

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	CMA/4/83
<b>FULL APPLICATION DESCRIPTION:</b>	Outline planning application with access details (all other matters reserved) for a mixed use development comprising 291 dwellings, to include specialist market housing for the elderly, student accommodation, office, retail, community uses and associated infrastructure.
<b>NAME OF APPLICANT:</b>	Banks Property Ltd
<b>ADDRESS:</b>	Mount Oswald Golf Course, South Road, Durham, DH1 3TQ
<b>ELECTORAL DIVISION:</b>	Nevilles Cross
<b>CASE OFFICER:</b>	Peter Herbert, Senior Planner, peter.herbert@durham.gov.uk 03000 261391

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### Site

1. Mount Oswald Golf Course lies close to the southern edge of Durham City. Roughly triangular in shape, the site is bordered by residential and University development to the north, and further residential development to the south. The A177 (South Road) runs along the eastern site boundary, with the Howlands Farm Durham University campus and Howlands Park and Ride car park, Durham Crematorium, and Durham High School beyond. The A167 runs along the western boundary, with open countryside beyond.
2. A Public Right of Way (Footpath No.18 Durham City) cuts across the site approximately at its mid-point running in an east to west direction and Mill Lane (Footpath No. 17 Durham City) borders the site to the north.
3. Essentially open in appearance, and of parkland character, the site contains an operational 18 hole golf course and the Manor House, a Grade II listed building. The building operates as a club house and events venue, a vehicular access to which is taken from South Road. Approximately two thirds of the site area is defined as a locally designated Historic Park and Garden. The site is not one on English Heritage's National Register but it is of local importance, notably in relation to the setting of the Manor House.
4. The application site (the area current occupied by the Golf Course) measures 38.64 hectares (95.4 acres). The topography of the site slopes gently with the lowest parts to the northeast and south east and the highest part in the northwest.

5. The landform demonstrates examples of ridge and furrow and there are many trees at various stages of maturity, some of which form mature woodland blocks.

#### Proposal

6. The applicant seeks to establish the acceptability in principle of a mixed use development at the Mount Oswald Golf Course, with all details reserved other than those relating to vehicular access. The application is supported by comprehensive reports covering a range of matters including ecology, landscape and visual impact, heritage, drainage and flood risk, traffic and golf course assessment.
7. The proposed uses comprise 291 dwellings, to include specialist market housing for the elderly, student accommodation, office, retail and community uses with associated infrastructure. The disposition of the land uses in question are shown on a submitted master plan which comprise a distinct series of quarters which are linked by a design led approach to density, movement, character areas and green infrastructure. It is anticipated that the development will be phased. The specific components are described below.

#### University Quarter

8. The north eastern corner of the site has been designated the 'University Quarter'. Here residential accommodation for 1000 students is proposed. It is envisaged this would be developed in two phases. Phase 1 would consist of 400 bed spaces accommodated in five blocks within the east of the Quarter, to be associated with the existing Van Mildert and Collingwood Colleges to the north, and Ustinov and Josephine Butler Colleges at Howlands Farm to the east. Phase 2 would consist of nine blocks containing 600 bed spaces within the west and north of the Quarter, and could form a new university college.
9. Part of the University Quarter would also be a community hub, to include such facilities as a medical practice, welfare services possibly including a small shop for both students and the development as a whole, and up to 2000 sq m of office space. Details would be submitted at the reserved matters application stage.
10. Proposed vehicular access to this Quarter would be from a point on South Road, to the east, opposite the existing park and ride car park.

#### Neighbourhood North

11. The north western corner of the site would be developed for family housing at a density of 18 dwellings per hectare and is referred to as 'Neighbourhood North'. This would provide 218 dwellings, of which 32 would constitute specialist market housing for the elderly to be located at this area's western edge.
12. A small (no larger than 500 sq m gross floorspace) retail unit would also be located at the western edge of this Neighbourhood.
13. A new vehicular access dedicated only to the proposed housing for the elderly and retail unit would be taken from the A167, to the west, via a traffic light

controlled junction. The remainder of the Neighbourhood would be accessed from South Road through the University Quarter.

#### Central Park

14. The area, in the middle of the site (Central Park), would be set aside for a small number (16) very high quality low density (0.4 hectare (1 acre) plot houses, the special nature of which would be controlled by a Design Code. Each house would stand within a generous open plan site.
15. Vehicular access would be taken from the existing Manor House drive that runs from South Road to the east.

#### Neighbourhood South

16. Housing relating in character to that which already exists to the south of the site at Farewell Hall is proposed for the southern quarter (referred to as 'Neighbourhood South' in the master plan). It would contain 57 dwellings at a density of 11 per hectare. Vehicular access would be gained from a new access off South Road to the east at a point opposite the northern extremity of Durham High School.

#### Manor House Area

17. No works are proposed to the Manor House at this time. Nevertheless the area is recognised within the masterplan and included within the application site, thus allowing impact upon this Grade II Listed building and its setting by the proposed development to be taken fully into account.
18. It is envisaged that subsequent and separate Listed Building and detailed planning applications will be submitted in the future when an alternative use for the Manor House has been determined. Discussions with potential end users are underway.

#### Green Infrastructure and Public Access

19. In recognition of the site's landscape character and appearance the applicant has incorporated a Green Infrastructure Strategy within the masterplan that seeks to create a network of open spaces linked by pedestrian routes for both human and wildlife movement.
20. This strategy includes a hierarchy of public open spaces in the form of a community and play park, linear park, 1.1 hectare triangular park, three smaller children's play areas within the Neighbourhood North, and a fourth within Neighbourhood South.
21. Also included is the retention of over 5 hectares of mature woodland, of which 1.45 hectares would be made available for informal public access within the Central Park. In addition approximately 3.5km of public footpaths is proposed allowing both walks through the site and links to popular city destinations, avenue planting along main access roads, and the retention and enhancement of site boundary planting.
22. A Sustainable Urban Drainage (SUDS) approach would include the provision of two balancing ponds, to be located within the University Quarter and the Central Park, and the use of swales (engineered and graded landscape

features designed to both convey and clean storm water in a controlled manner).

#### Density of Development

23. The 38.62 hectare site would be occupied by built development, open space, and publically accessible open space. These areas, expressed as both area occupied and as a percentage of the site's overall size, are as follows:

- Built development: 3.95 ha (10%)
- Roads and car parks: 5.46 ha (14%)
- Woodland: 5.09 ha (13%)
- Public open space: 10.28 ha (27%)
- Private gardens: 12.62 ha (33%), of which 6.95 ha (18%) would be located within the Central Park.
- Private open space: 3.35 Ha (9%)
- University open space: 2.33 Ha (6%)

Total Open Space: 15.96 Ha (42%)

#### Planning Obligation

24. As an integral part of the proposals a financial contribution (over £4.2 million), to be delivered through legal agreement with the County Council under the provisions of Section 106 of the Town and Country Planning Act 1990, is proposed. The contribution being towards the following:

- Highway improvements, to include road signage, traffic islands, crossing points and bus stops.
- Provision of an improved Park and Ride service, to include additional buses, wider route coverage, and additional parking spaces in the vicinity of the site.
- Provision of affordable housing off-site (locations to be determined) at the required rate for Durham City of 20%.
- A contribution towards the provision of additional classrooms at local schools at St Oswald's Church of England and Durham St Margaret's primary.
- The provision of a new community building at Lowes Barn.

#### Revisions to the scheme

25. Revisions to the scheme were submitted in December 2012. The modifications included the proposal that 32 of the open market housing units would be housing for the elderly, an increase in the amount of publicly accessible open space and further information regarding landscaping. The provision of a design code for the central park housing area, amended transport proposals to include an extension of park and ride from Howlands to Sniperley, details of commitments to community facilities including, public transport, affordable housing, school places and community centre were also provided.

26. This planning application is reported to the County Planning Committee because it represents a large scale major development.

