommodate the additional pupils derived from this development and as such no contribution is required.

7.40 In order to address the significant need for affordable housing across the Plan area, all residential developments of 11 dwellings or more or with a combined floorspace of more than 1000 square metres should provide 30% of the net dwellings proposed as affordable housing. The applicant agrees to make such provision, which is supported by the District Council's Housing Team. It is anticipated that 4 units would be delivered on site and 0.5 of a unit delivered in the form of an off-site financial contribution (applying the formula contained in the Developer Contributions SPD (2020)). These dwellings meet the nationally described space standards (NDSS), which for 2-bed 4-person (2 storey) dwellings is a minimum GIAs of 79sqm. One of the affordable houses would be a first home in order to comply with the 25% national requirement and the further 3 affordable homes should be delivered through a registered provider, all being for social rent with a mix of homes as follows:-

3 x 2 bed 4 person houses

The scheme shall be agreed with the District Council as part of the requirements of the s106 to satisfy the relevant provisions of the development plan and national guidance.

- 7.41 Policy HC11 of the Adopted Derbyshire Dales Local Plan prescribes a housing mix to meet the District Councils housing needs and to create a sustainable, balanced and inclusive communities. The applicant proposes that the dwellings will comprise of 2 and 3 bed dwellings which is considered acceptable in terms of the profile of housing need in the area. Amendments to the application have meant only one 4 bed property is now proposed and justification for the flexible approach advocated by the Housing Needs Assessment for the lack of 1 beds in this location has been provided.
- 7.42 The application makes provision to help mitigate the effects of or adapt to climate change as solar panels, heat pumps and EV charging are proposed for all dwellings. A condition is recommended to secure this and require specification.
- 7.43 The proposed layout does not incorporate any meaningful public open space apart from a wildflower meadow in the north easter corner therefore appropriate contributions set out in the recommendation for off-site open space provision in accordance with the requirements of the Developer Contributions SPD (2020) shall be secured through the S106.

### *The Planning Balance*

- 7.44 The development plan makes provision for new housing development on the edge of tier 1 – 3 settlements in circumstances where the District Council is unable to demonstrate a five year supply of housing land. Paragraph 11 d) of the NPPF advises that decisions should apply a presumption in favour of sustainable development and grant permission unless the application of policies in the framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole.
- 7.45 Having regard to this, the consultation responses and representations received and the relevant provisions of the development plan and guidance contained within the NPPF it is clear from the consideration of the main issues that the development should be approved as there would be no significant adverse impacts or technical reasons to refuse planning permission that would significantly and demonstrably outweigh the benefits arising from the provision of market and affordable housing. Technical matters and compliance with development plan policies and national guidance can be controlled through the use of conditions and a s106 legal agreement. A recommendation of approval is put forward on this basis.

## **8.0 RECOMMENDATION**

Members are recommended to APPROVE the application in accordance with the following terms;

- 1) The Committee delegates authority to finalise the terms and completion of the S.106 agreement to the Planning Manager to secure the following:
  - Secure 3 dwellings as affordable units and 1 first home on-site (with any residual amount (i.e. less than 1 unit) provided as an offsite financial contribution,
  - Public Open Space contributions of: Parks and Gardens £2191.50, Children's Play £2551.5 and Allotments £886.50
  - securing 4.40-4.50 habitat units off site via a habitat bank.
  - S106 Monitoring Fee.

and,

- 2) Following the completion of the S.106, application 23/00435/FUL be approved subject to conditions as set out below with delegated authority to the Director of Place and Economy to approve any amendments to those conditions as deemed necessary;

or,

- 3) The Committee delegates authority to refuse the application in the event that the Applicant does not agree any necessary extensions to the statutory determination period to enable the completion of the S.106.

### **CONDITIONS:**

- 1) The development hereby permitted must be begun before the expiration of three years from the date of this permission.

Reason:

This is a statutory period which is specified in Section 91 of the Town and Country Planning Act 1990.