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## **PLANNING HISTORY**

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27. In 2007 planning permission for a business and research facility in parkland setting, to include offices, 30 executive homes, and associated roads, car parking and landscaping, was refused by the former Durham City Council.
28. The refusal reasons at that time related to conflicts with development plan policy by reason of the nature and location of the development, its nature and scale, and that it would harm the character and appearance of Mount Oswald's open and landscaped parkland setting and the development of the site. In addition it was considered that the likely traffic impact would have a material impact upon both the local road network and A1 (M) junctions 61 and 62, to the detriment of traffic flows and be prejudicial to highway safety.
29. In 2008 a resubmitted and revised planning application for a new park to include offices, student accommodation, housing, shop, pub/hotel, community facilities, to include roads, car parking and landscaping was withdrawn following an indication that the scheme was unlikely to be supported at that time.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

30. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social, and environmental, each mutually dependant.
31. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'. The following elements of the NPPF are considered relevant to this proposal:
32. *NPPF Part 1 – Building a strong, competitive economy* – The NPPF outlines in paragraph 19 that significant weight should be placed on the need to support economic growth through the planning system. Paragraph 22 specifically states that; planning policies should avoid long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.
33. *NPPF Part 4 – Promoting Sustainable Transport* – States that the transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. It is recognised that different policies and measures will be required in different communities and opportunities to maximize sustainable transport solutions which will vary from urban to rural areas. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.

34. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes* – Housing applications should be considered in the context of a presumption in favour of sustainable development. Local Planning Authorities should seek to deliver a wide choice of high quality homes, widen opportunities for home ownership and create inclusive and mixed communities. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities, for example, where development may support services and facilities in a nearby village.
35. *NPPF Part 7 – Requiring Good Design* – The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning. Planning policies and decisions must aim to ensure developments; function well and add to the overall quality of an area over the lifetime of the development, establish a strong sense of place, create and sustain an appropriate mix of uses, respond to local character and history, create safe and accessible environments and be visually attractive.
36. *NPPF Part 8 – Promoting Health Communities* – The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities and planning policies and decisions should achieve places which promote safe and accessible environments.
37. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change* – Planning plays a key role in helping 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.
38. *NPPF Part 11 – Conserving and Enhancing the Natural Environment* – The planning system should contribute to, and enhance the natural environment by; protecting and enhancing valued landscapes, recognising the benefits of ecosystem services, minimising impacts on biodiversity and providing net gains in biodiversity where possible, preventing new and existing development being put at risk from unacceptable levels of soil, air, water or noise pollution or land instability, and remediating contaminated and unstable land.
39. *NPPF Part 12 – Conserving and Enhancing the Historic Environment* – Local Planning Authority's should have a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets. Recognising that these are an irreplaceable resource and conserve them in a manner appropriate to their significance.

## **REGIONAL PLANNING POLICY**

40. The North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008 sets out the broad spatial development strategy for the North East region for the period 2004 to 2021. The RSS sets out the region's housing provision and the priorities in economic development, retail growth, transport investment, the environment, minerals and waste treatment and disposal.

41. In July 2010 the Secretary of State for Communities and Local Government signalled his intention to revoke Regional Spatial Strategies with immediate effect, and that this was to be treated as a material consideration in subsequent planning decisions. This was successfully challenged in the High Court in November 2010, thus for the moment reinstating the RSS. However, it remains the Government's intention to abolish Regional Spatial Strategies when Orders have been made under Section 109 of the Localism Act 2011, and weight can be attached to this intention. The following policies are considered relevant:
42. *Policy 1 – North East Renaissance* – requires strategies, plans and programmes to support the renaissance of the North East of England by (inter alia) delivering sustainable and inclusive economic prosperity and growth.
43. *Policy 2 – Sustainable Development* – states planning proposals should support sustainable development and construction.
44. *Policy 3 – Climate Change* – states all strategies, plans and programmes in the Region shall contribute to mitigating climate change.
45. *Policy 4 – The Sequential Approach to Development* – requires a sequential approach to be taken to the identification of land for development, with priority being given to previously developed land and buildings in the most sustainable location.
46. *Policy 7 – Connectivity and Accessibility* – seeks to promote the need to reduce the impact of travel demand particularly by promoting public transport, travel plans, cycling and walking, as well as the need to reduce long distance travel, particularly by private car, by focusing development in urban areas with good access to public transport.
47. *Policy 8 – Protecting and Enhancing the Environment* – seeks to ensure, amongst other things, to conserve and enhance historic buildings, areas and landscapes
48. *Policy 9 – Tyne Wear City Region* – supports the concentration of new development around key centres within the Region.
49. *Policy 24 – Delivering Sustainable Communities* – planning proposals, should assess the suitability of land for development and the contribution that can be made by design.
50. *Policy 28 – Gross and Net Dwelling Provision* – sets targets for housing provision by area and states that developments should have regard to the wider housing market area.
51. *Policy 29 – Delivering and Managing Housing Supply* – provides guidance in relation to the use of previously developed land, infrastructure provision, and densities.
52. *Policy 30 – Improving Inclusivity and Affordability* – sets broad requirements that, when considering development proposals, address the problem of local affordability in both urban and rural areas and have regard to the level of need for affordable housing.

53. *Policy 35 – Flood Risk* – requires consideration to be given to the flood risk implications of development proposals adopting the sequential risk based approach.
54. *Policy 38 – Sustainable Construction* – sets out that in advance of locally set targets, major development should secure at least 10% of their energy supply from decentralized or low-carbon sources.
55. *Policy 39 – Renewable Energy Generation* – requires at least 10% of the region's energy needs to be supplied from renewable sources.
56. *Policy 54 – Parking and Travel Plans* – seeks to support the delivery of improved public transport throughout the Region, the promotion of travel plans and the provision and pricing of parking will be essential. Key elements include the marketing of public transport, cycling, walking and car sharing in trying to influence travel behaviour.

#### **LOCAL PLAN POLICY:**

##### City of Durham Local Plan 2004

57. *Policy EMP3 – Mount Oswald* – States that the development of a prestigious office/research centre uses project of strategic significance will be permitted at Mount Oswald provided the parkland and landscape quality is not compromised and the employment uses relate to class B1 uses.
58. *Policy E5 – Protecting Open Spaces within Durham City* – (Part 2 of the Policy) seeks to protect open spaces which form a vital part of the character and setting of Durham City by only permitting development in the Mount Oswald – Elvet Hill parkland landscape area which does not exceed the height of surrounding trees and is sympathetic to its landscape setting, and is of low density, setting aside most of the site for landscaping and open space.
59. *Policy E5A – Open Spaces within Settlement Boundaries* – protects the important functional, visual or environmental attributes that contribute to a settlement's character.
60. *Policy E14 – Existing Trees and Hedgerows* sets out the Council's requirements for considering proposals which would affect trees and hedgerows. Development proposals will be required to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost. Full tree surveys are required to accompany applications when development may affect trees inside or outside the application site.
61. *Policy E15 – New Trees and Hedgerows* – sets out the Council's requirement for development to *include* new and hedgerow planting.
62. *Policy E16 - Nature Conservation – the Natural Environment* – is aimed at protecting and enhancing the nature conservation assets of the district. Development proposals outside specifically protected sites will be required to identify any significant nature conservation interests that may exist on or adjacent to the site by submitting surveys of wildlife habitats, protected species and features of ecological, geological and geomorphological interest. Unacceptable harm to nature conservation interests will be avoided, and



mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.

63. *Policy E21 – Historic Environment* – requires development proposals to minimise impact upon features of historic interest, and encourage the retention, repair and reuse of visual of local interest.
64. *Policy E23 – Listed Buildings* – seeks to safeguard listed buildings and their settings from harmful development.
65. *Policy E24 – Ancient Monuments and Archaeological remains* –The council week seek to preserve scheduled ancient monuments and other nationally significant archaeological remains and their setting in-situ.
66. *Policy E26 – Historic Parks and Gardens* – safeguards the area surrounding the manor house and requires any development to be respectful of this parkland setting.
67. *Policy H12 – Affordable Housing* – requires residential schemes of 25 units or more, of 1 ha or more, to provide a proportion of affordable housing where a local need exists.
68. *Policy H12A – Type and Size of Housing* – states that the type and size of dwellings will be monitored with where appropriate negotiation with developers to provide the right housing types and sizes to ensure balance.
69. *Policy H13 - Residential Areas – Impact upon Character and Amenity* states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.
70. *Policy H16 – Residential Institutions and Student Halls of Residence* – requires that new, or proposals for extensions to existing hostels, residential institutions and care home will be permitted within settlement boundaries provided that certain criteria are met. In the case of student halls of residences the Policy states that they accord with Policy C3 if the proposal would not lead to a concentration of student accommodation such that it would adversely detract from the amenities of existing residents.
71. *Policy C3 – Education: University of Durham* – states that the City Council will support development proposals by the University of Durham which seek to undertake a number of objectives.
72. *Policy Q1 – General Principles Designing for People* – requires the layouts of developments to take into account the requirements of users including: personal safety and security; the access needs of people with disabilities and the elderly; and the provision of toilets and seating where appropriate.
73. *Policy Q2 – General Principles Designing for Accessibility* – the layout and design of all new development should take into account the requirements of users and embody the principle of sustainability.
74. *Policy Q4 – Pedestrian Areas* – requires that pedestrian area should be laid out and designed with good quality materials in a manner which reflect the street scene.

75. *Policy Q5 – Landscaping General Provision* – sets out that any development which has an impact on the visual amenity of an area will be required to incorporate a high standard of landscaping.
76. *Policy Q6 – Structural Landscaping* – development located on the edge of settlements or in exposed sites will be required to use peripheral structural landscaping in order to minimise.
77. *Policy Q8 – Layout and Design Residential Development* – sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.
78. *Policy Q15 – Art in Design* – encourages the provision of artistic elements within new developments.
79. *Policy R3 – Protection of Outdoor Recreational Facilities* – seeks to safeguard open space used for recreation and precludes its development unless there is brought about as a result new or improved facilities, involves only a small part of the site, an equivalent alternative area of community benefit would be provided locally, or the loss would not prejudice the overall standard of open space for outdoor recreation within the immediate area.
80. *Policy T1 – Traffic – General* – states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and/or have a significant effect on the amenity of occupiers of neighbouring property.
81. *Policy T5 – Public Transport* – states that the Council will encourage improvements to assist public transport services within the district by a combination of measures. Measures to include the use of traffic management schemes in accordance with Policy T8.
82. *Policy T7 – Park and ride* – The Council will seek to investigate the provision of a park and ride system that seeks to relocate commuter parking from the City centre and employment areas, provide an attractive alternative for city centre parking, reduce traffic flows and enhance the image of bus based travel.
83. *Policy T8 – Traffic Management* – the Council will support traffic management measures which seek to improve highway safety; amenity and ease congestion. Priority will be given to measures which specifically reduce congestion and delays.
84. *Policy T10 – Parking – General Provision* states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
85. *Policy T20 – Cycle Facilities* – sets out a requirement to encourage the provision of facilities for parking cycles in the city centre and at other appropriate locations.
86. *Policy T21 – Walkers Needs* – the Council will seek to safeguard the needs of walkers by ensuring that: existing footpaths are protected; new footpaths are provided; and footpaths are appropriately signed.

87. *Policy S7 – Individual Shops* – permits individual small shops will be permitted within settlement boundaries provided that it will not adversely affect the vitality and viability of any other local centre or village, it will not adversely affect the character and amenity of the surrounding area more the interests of road safety.
88. *Policy U8a – Disposal of Foul and Surface Water* – requires developments to provide satisfactory arrangements for disposing of foul and surface water discharge. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.
89. *Policy U14 – Energy Conservation* – General states that the energy efficient materials and construction techniques will be encouraged.

#### **RELEVANT EMERGING POLICY:**

##### The County Durham Plan

90. The County Council is currently developing a countywide Local Plan, and has carried out a consultation on a “Preferred Options Draft” during the latter part of 2012. Reflecting NPPF guidance, the Draft currently proposes the employment allocation for the Mount Oswald site to be replaced by an allocation of 303 houses (Policy 30) and purpose built student accommodation (up to 1000 bed spaces) as part of a wider housing allocation (Policy 10). This application envisages a higher density of development than the current allocation. Nevertheless, it represents a housing density of about 10 units per hectare, which remains low.

##### Durham County Council Aspirations: Regeneration Statement

91. The Council’s Regeneration Statement (2012-2022) sets out the direction of travel for regeneration and economic development, with the County Durham Plan one of the key documents intended to deliver it. The Statement sets out five key objectives for the regeneration of the County, with a “Thriving Durham City” being one of the five priorities. This seeks to exploit the City’s potential as a major retail, business and residential centre, academic hub and visitor destination, and deliver the cultural and tourism ambitions for the City which will benefit the entire County.
92. The emerging policies of the County Durham Plan seek to reflect the main thrust of the Regeneration Statement by focusing development in Durham City, and other main towns, as a means of raising the economic performance of both the City and County.
93. The Statement includes a number of strands that aim to deliver a thriving Durham City, and these recognise the University as a major asset. The proposal includes a substantial element of student accommodation, and this is regarded as bringing a positive contribution towards addressing a need in the City in accord with the University’s own strategy.

*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm> (Durham City Local Plan)*

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## CONSULTATION AND PUBLICITY RESPONSES

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### STATUTORY RESPONSES:

94. *Highways Agency* – Raises no objection.
95. *County Highway Authority* – The application site is considered to be in a sustainable location in terms of proximity and connectivity to Durham City Centre. However, both the A177 and A167 become heavily congested at peak periods and can suffer traffic delays. This is particularly true of the A167/A690 Nevilles Cross junction, and the A177 New Inn junction. Both are traffic light controlled, at peak times operate close to or at capacity, and are constrained in terms of improvement by buildings and infrastructure.
96. It has been estimated that approximately 340 additional vehicular trips, morning and evening, are likely to be generated by this proposal. This takes into account the fact that the University, through an agreed Travel Plan, restricts student car ownership. Such a level of additional traffic has the capacity to saturate the two critical junctions. However, if a similar level of traffic can be removed from the local road network by the already very successful Park and Ride facility being enhanced to a level that it becomes even more attractive, the traffic impacts of the development would not, at worst, be severe.
97. The applicant is willing to fund additional Park and Ride buses, combined with a more frequent service, an extended route that would link Howlands, the City Centre and the Sniperley Park and Ride car park at the northern edge of the City, and provide 70 additional parking spaces. This would be phased to address potential increases in demand as the proposed development is implemented, and be secured through legal agreement with the County Council.
98. In considering this proposal, the Highway Authority has taken fully into account the NPPF which presumes in favour of sustainable development. It also sets out as a core planning principle a need to “actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are, or can be made, sustainable” (Paragraph 17). It is the Highway Authority’s view that the proposed development meets this core principle.
99. The NPPF goes on to state that “Development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe” (Paragraph 32). It is the Highway Authority’s opinion that, subject to the aforementioned Park and Ride enhancements being secured through Section 106 legal agreement, and the proposed Travel Plan being implemented, the impacts of the development could not be considered severe.

100. Four vehicular access points to the development are proposed and of the three to be taken from the A177 South Road, the most northern, opposite the Howlands Park and Ride site, would be traffic light controlled and is considered acceptable. The second would use the existing golf club access road and is also considered acceptable. The third, and most southern, would be located opposite the northern end of Durham High School. This is acceptable in principle, but due to its proximity to a bend to the south, the exact position would need to be agreed, and subject to a planning condition should permission be granted.
101. The proposed access from the A167 to serve the retail unit and specialist market housing for the elderly is acceptable in principle, but only subject to it being traffic light controlled with a pedestrian phase. This, it is recommended, should be a condition of any planning permission.
102. It is therefore concluded that the enhancement of the Park and Ride Service, combined with a robust Travel Plan, can effectively mitigate the impact of traffic generated by the proposed development.
103. *Environment Agency* – No objection is raised, subject to planning conditions concerning compliance with the recommendations of the submitted flood risk assessment, and a pond buffer zone being provided to protect associated ecology.
104. *Northumbrian Water* – Whilst offering no objection to the proposed development, it is stated that Northumbrian Water equipment crosses the site, including public sewers and water mains, and that the nearby University Sewage Treatment Works has limited spare capacity. It is therefore requested that any planning approval be conditional upon no development commencing until a strategy is agreed to protect Northumbrian Water apparatus by it either not being built over, or by its diversion; and the recommendations contained within the submitted Foul Drainage Strategy Report, which recognises local sewage works capacity limitations, be followed.
105. *The Coal Authority* – raises no objection subject to a planning condition requiring an intrusive site investigation to be carried out before development commences.
106. *English Heritage* – on the basis that it has been demonstrated no adverse impact upon the Durham Castle and Cathedral World Heritage Site, Conservation Area, Scheduled Ancient Monument or Grade 1 or II\* Listed Buildings would result from the submitted proposals, it is considered that the requirements of paragraph 128 of the NPPF have been fulfilled. Accordingly, no objection is raised to this application. However, the presence of surviving ridge and furrow cultivation traces, which have been incorporated into the golf course topography, has been noted. Durham University Archaeological Services, who have acted as consultants to the applicant, recommend development impact mitigation through their incorporation within open spaces, and a programme of earthwork survey and sample trenching.
107. *Sport England* – The site is not considered by Sport England to be, or form any part of, a playing field as defined by the Town and Country planning (Development Management Procedure) (England) Order 2010. Therefore being consulted regarding this proposal is considered non-statutory. While Sport England opposes proposals that result in the unjustified or avoidable loss of facilities for sport, it accepts the conclusions of the submitted “Golf

Course Assessment” that state there is a higher level of golf club provision in the area than the national average and capacity exists at nearby clubs to accept further members. Accordingly, no objection is raised to this application.