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

Site location plan Number 01002 P1

Site Plan as proposed Number 1001 P8

General Arrangement and POS plan No. 0001 P03

Detailed Landscape Plan 1 of 1 0002 P03

Detailed Landscape Plan 1 of 2 0003 P03

Housetype plans : 02301 P4 (HT03), 02302 P4 (HT03AH), 02303 P2 (HT03H), 02401 P4 (HT04), 02501 P4 (HT05), 02502 P4 (HT05A), 02505 P2 (HT05B), 02506 P2 (HT05C), 02602 P2 (HT06AH), 02603 P2 (HT06), 02701 P1 (HT07) and 02801 P1 (HT08).

Garage plan 02601 P1.

Reason:

For the avoidance of doubt

- 3) Prior to the commencement of any works to construct the foundations of the dwelling hereby approved, full details of the finished floor levels, and of the proposed ground levels of the site relative to the finished floor levels and adjoining land levels, shall be submitted to and approved in writing by the Local Planning Authority. All dwellings shall have a finished floor level at least 150mm above ground level. Such details shall be supplemented with locations, cross-sections and appearance of any retaining features required to facilitate the proposed levels. The development shall be constructed in accordance with the approved details.

Reason:

In the interests of visual and residential amenity and impacts on the landscape in accordance with Policies PD1 and PD5 of the Adopted Derbyshire Dales Local Plan (2017).

- 4) Prior to the commencement of the development hereby approved (including demolition and all preparatory work), a scheme for the protection of the retained trees, in accordance with BS 5837 (2012), including a tree protection plan(s) and a site specific arboricultural method statement shall be submitted to and approved in writing by the Local Planning Authority.

Specific issues to be dealt with in the Tree Protection Plan and Arboricultural Method Statement, include:

- a) Location and installation methods of services/utilities/drainage.
- b) Details for timing of erection/removal of the fencing, a specification for the fencing and for signage to be attached to it.
- c) A specification for tree protection fencing to safeguard trees during all phases of the development and a plan indicating the alignment of the protective fencing relative to retained trees.
- d) A specification for ground protection where it is not possible to exclude all activity from RPAs.
- e) Details of arboricultural inspection and supervision by a suitably qualified tree specialist.
- f) Timing and method to be used for reporting of arboricultural inspection and supervision to the LPA and site manager.
- g) Details of methods to improve the rooting environment for retained and proposed trees.

The development thereafter shall be implemented in strict accordance with the approved details.

Reason:

Required prior to commencement of development to satisfy the Local Planning Authority that the trees to be retained will not be damaged during demolition or construction and to protect and enhance the appearance and character of the site and locality, in accordance with Policy PD6 of the Adopted Derbyshire Dales Local Plan (2017).

- 5) Details of all materials to be used in the construction of the external surfaces of the proposed development shall be submitted to and approved in writing by the Local Planning Authority before any work to any external surface is carried out. The development shall thereafter be constructed in accordance with the approved details.

Reason:

To ensure a satisfactory external appearance of the development in accordance with Policy PD1 of the Adopted Derbyshire Dales Local Plan (2017).

- 6) Details of the proposed solar panels and heat pumps (including size, manufacturer and model number) shall be submitted to and approved in writing by the Local Planning Authority prior to installation. The works shall be carried out in accordance with the approved details.

Reason:

In the interests of preserving the character and appearance of the buildings and area in accordance with Policy PD1 of the Adopted Derbyshire Dales Local Plan (2017).

- 7) No development shall commence until details of a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker. The development shall be constructed in accordance with the approved details and shall be managed/maintained in accordance with the approved maintenance and management details for the lifetime of the development.

Reason:

To ensure that the site is appropriately drained to prevent localised flooding in accordance with the aims of Policy PD8 of the Adopted Derbyshire Dales Local Plan (2017).

- 8) No development shall commence until a scheme for the disposal of foul water discharge from the development and a timetable for its implementation have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved scheme and details and retained thereafter.

Reason:

To ensure that foul sewage is appropriately disposed of in accordance with the aims of Policy PD9 of the Adopted Derbyshire Dales Local Plan (2017).