#### **INTERNAL CONSULTEE RESPONSES:**

108. *Spatial Policy* – has considered this proposal against Government planning policy as contained within the NPPF, the still relevant RSS, the emerging County Durham Plan, and the existing City of Durham Local Plan (2004).
109. At the heart of the NPPF is a presumption in favour of sustainable development. However, policies contained within the Local Plan must also be accorded full weight unless they are at variance with those contained within the NPPF.
110. The allocation of Mount Oswald for low density class B1 employment use has been in place for some 24 years within both the 1988 and 2004 City of Durham Local Plans. During that time there has been only limited interest from developers, and most recently the development of the Sedgefield based North East Technology (NET) Park has addressed the type of development envisaged for Mount Oswald.
111. During the preparation of the County Durham Plan Preferred Options document an Employment Land Review was carried out. This concluded that Mount Oswald was only of average quality as an employment site when measured against relevant criteria, and that it should be de-allocated, particularly as Aykley Heads is now proposed as a business use location of strategic significance.
112. The emerging County Durham Plan, currently at the public consultation stage through the associated “Preferred Options Draft”, now proposes the employment allocation to be replaced by an allocation of up to 303 homes and purpose-built student accommodation of up to 1000 bed spaces. This would represent a higher density than the current allocation, yet remain low density at 10 units per hectare.
113. The County Durham Plan is a key component in the delivery of the five key objectives for the regeneration of the County, as contained within the Council’s Regeneration Statement (2012-2022). A “Thriving Durham City” is one of the five objectives, which aims to optimise the City’s potential as a major retail, business and residential centre, academic hub, and visitor destination.
114. Spatial Policy identify that there are five major Local Plan policies against which the proposal must be measured. These being Policies EMP3 (Employment), E5 (part 2) (Open Space), E26 (Historic Parks and Gardens), R3 (Protection of Outdoor Recreation Facilities) and T1 (Traffic Generation).
115. The passage of time has demonstrated the aspirations of Policy EMP3 are unlikely to be deliverable, and that the objectives of Policies E26, R3 and T1 can be met, so the acceptability of this application turns upon whether a breach of Policy E5 (part 2), in terms of amount of development, is outweighed by both wider benefits and latest guidance contained within the NPPF.

116. Mount Oswald's position within the Durham City settlement boundary close to existing residential areas, with good connectivity to the city centre via a range of travel choices that include public transport, footpath and cycle links; render it a sustainable location for new development.
117. The provision of a range of high quality homes within identifiable neighbourhoods for both the elderly and growing families, plus very low density "executive" homes, is very much welcomed. All are much needed in Durham City and the wider County. Furthermore, the scale of housing proposed, relative to the amount identified as being needed within the City in the longer term, is not considered to undermine the future delivery of the County Durham Plan.
118. At a time when national funding is being cut, and need exceeds supply, the delivery of approximately 58 affordable homes to the City also represents a major benefit, its off-site provision being justified by the need to maintain Mount Oswald's low density character.
119. The opportunity to provide 1000 student bed spaces addresses both the university's expansion aspirations and pressure on city centre housing by students, while the provision of a neighbourhood shop and community hub would help consolidate the development and increase its sustainability by meeting the needs of those living on the site and existing neighbouring communities, reducing the need to travel.
120. The above being the case, it has been concluded that the range of housing provided, combined with the delivery of student accommodation, all within a low density parkland setting, justifies a departure from Local Plan Policy E5 (part 2), and accords with the approach to new sustainable development advocated by Government as stated within the NPPF.
121. *Design and Historic Environment* – is satisfied that any impact upon the Grade II Listed manor house as a result of this proposal will be minimal. The submitted master plan is accepted, subject to safeguards relating to build quality, connectivity between the scheme's identified development zones, and effective woodland management.
122. *Landscape* – recognises the site's landscape contribution to the southern entrance to the City, and acknowledges its amenity value to local residents. However, the point is made that this is not public open space as it is a private golf club, this not being an appropriate location for a large area of public open space due to its distance from much of Durham City's population.
123. The submitted master plan creates new areas of public open space which would be of demonstrable benefit to those living close by who currently do not have direct access to the countryside.
124. The impact of the proposed development upon South Road is judged to be relatively modest. Housing within the Neighbourhood South would be largely screened by boundary trees during the summer, and heavily filtered by them in the winter. Similarly, there would be filtered views across one of the balancing ponds into the very low density Central Park area.
125. The well wooded landscape around the Manor House, which currently forms a significant part of the overall site's South Road frontage, would remain largely unchanged. The northern University Quarter would be visible from a short

section of South Road to the south of Van Mildert College. However, the view would be one of relatively open campus development, seen across another balancing pond, not dissimilar in character to that of Van Mildert. In other words, a notable building viewed across water.

126. In views from the A167 the impact of the proposal would be more substantial. Boundary vegetation is less robust than that bordering South Road. However, there is an opportunity for additional screen planting which the applicants have embraced. If this is done well, it can be concluded there would be little adverse impact in the medium term on the perceived openness or leafiness of the southern approach to the City.
127. It is not considered that the proposals would have a significant impact upon the historic core of gardens and woodlands which form the setting of the Manor House.
128. Development within the northern and southern areas of the site would inevitably have a significant impact upon these parts of the site when viewed from the A167. However, the ultra-low density of the central area's development would allow the retention of all its mature landscape features.
129. In terms of wider landscape impact, it is not considered that the site's development would be significant in long distance views towards it. Impact upon the World Heritage Site, and intervisibility between it and Mount Oswald, would be equally insignificant.
130. In conclusion, subject to safeguards to be enforced by planning condition should permission be granted, the scheme is not opposed on landscape grounds.
131. *Ecology* – has reviewed the submitted ecological reports and accepts their findings that the proposed development is likely to have minimal negative impacts on wildlife associated with Mount Oswald. It is recommended that it be a condition of any planning consent that proposed mitigation measures contained within these reports are implemented.
132. Highlighted as of equal importance are connectivity between habitats both within and outside the site, and the sensitive lighting advocated within the Bat Report. Officers consider that these should be taken fully into account when detailed proposals are drafted.
133. *Access and Rights of Way* – identify that there is one recorded right of way within the application site, which crosses it in an east-west direction (No. 18 Durham City) and would form the boundary between the proposed Neighbourhood North, triangular shaped park and University Quarter to the north, and Central Park and Manor House to the south. Currently this is not a bridleway but if it is intended that cyclists use the path, it should be dedicated as a bridleway and the surface improved. However, in general, the level of provision for both pedestrians and cyclists within the scheme is welcomed.
134. *Sustainability* – considers this to be a sustainable location for a development of the type proposed, with good linkages via a range of transport modes to the City Centre. The applicants' "Preliminary Low and Zero Carbon Feasibility Study" submission is welcomed, though it is appreciated that only general principles can be discussed at this outline application stage. However, a combined heat and power (CHP) district heating system would be



encouraged, together with energy efficiency through building fabric improvements. Overall energy efficiency can be addressed by planning condition were the application to be supported.

135. *Archaeology* – notes the submitted Archaeological Report’s findings which, following a geophysical survey, conclude the site to have archaeological potential, although not of such importance to in itself justify a planning permission being withheld. However, further investigation is deemed necessary prior to any reserved matters planning application being lodged to establish what level of mitigation would be appropriate. This should be done by the current applicant rather than subsequent developers to achieve a comprehensive approach rather than one that is piecemeal and therefore less cohesive. Subject to this provision, and conditions of any approval specifying the manner in which further investigations should be carried out, no concerns are raised.
136. *School Places Officer* – anticipates that the number of homes proposed are likely to create a need for approximately 75 additional pupil places in local schools, the nearest being St Oswald’s Church of England Infants, Nevilles Cross primary and Durham St Margaret’s Church of England. These are all either full or close to being so. It is therefore considered to be appropriate to require a financial contribution towards two additional classrooms at those schools, this to be secured through a Section 106 agreement.
137. *Pollution Control* – has reviewed the submitted Air Quality report which concludes that no adverse impact is likely to arise as a result of this proposal. This conclusion is not disputed. However, during the construction phase of such development, notwithstanding the need for subsequent reserved matters planning submissions, noise and dust could arise, while during the operational phase noise, odour and light pollution potential can become issues. Accordingly, it is requested that any planning permission be conditional upon measures designed to address such concerns being put in place.
138. *Development Enquiries Manager (Economic Development)* – is supportive of this proposal. It is considered that a good mix of housing, University accommodation, open space and play areas is being provided, with a realistic possibility of the University restoring the manor house and putting it to a good and viable use.
139. *Business Durham* – supports the application and states that the County as a whole would benefit from having a wide range of new, quality housing to attract and retain skilled employees and high net worth individuals. This proposal would make a considerable contribution to the existing ‘offering’, especially in an attractive landscape setting. Conversely, not having a variety of quality housing is damaging to our current efforts to support indigenous, innovative, high tech business growth emanating from University spin-outs, as well as attracting major investment to the City, University and County.
140. The proposed gross capital investment of approximately £200 million will have direct economic benefits with 120 full time construction jobs during development and a further 100 jobs across the supply chain. The creation of 164 new permanent jobs on the site will be a welcome addition the local economy as well as the support for jobs in the broader economy.
141. In summary, the proposal with its high quality public area and high end housing would be an enormous asset in attracting business leaders and

entrepreneurs to the area, something that is vitally important for the sustained growth to which we all aspire and helps to achieve the objective of a 'Thriving Durham City'.

#### Public Responses:

142. The proposals were displayed at two separate public exhibitions held by the applicant at The Lindisfarne Centre, St Aidan's College prior to formal submission. On each occasion the applicant sent 1200 leaflets to local residents explaining the proposals and inviting them to the exhibitions. The application was also advertised by site notice and in the local press as part of the planning procedures. Notification letters were sent to 380 individual households in the area. Following a modification to the scheme further publicity was undertaken in the form of individual letters to those originally consulted and those who had commented on the application.

#### Objections

143. *The City of Durham Trust* – objects on the grounds that this is both a departure from the Local Plan and likely to lead to unacceptable traffic generational consequences. The mitigation measures advanced by the applicant's consultants in the form of trip diversions to Park and Ride are said to be unconvincing. However, should planning permission be granted, it is requested that it be conditional upon the applicants being responsible for the completion of any development subsequently sold off. This results from the incompleteness of the conversion of Neville and Sheraton Houses to apartments within the Sheraton Park development at Nevilles Cross.
144. *Elvet Residents Association* – objects as the it considers the proposal to be in breach of adopted Local Plan Policies EMP3, E5A and T1, in that the site is designated for B1 business use over 10% of its area, loss of open space, and an unacceptable level of traffic generation.
145. *Roberta Blackman-Woods Member of Parliament for Durham City (MP)* – strongly opposes the application. This is based upon the large number of constituents who have contacted her in opposition to the proposal, and more specifically its contravention of Local Plan Policies EMP3 and E5A which designate the amount of acceptable development at Mount Oswald and protect significant open space within the settlement boundaries. The contravention of NPPF policy principles relating to the consideration of new development, community involvement, the protection of sports facilities and the importance of open space to communities are also cited. In addition, the impact of traffic associated with this proposal is considered to be unacceptable.
146. The MP concludes by requesting the Planning committee to reject this application on the grounds that it fails to conform to either NPPF or Local Plan policies pertinent to Mount Oswald, with attendant loss of recreational and green space, and adverse traffic impact.
147. *County Councillor Nigel Martin – a local ward member* – formally objects to the application on the basis of its inconsistency with the adopted City of Durham Local Plan and Draft County Durham Plan, and the inadequacy of provision of open space and highway safety concerns resulting from the volume of students using the footpaths

148. The point is made that those opposing this application include some living outside the city as well as within. These include commuters and frequent visitors who, it is said, would take their employment, investment and purchasing power elsewhere should planning permission be granted as a result of the anticipated traffic impact.
149. *The Ramblers* – object to the application on the grounds that an area of attractive parkland would be destroyed, and there would be a loss of green open space that can be enjoyed by the public when walking footpaths through and around the site. However, should the application be approved, the provision of new footpaths within the site is welcomed and it is requested that it be ensured these are delivered.
150. *The Campaign to Protect Rural England (CPRE)* –objects to the proposal on grounds of prematurity, considering it inappropriate to consider housing at Mount Oswald in advance of the County Durham Plan Preferred Options being fully consulted upon and debated. Furthermore, it is stated that local opinion, in the spirit of “localism”, should be taken fully into account.
151. Should planning permission be granted it is requested that affordable housing be provided on-site, that there be resolution between such a provision and that of executive housing on the same site, that the settings of the manor house and World Heritage Site be fully respected, and woodland be properly protected. Biodiversity proposals, sustainable drainage, sustainable energy and good transport links to and from Mount Oswald are welcomed.
152. In addition to the above representations, 549 letters of objection have been received from individuals in response to the application. In addition two petitions have been received containing 2116 signatures submitted by the Save Mount Oswald Campaign Group. The grounds of objection and concern raised by those objecting to the proposed development are summarised below:
- That the proposal is in conflict with Government policy contained within the NPPF that seeks to protect open space, green space, and sports provision (paragraphs 73, 74, 76 and 77).
  - Loss of a much valued golf course
  - Loss of open space
  - There is an over-provision of housing allocated within the County Durham Plan proposed for Durham City.
  - The local road system is unable to cope with the current traffic demands placed upon it, and is showing signs of physical deterioration. The level of traffic that would be generated by the proposals would worsen the situation to an unacceptable degree. The argument that an enhanced Park and Ride facility will create spare capacity within the local road network is challenged.
  - Concern regarding South Road footpaths being able to cope with the volume of student footfall generated by the proposed university accommodation.
  - Those commuting to and from Durham City will have to pass through resulting congestion. This could mean those affected would seek employment elsewhere and reduce their spending in Durham.
  - Further pressure on already over-subscribed schools will result.
  - Impact upon local ecology and wildlife.
  - An increase in flood risk.

- No need for the proposed shop.
- No demonstrated need for this amount of new housing in Durham City.
- The unfinished conversions of Neville and Sheraton Houses at the nearby Sheraton Park development are said to be indicative of the applicants' inability to deliver schemes satisfactorily.

## Support

153. *Durham University* – Advises that the University has agreed to work with the applicants to explore the feasibility of establishing a collegiate presence in the north east corner of the Mount Oswald site, including the future use of the manor house.
154. A Memorandum of Understanding between the University and the applicant has been signed and includes the principle of the sale of a parcel of freehold land for the development of up to 1000 student bed spaces on the collegiate model, with the possible inclusion of the manor house, subject to survey.
155. If the planning application currently under consideration is successful, the University and the Banks Property Ltd will finalise the purchase terms of the aforementioned land, or land and Manor House.
156. The University undertakes to submit a detailed planning application in respect of the collegiate presence as soon as practicable following purchase terms being agreed.
157. Durham University therefore supports this application as it helps deliver the direction, priorities and key actions identified in its recently completed Residential Accommodation strategy.
158. The *North East Chamber of Commerce* – supports the application, stating that Durham is in need of new housing to attract and retain highly skilled and higher wealth individuals, something the proposed development is considered capable of achieving. Failure to tackle this need, it is said, would undermine efforts to support indigenous business growth and attract major private investment to the City.
159. It is further stated that the development would create high quality public spaces, help to address student housing issues, and provide retail opportunities that would not impact negatively upon other city retailers.
160. The *Confederation of British Industry (CBI)* – strongly supports the application. The CBI is firmly of the view that the development of Mount Oswald would help the City take advantage of its untapped potential to drive economic growth in County Durham. A gross capital investment of approximately £200 million is said to have both direct and indirect economic benefits in the form of the support of 120 full time construction jobs during development, a further 100 jobs across the supply chain, and the creation of 164 new permanent jobs on site, together with support for additional jobs in the local economy.
161. The CBI states further that the proposal would be an asset in attracting business leaders and entrepreneurs to the area, something that is vitally important for sustained growth. It is also estimated that in the region of £3.4 million retail expenditure per annum could be generated by attracting new residents to the area.