- 9) Prior to the occupation of any dwelling details to confirm the number and type of BNG units purchased and submission of a management plan for the habitat bank that shows where the units would be delivered shall be submitted and approved in writing by the Local Planning Authority.

Reason:

To ensure biodiversity net gain in accordance with the requirements of Policy PD3 of the Adopted Derbyshire Dales Local Plan (2017) and paragraph 186 of the National Planning Policy Framework (2023).

- 10) Prior to the first occupation of any dwelling, details of the management arrangements for the future maintenance of all the roads, footways and shared parking areas within the site, along with an ongoing maintenance strategy and timescales for transfer to a management company, where required, shall be submitted to and approved by the Local Planning Authority. Such areas shall be maintained in accordance with the approved details.

Reason:

In the interests of highway safety in accordance with Policy HC19 of the Adopted Derbyshire Dales Local Plan (2015).

- 11) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found, remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These approved schemes shall be carried out before the development is resumed or continued.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with aims of Policy PD9 of the Adopted Derbyshire Dales Local Plan (2017).

- 12) During construction, no machinery shall be operated on the site, no process or operations shall be carried out and no deliveries shall be taken at or despatched from the site except between 8:00 and 18:00 hours Monday to Friday and 9:00 and 13:00 on Saturdays or at any time on Sundays and Bank Holidays.

Reason:

To protect the amenities of the surrounding residents in accordance with Policy PD1 of the Adopted Derbyshire Dales Local Plan (2017).

- 13) Prior to any works exceeding demolition and site clearance a construction management plan or construction method statement shall be submitted to and be approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for: Parking of vehicles of site operatives and visitors Routes for construction traffic, including abnormal loads/cranes etc Hours of operation Method of prevention of debris being carried onto highway Pedestrian and cyclist protection Proposed temporary traffic restrictions Arrangements for turning vehicles.

Reason:

In the interests of safe operation of the adopted highway in the lead into development both during the demolition and construction phase of the development

- 14) Before any other operations commence, a temporary access shall be formed to A517 for construction purposes, designed, laid out, provided with visibility sightlines and constructed all to the satisfaction of the Local Planning Authority. This access shall be modified and replaced with the permanent footpath access once construction works have finished.

Reason:

In the interests of highway safety in accordance with Policy HC19 of the Adopted Derbyshire Dales Local Plan (2015).

- 15) Before any of the operations hereby approved are commenced, which involve the movement of material in bulk to or from the site, facilities shall be provided as agreed in writing with the Local Planning Authority to prevent the deposition of extraneous material on the public highway and shall be maintained throughout the contract period whenever the said operations are carried out.

Reason:

In the interests of highway safety in accordance with Policy HC19 of the Adopted Derbyshire Dales Local Plan (2015).

- 16) Before any other operations are commenced a new vehicular and pedestrian access shall be created to the private access road from Biggin View in accordance with the application drawings, laid out, constructed and maintained in perpetuity free from any impediment to its designated use.

Reason:

In the interests of highway safety in accordance with Policy HC19 of the Adopted Derbyshire Dales Local Plan (2015).

- 17) No dwelling shall be occupied until details of secure cycle parking facilities for the occupants of, and visitors to, the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully

implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.

Reason:

To promote sustainable travel and healthy communities

- 18) No development shall take place (including demolition, ground works, vegetation clearance and movement of plant, machinery and materials) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.
- a) Risk assessment of potentially damaging construction activities.
  - b) Identification of “biodiversity protection zones”.
  - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction including a sensitive lighting scheme for bats and nocturnal wildlife and precautionary working measures pertaining to herptiles (including great crested newts)
  - d) The location and timing of sensitive works to avoid harm to biodiversity features.
  - e) The times during construction when specialist ecologists need to be present on site to oversee works.
  - f) Responsible persons and lines of communication.
  - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
  - h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason:

In order to safeguard protected and/or priority species from undue disturbance and impacts, noting that initial preparatory works could have unacceptable impacts; and in order to secure an overall biodiversity gain.