162. Beyond economic factors, the development is also considered to have wide ranging social benefits, including significant parts of Mount Oswald being made accessible to the public for the first time, and the provision of public parkland, play areas, a new convenience store, and a community services building that could include a health centre, café, gym or childcare facility. Additionally, a sustainable future for, and restoration of, the Grade II listed manor house could be secured, plus 1000 student bed spaces to help rebalance city centre communities.
163. In addition to the above letters of support, 12 further letters have also been received. The merits of the scheme are cited as being:
- The creation of both short term construction jobs and longer term employment,
  - No loss of public green space as opposed to private green space,
  - The creation of public open space,
  - The provision of good quality housing and local amenities and,
  - The expansion of a university important to Durham with attendant relief upon student accommodation in the City.
164. It is considered that a much needed boost to the construction industry would be provided, a slowdown in house building being one of the contributing factors to the sector's current malaise, the exacerbation of which would result from planning indecision

#### Applicants Statement:

165. The applicant's vision for Mount Oswald is to create a sustainable new neighbourhood of families and students, integrated within the wider community of Nevilles Cross, and contributing new facilities and opportunities for existing residents.
166. It is envisaged that the development would combine new buildings and green infrastructure of the highest quality to create small neighbourhoods, each with a unique character, which embrace and enhance the existing landscape setting.
167. The development would provide new green links which increase the recreational and community value of the site to neighbouring residents, as well as providing a variety of wildlife habitats which will increase the site's biodiversity. The new links would create through-routes to the river valley and botanical gardens beyond the site.
168. The development would have very high overall sustainability by combining the use of public transport, energy conservation, sustainable drainage, excellent design, and the opportunity for housing provision and economic development, whilst fully considering and mitigating impacts on the local environment, landscape and heritage, so achieving an appropriate balance of economic, community and environmental interests.
169. The development has considerable support from commerce and industry because it would create 116 permanent jobs on site and 220 jobs within the construction industry and supply chain at a time of urgent economic need. Additional retail spend in the City is estimated to be £3.4m per annum while a

section 106 agreement would generate a total of £4.2m for affordable housing, public transport, education and community facilities.

*The above represents a summary of the comments received on this application. The full written text is available for inspection at the Council offices at County Hall*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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170. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of the development of the site for the mixed use of housing, student accommodation, retail and office, the loss of recreational land, affordable housing, layout, design and visual amenity, access and traffic, landscape and visual impact, conservation, archaeology, ecology, sustainability, floodrisk and drainage, ground conditions, air quality, phasing of development and other matters raised.

### **Principle of the development**

171. The outline scheme presented at this stage represents the third proposal in recent times for the development of this key and sensitive site on the edge of Durham City. Redevelopment of the site has been acknowledged in previous development plans. However, in considering the principle of the acceptability of the current scheme it is necessary not only to consider the current development plan policy but also the emerging policy climate arising from the introduction of the National Planning Policy Framework and also the future policy direction of the County Durham Plan and the County Council's aspirations set out within its Regeneration Statement.

### **Current and emerging Planning Policy position**

#### **City of Durham Local Plan (2004)**

172. The site is subject to a dual allocation for employment use (Policy EMP3) and as open space (Policy E5 (part 2)). EMP3 allocates the site for a prestigious office/research centre of strategic significance. As the present development proposal is not for such an end user the proposal does not accord with the aims of the development plan presently in force and therefore has been assessed as a departure application. The justification to the policy (paragraph 5.24) states that the environmental quality of the site is such that only a limited proportion of the area is available for development purposes (approximately 10%) in accordance with the Development Brief previously approved. This Development Brief shows the development concentrated to the north and south of the 32 hectare site with the central portion remaining open. Policy E5 (part 2) limits the development of the site to that which does not exceed the height of surrounding trees, is sympathetic to the landscape and is low density, setting aside most of the site for landscaping/open space.

173. Approximately two-thirds of the site is defined as a locally designated Historic Park and Garden (Policy E26), reflecting the landscape related to the Manor House. This Policy does not prevent development but requires it to respect the character of the parkland. The site is not one on English Heritage's National Register but it is of local importance, notably in relation to the setting of the Manor House, a Grade II listed building.

174. The City of Durham Local Plan, at Policy R3 seeks to protect open space used for recreation (the site is currently an 18 hole golf course with very limited public access to the site other than for club members and pay and play golfers) unless the proposal comprises new or improved facilities, or involves a small part of the site, or an alternative is provided nearby, or the loss will not prejudice the standard of open space in the area. However, since the site is allocated for development there is an expectation that the existing golf course could not continue on site. Policy T1 seeks to resist proposals that would generate traffic which would be detrimental to highway safety or affect the amenity of neighbours.

#### The North East of England Plan - Regional Spatial Strategy

175. Although the Government is in the process of abolishing RSS, it remains for the moment relevant policy. The site is not referred to specifically in RSS but Durham City is defined as the Main Town outside the Tyne-Wear conurbation in the Tyne & Wear City Region. As such Policy 9 seeks to ensure a scale and character of development to reflect Durham City's unique character and its role as a major service and employment centre for its surrounding hinterland.
176. Policy 4 considers the sequential approach to development, with previously developed land the first priority followed by other sites in suitable locations in urban areas not identified as land protected for nature or heritage conservation or recreational purposes. In this context, Mount Oswald is designated as a development opportunity in the 2004 Local Plan so development is acceptable in relation to RSS Policy 4 provided nature, heritage and recreational issues are addressed. The proposal is also consistent with Policies 1, 2, 3, 7, 8, 9, 24, 30, 35, 38 and 54 of the RSS.

#### National Policy, the National Planning Policy Framework

177. The introduction of the NPPF does not change the statutory status of the Development Plan and proposed development that conflict with up-to-date policies is expected to be refused unless material considerations indicate otherwise.
178. At the heart of the NPPF is the presumption in favour of sustainable development, which in terms of decision making means "where the development plan is absent, silent or out-of-date, granting permission unless:
- 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; or
  - specific policies in this Framework indicate development should be restricted". (\* For example, those policies relating to sites protected under the Birds and Habitats Directives and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, Heritage Coast or within a National Park (or the Broads Authority); designated heritage assets; and locations at risk of flooding or coastal erosion).

179. The City of Durham Local Plan was adopted in 2004 and in terms of the reliance that can be given to its policies it pre-dates the Planning and Compulsory Purchase Act (NPPF paragraph 214/215) and therefore the weight to be applied depends on their degree of consistency with the NPPF.
180. Paragraph 22 of the NPPF (in the “Building a strong, competitive economy” section) states that “Planning policies should avoid long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities”.

#### The emerging County Durham Plan

181. The allocation of the Mount Oswald site for low density B1 employment use has existed for a number of years. The 1988 City of Durham Local Plan allocated the site for research and development institutions, including ancillary offices at Policy I7 (with no more than 3.5 Ha of the site occupied by new development, height not to exceed 8m, and sited in a manor commensurate with the landscape character). As described above, this general approach was brought forward in the 2004 replacement Local Plan. The site has therefore been allocated for low density employment development for over 24 years but in that time there has been limited interest in developing the site for such uses.
182. More recently the development of NET Park near Sedgefield has to a great extent addressed the type of employment development that had been envisaged for Mount Oswald. The site has been the subject of two applications by the same developer in recent years (2007 and 2008). In each case there were serious issues in relation to traffic generation on the site relating to the B1 use, notably at peak times. Indeed, the Highways Agency issued Article 14 Directions \* in relation to their concerns. (\* This in effect prevented the Council from determining the applications unless their concerns had been addressed).
183. In preparing the County Durham Plan Preferred Options document an Employment Land Review was carried out. That assessed Mount Oswald as being of only average quality as an employment site and recommended that it is no longer allocated for this purpose and, subject to demand, replaced with an alternative site that is more likely to be delivered over the Local Plan period up to 2030. In this context the emerging replacement County Durham Plan proposes an allocation of strategic significance at Aykley Heads in the City.
184. The Council is actively engaged in the preparation of a Local Plan for the County and carried out consultation on a “Preferred Options Draft” Plan during September/October/November 2012. In view of the issues described above and in light of the advice in the NPPF it now proposes that the employment allocation for the site be replaced by an allocation for 303 houses (Policy 30) and for purpose built student accommodation (up to 1,000 bed spaces) as part of the wider housing allocation (Policy 10). The current planning application envisages a higher density of development than the current allocation. However, it still represents a low housing density of about 10 units per hectare.



185. Mindful of the advice in the NPPF (paragraph 22) regarding the need to avoid long term protection of employment sites where there is no reasonable prospect of it coming forward, Mount Oswald falls clearly into this category. Furthermore the recognition of highway problems associated with a B1 use on the site, an Employment Land Review suggesting the site is not re-allocated, the development of NET Park, and the proposed allocation of a strategic employment site at Aykley Heads, together with limited developer interest in the site for the allocated use in 24 years, clearly suggests the consideration of alternative future use of the site would accord firmly with guidance in the NPPF.

#### Durham County Council Aspirations, the Regeneration Statement

186. The Council's Regeneration Statement (2012-2022) sets the direction for regeneration and economic development, with the County Durham Plan one of the key documents intended to deliver it. The Statement sets out five key objectives for regeneration of the County, with a "Thriving Durham City" one of five top priorities. This seeks to exploit the City's potential as a major retail, business and residential centre, academic hub and visitor destination, and deliver the cultural and tourism ambitions for the City which will benefit the entire County.
187. The emerging policies of the County Durham Plan follow the direction of the Regeneration Statement by focusing development in Durham City (and other main towns) as a means of raising the economic performance of the City and the County.
188. The Statement includes a number of strands to deliver the thriving Durham City, and these rightly recognise the University as a major asset. The proposal includes a substantial element of student accommodation and this can bring a positive contribution to addressing this need in the City in accordance with the University's own strategy.

#### Departure from Policy & Summary of Planning Policy Principles

189. Policy EMP3 of the City of Durham Local Plan allocates up to 10% of the Mount Oswald site for prestigious office/research development of strategic significance.
190. The accompanying design brief concentrates such development within the northern and south ends of the site with the centre remaining open. NPPF (paragraph 22) states that where there is no reasonable prospect of employment land being developed for that purpose alternative land uses should be considered. The Mount Oswald site has been subject to this allocation for 24 years and has little prospect of uptake. Accordingly, it is reasonable to now consider alternative land uses.
191. Policy E5 (part 2) allows limited development at Mount Oswald provided that it does not exceed the height of surrounding trees, is respectful of its landscape setting, and is of low density that sets aside most of the site for landscaping and open space. The master plan accompanying this application respects these objectives. However, the proposed low density housing in the centre of the site is in conflict with this Policy, therefore the benefits arising are such that a departure can be justified.

192. Very careful consideration has been given to this matter, and it has been concluded that the potential benefits to both Durham City and the wider County are considerable. The provision of a range of high quality family homes, market housing for the elderly, and genuinely aspirational very low density “executive” housing; the provision of 1000 student bed spaces that will both relieve pressure on Durham City housing and enable the University to meet its development aspirations; and the provision of affordable housing at a time of need but reduced funding are all clear benefits. Furthermore, the potential economic investment, job creation, attraction of professional expertise and entrepreneurs, and spending power associated with this development are viewed as being compelling justification from a departure from policy.

### **Loss of Recreational Use**

193. Mount Oswald Golf Course is private land for the functional enjoyment of those who pay to play golf there.
194. The application was accompanied by a Golf Course Assessment which in the absence of any detailed standards for golf provision at either a National or local level or from the English Golf Union sought to demonstrate that closure of the course at Mount Oswald would not lead to a detrimental reduction in golf provision in the locality.
195. The assessment demonstrated through an appropriate methodology, agreed with Sport England, that there is capacity within existing clubs for additional members, with no clubs having any restrictions. Furthermore, there is capacity for pay and play golf, particularly at nearby Cocken Lodge Golf course and Elemore Golf club and additional golfing provision has recently been approved at Ramside Golf Club increasing facilities from 27 to 36 holes.
196. Sport England, the Government agency responsible for creating a “world class community sport environment”, does not object to the loss of this course on the basis that there is an above average provision of golf courses in the area.
197. In terms of broader recreational use the general public can only legally enjoy the application site by viewing it from Mill Lane and Footpath 18, or from other public places such as the A167 and A177, since the site is privately owned.
198. However, the proposed development provides 10.28 ha of public open space (27% of the site area). This represents a significant increase over that which can be freely enjoyed at present and a major safe and accessible environment for the benefit of both the residents of the new development but also the local community.
199. The objectives of Local Plan Policy R3 and, NPPF parts 7 and 8 are therefore considered to have been fully addressed.

### **Affordable Housing**

200. The provision of affordable housing where a need has been identified was previously encouraged through PPS3, and Policy 30 of the RSS requires a range of dwelling types and sizes, including affordable housing and alternative forms of tenure, to meet the needs of all sectors of the community. It is important to remember that the provision of affordable housing is only a

benefit if the site is otherwise considered suitable for residential development in general.

201. The applicant proposes to provide off site affordable housing by means of a Section 106 Agreement at a time when there is an identified need but reduced funding. Local Plan Policy H12 seeks a 30% provision. However, The County Durham Strategic Housing Market Assessment (SHMA) has been updated and the findings incorporated within the “Preferred Options” of the County Durham Plan. Within the former Durham City area, the central delivery area, the target is for 20% affordable housing, subject to the impact on the viability of the scheme.
202. The NPPF (paragraph 173) states that pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.
203. The applicant has confirmed his commitment to provide affordable housing by means of a Section 106 Agreement at the required rate of 20%. This would represent the provision of the equivalent of 58 affordable homes, but given the nature of the site and the mix of uses proposed it is considered that the best way to deliver affordable housing is off-site in another location in the City or surrounds. As such and using the Council’s off-site calculator, this requires a contribution of some £2,0058,990 from the developer to provide the equivalent of 20% affordable housing off-site.
204. This level of housing development provides an opportunity to deliver major benefits by way of meeting the affordable housing needs of the City and its surrounds. In view of the cuts in Government support to fund affordable housing delivery, a contribution of this scale that would enable the 58 affordable units required by policy to be provided, is a major benefit at a time when housing development is struggling to deliver enough value from many sites to make affordable housing viable.
205. The objectives of Local Plan Policy H12, Policy 30 of the RSS and the aspirations of part 6 (paragraph 50) of the NPPF are therefore considered to have been met.

### **Layout, Design and Visual Amenity**

206. The applicant’s vision for this development is shown in the submitted master plan, supported by a visualisation document. This has been carefully considered by the County Council’s Design and Historic Environment and Landscape officers, and subjected to independent design review by NEDRES, *The North East Design Review Enablement Service*.
207. NRDRES carried out an assessment of the proposed master plan for Mount Oswald at the suggestion of officers in order to secure a totally objective and

independent analysis by a design orientated peer group of experts in the fields of architecture, landscape architecture and urban design.