- 19) A Landscape and Biodiversity Enhancement and Management Plan (LBEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The aim of the LBEMP is to provide details for the creation, enhancement and management of habitats and species on the site post development, in accordance with the proposals set out in the submitted Biodiversity Metric (Ramm Sanderson, July 2024). The LBEMP should combine both the ecology and landscape disciplines and shall be suitable to provide to the management body responsible for the site. It shall include the following:
- a) Description and location of features to be retained, created, enhanced and managed, as per the approved biodiversity metric.
  - b) Aims and objectives of management, in line with desired habitat conditions detailed in the metric.
  - c) Appropriate management methods and practices to achieve aims and objectives.
  - d) Prescriptions for management actions.
  - e) Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).
  - f) Details of the body or organization responsible for implementation of the plan.
  - g) A monitoring schedule to assess the success of the habitat creation and enhancement measures at intervals of 1, 2, 3, 4, 5, 10, 15, 20, 25 and 30 years.
  - h) Monitoring reports to be sent to the Council at each of the intervals above

- i) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
- j) Detailed habitat enhancements for wildlife, in line with British Standard BS 42021:2022.
- k) Details of offset gullies and drop kerbs in the road network to safeguard amphibians.
- l) Detailed specifications for open water habitats to provide biodiversity benefits.
- m) Requirement for a statement of compliance upon completion of planting and enhancement works.

The LBEMP shall also include details of the legal and funding mechanism(s) by which the long term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

Reason:

In order to safeguard and enhance habitat on or adjacent to the site in order to secure an overall biodiversity gain.

## **9.0 NOTES TO APPLICANT:**

1. The Local Planning Authority prior to the submission of the application engaged in a positive and proactive dialogue with the applicant which resulted in the submission of a scheme that overcame initial concerns relating to layout, design, legal rights of access, drainage and ecology.
2. The Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (England) Regulations 2012 as amended stipulate that a fee will henceforth be payable where a written request is received in accordance with Article 27 of the Development Management Procedure Order 2015 for the discharge of conditions attached to any planning permission. Where written confirmation is required that one or more conditions imposed on the same permission have been complied with, the fee chargeable by the Authority is £43.00 per householder request and £145.00 per request in any other case. The fee must be paid when the request is made and cannot be required retrospectively.
3. Government guidance contained within the national Planning Practice Guidance (Water supply, wastewater and water quality – considerations for planning applications, paragraph 020) sets out a hierarchy of drainage options that must be considered and discounted in the following order:
  1. Connection to the public sewer
  2. Package sewage treatment plant (adopted in due course by the sewerage company or owned and operated under a new appointment or variation)
  3. Septic Tank
4. Foul drainage should be connected to the main sewer. Where this is not possible, under the Environmental Permitting Regulations 2010 any discharge of sewage or trade effluent made to either surface water or groundwater will need to be registered as an exempt discharge activity or hold a permit issued by the Environment Agency, addition to planning permission. This applies to any discharge to inland freshwaters, coastal waters or relevant territorial waters.
5. Please note that the granting of planning permission does not guarantee the granting of an Environmental Permit.
6. Upon receipt of a correctly filled in application form we will carry out an assessment. It can take up to 4 months before we are in a position to decide whether to grant a permit or not.



7. Domestic effluent discharged from a treatment plant/septic tank at 2 cubic metres or less to ground or 5 cubic metres or less to surface water in any 24 hour period must comply with General Binding Rules provided that no public foul sewer is available to serve the development and that the site is not within an inner Groundwater Source Protection Zone.
8. A soakaway used to serve a non-mains drainage system must be sited no less than 10 metres from the nearest watercourse, not less than 10 metres from any other foul soakaway and not less than 50 metres from the nearest potable water supply.
9. Where the proposed development involves the connection of foul drainage to an existing non-mains drainage system, the applicant should ensure that it is in a good state of repair, regularly de-sludged and of sufficient capacity to deal with any potential increase in flow and loading which may occur as a result of the development.
10. Where the existing non-mains drainage system is covered by a permit to discharge then an application to vary the permit will need to be made to reflect the increase in volume being discharged. It can take up to 13 weeks before we decide whether to vary a permit.

Further advice is available at: <https://www.gov.uk/permits-you-need-for-septic-tanks> and

11. <https://www.gov.uk/guidance/general-binding-rules-small-sewage-discharge-to-the-ground>
12. This permission relates solely to the application plans and documents:-
  - Site location plan Number 01002 P1
  - Site Plan as proposed Number 1001 P8
  - General Arrangement and POS plan No. 0001 P03
  - Detailed Landscape Plan 1 of 1 0002 P03
  - Detailed Landscape Plan 1 of 2 0003 P03
  - Housetype plans: 02301 P4 (HT03), 02302 P4 (HT03AH), 02303 P2 (HT03H), 02401 P4 (HT04), 02501 P4 (HT05), 02502 P4 (HT05A), 02505 P2 (HT05B), 02506 P2 (HT05C), 02602 P2 (HT06AH), 02603 P2 (HT06), 02701 P1 (HT07) and 02801 P1 (HT08).
  - Design and Access Statement dated 17<sup>th</sup> April 2023
  - Planning and Heritage Statement by JMI Planning
  - Flood Risk Assessment by RAB ref: 2839 dated 21<sup>st</sup> December 2021
  - Sustainability Statement Rev P1 dated 10<sup>th</sup> June 2024.
  - Ecological Impact Assessment (Ramm Sanderson, November 2021) •
  - Ecological Impact Assessment – Addendum Letter (Ramm Sanderson, August 2024) •
  - The Biodiversity Metric 4.0 (Ramm Sanderson, July 2024)
  - Geophysical Survey by Archaeological; Research Services dated June 2022
  - Key to viewpoints and Viewpoint photos 1 -7
13. Pursuant to Section 163 of the Highways Act 1980, where site curtilages slopes down towards the new estate street, measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
  - A. Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

B. Highway surface water shall be disposed of via a positive, gravity fed system (i.e. not pumped) discharging to an approved point of outfall (e.g. existing public sewer, highway drain or watercourse) to be sanctioned by the Water Authority (or their agent), Highway Authority or Environment Agency respectively. The use of soakaways for highway purposes is generally not sanctioned.

C. The following clause shall be included in the deeds of the dwellings to ensure that at no time will adoption of any part of the access road be sought: "The lessee or purchaser shall not at any time, either alone or jointly with others, seek adoption of any part of the roadway intended to serve the development as a highway maintainable at the public expense, it being the intention that the scheme shall at all times remain private up to the point where the scheme abuts upon the adopted Biggin View highway".

14. The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition)" that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Derbyshire Dales District Council.

15. There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below.

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements listed below are considered to apply.

*Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.*

15.1. The application for planning permission was made before 12 February 2024.

15.2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.

15.3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and

(i) the original planning permission to which the section 73 planning permission relates\* was granted before 12 February 2024; or

(ii) the application for the original planning permission\* to which the section 73 planning permission relates was made before 12 February 2024.

15.4. The permission which has been granted is for development which is exempt being:

15.4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:

- i) the application for planning permission was made before 2 April 2024;
- ii) planning permission is granted which has effect before 2 April 2024; or

- iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates\* was exempt by virtue of (i) or (ii).
- 15.4..2 Development below the de minimis threshold, meaning development which:
- i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
  - ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).
- 15.4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A “householder application” means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.
- 15.4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).
- 15.4.5 Self and Custom Build Development, meaning development which:
- i) consists of no more than 9 dwellings;
  - ii) is carried out on a site which has an area no larger than 0.5 hectares; and
  - iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).
- 15.4.6 Development forming part of, or ancillary to, the high speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High Speed Rail (Preparation) Act 2013.

\* “original planning permission means the permission to which the section 73 planning permission relates” means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permissions.

### *Irreplaceable habitat*

- 15.5 If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

### *The effect of section 73D of the Town and Country Planning Act 1990*

- 15.6 If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission (“the earlier Biodiversity Gain Plan”) there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted. Those circumstances are that the conditions subject to which the section 73 permission is granted:
- i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and
  - ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.