208. Part of the Design Council, and hosted by a partnership between the Royal Institute of British Architects (RIBA) and Northern Architecture, the objectives of NEDRES are to provide impartial design advice, help raise design aspirations, and encourage the adoption of more consistent design standards across the North East of England.
209. In reviewing the Mount Oswald master plan, the NEDRES review panel was particularly looking for:
  - A demonstration through design and use of materials that the scheme was “grounded” in the North East and not simply a design solution “beamed-in” from somewhere else in the country, or even world.
  - Creativity.
  - Where appropriate a demonstration of scheme resilience, with an ability to adapt over time to changing needs, be diverse in their uses, and thereby demonstrate longevity and sustainability in the broadest sense.
210. The panel was made fully aware of the development representing a departure from the Development Plan, and of the significant level of local opposition.
211. NEDRES broadly welcomed the scheme’s vision, recognising the conceptual and philosophical approach that underpins it. The extent of public open space, variety of development zone character, and the “village-like” feel of the Neighbourhood North were particularly singled out for praise.
212. However, it is acknowledged that a “compelling vision” was not shining through from the applicant’s initial submission, and that there was a need to create a graphic image to convey the scheme’s overarching principles. Attention was also drawn to the importance of developing a sustainable public realm and landscape strategy, producing a well-considered Design Code to promote quality and sustainable architecture, the full integration of the University Quarter with the rest of the development, and the merits of a “lifetime” connection between student life and later business activity at Mount Oswald.
213. These details were addressed by the applicant’s designers in the submission of additional information in December 2012 which included a design code for the visually important Central Park area, further information and clarification of the proportions of and an increase in the amount of publicly accessible open space.
214. Combined with the fact that much of the site’s existing woodland and landscape features will remain, and within a comparatively overall low density development, the site’s parkland qualities would be retained and this should ensure a high level of residential amenity for those who will live there.
215. In this respect the objectives of Local Plan Policies E14, E15, E21, E23, E24, E26, H12A, H13, H16, Q1, Q2, Q4, Q5, Q6 and Q8 and part 7 of the NPPF (Requiring good design) are considered to have been met.

### **Access and Traffic**

216. The applicant has submitted a Transport Assessment (TA) to support the outline planning application for development at Mount Oswald which

considers the potential traffic generation and distribution on the existing highway network.

217. Mitigation is proposed to address issues with traffic generation and the TA considers the impact of the proposed residential units together with a 1,000 space student accommodation, conversion of an existing Manor House, a convenience store, doctor's surgery, and small 2000 sq m office development.
218. Production of an acceptable TA has been an iterative process in which Highway officers have advised on the acceptability and suitability of progress at each stage. Negotiation has been on going to arrive at acceptable mitigation and use of County Council Data relating to journey origin and destination, car park demand, and bus travel demand has been provided to assist in accurately assessing impacts. The acceptability of the TA has been considered against the context of the National Planning Policy framework, the saved Durham City Local Plan and the emerging County Durham Plan.
219. The site is in a suitable location to encourage all forms of sustainable transport with its proximity and links to Durham City. It is bound by the principle road network A177 South Road and the A167 from which suitable accesses can be engineered.
220. The A167 and A177 through the City are heavily congested during peak periods and can suffer delay. Of note are the A167 Neville's Cross junction and the A177 New Inn junction. Both junctions are controlled by traffic signals and are constrained by existing buildings and infrastructure which limit capacity. In accepting that these junctions are at or close to capacity at peak period the County Council have worked with the applicants to develop a potential solution that would aim for a 'no worse' case than the present situation.
221. An assessment of traffic generation from the different aspects of the development has been undertaken and the industry standard TRICs database has been used to establish acceptable trip rates. These rates have been checked, verified and agreed.
222. It is proposed that four accesses are formed to the development. The main access would be signal controlled off the A177 South Road; opposite the Park and Ride site which is considered acceptable. A secondary access is to be formed on the A177 which is the location of the current Golf club access and is also acceptable. A third access serving part of the residential development is to be formed at the south end of the A177 South Road. The location for this access is close to a bend in the highways with a double white line system. Exact position of this access would therefore need to be agreed to determine optimum forward visibility. However, in principle it is accepted a safe access could be formed off South Road.
223. An access is proposed to the retail unit and retirement apartments from the A167. Whilst in principle an access to some development could be formed this should be a signal controlled junction with pedestrian facility introduced at that location. This should be a condition of any approval granted.
224. A framework travel plan has been produced by the applicant that sets out the initiatives to be introduced which include appointment of a travel plan co-ordinator for the site, marketing of sustainable travel including introductory offer of free bus travel vouchers, and establishment of a car club. The

framework travel plan makes a commitment to sustainable travel and is supported through a financial commitment by the developer.

225. To achieve a 'no worse' situation for traffic levels on the existing and future road network it will be necessary to introduce a form of mitigation which can accommodate the generated traffic. It is not possible to increase capacity at the sensitive junctions on the network due to physical constraints of the highway and surrounding infrastructure. Mitigation therefore is in the form of travel planning and trip banking where existing trips on the network are removed through improvements to sustainable travel measures and as a result these trips can be replaced by the development generated traffic.
226. The developer has proposed to develop a strong travel plan package of measures to address the development generated trips and to encourage trips currently on the network to change to more sustainable modes. A package of measures is proposed which could lead to a change in trip type. These are centred on improvements to walking and cycling infrastructure and enhancement to the successful Durham Park and Ride scheme.
227. Currently the Park and Ride serves the south west of the city and accommodates students from the Howland's campus. Students are offered a discounted fare from the Park and Ride site to the City Centre. As a result the service faces high peak hour demand from students.
228. It is proposed to divert the Park and Ride facility to the new development. To enable this to be achieved it will be necessary to increase capacity of the Park and Ride service. This would include both the number of buses and frequency of the service. As student car ownership and use will be restricted by the University at their facility, traffic generation from the student accommodation will be low. However, student demand for Park and Ride travel would increase and enhancement of the service would be an appropriate approach to address the potential increase in student demand.
229. The proposal therefore includes an increase in frequency and number of Park and Ride buses supplemented by an extension of the route from Howlands Park and Ride to the City Centre, then onwards linking to Sniperly Park and Ride. This offers the potential to intercept trips heading to and through the City. It is important that enough capacity for an increased parking demand can be provided to serve the improved Howlands to Sniperly route. A contribution is proposed to allow additional parking space for up to 70 vehicles to be provided to increase capacity when required.
230. Improving the Park and Ride facility provides the potential to attract more users to the service. These users would include residents and students on the development but also existing drivers who may choose to take advantage of an improved linked service to Sniperly Park and Ride. An analysis of existing trip data has been undertaken and the number of potential trips that could be intercepted has been estimated. From this data the number of additional parking spaces that would be required has been determined. It is considered Sniperly currently has capacity to accommodate additional trips to Howlands from the north.
231. A trip generation and financial model have been prepared by the developer which considers the additional cost for an improved service including development and delivery of a travel plan for the site, employment of a travel plan co coordinator, and provision of infrastructure and facilities aimed at

promoting and encouraging use of the improved Park and Ride facility. The financial model considers the phasing of the development and potential increases in demand with increased bus services being required at Years 2, 3 and 4 of the development phasing.

232. An additional 3 buses would be needed to serve the development when complete. The developer will commit to financing the travel plan measures and an improved Park and Ride service through the S106 Agreement to which an addendum has been made setting out the level of contribution. The level of contribution is based on assumptions which if realised will ensure a successful intervention and removal of trips from the network. The assumptions are based on predicted interception of traffic which could use the service and predicted generation of income from fare paying passengers using the new service. If either prediction is incorrect the County Council will carry the risk of not delivering. Risk would include lack of revenue to support the service and potential increases in traffic.
233. The application has predicted an interception rate of 50% of existing traffic travelling between zones in the City which the Park and Ride will serve. This has also made assumptions about potential revenues generated from fares. These assumptions have been considered and risk and potential outcomes should interception rates not be realised or revenue not be generated. If either scenario arises the County Council will be in a position to take action either through increased travel plan measures and/or reducing service provision and costs. It is important that some existing trips on the network can be replaced with development generated trips. It is considered that these proposed travel planning measures can achieve this and that the City can benefit overall by improved Park and Ride services.
234. In considering these issues account has been taken of the NPPF which encourages a presumption in favour of sustainable development. It also sets out as a core planning principle the need to '*actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable*'. The proposed development is considered to meet this core principle.
235. The NPPF also states '*Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe*'. Subject to the Section 106 agreement and Travel Plan measures being adhered to, it is considered that the impacts of the development could not be considered severe.
236. The proposal is therefore considered to accord with Policies T1, T7 and T21 of the saved Policies from the City of Durham Plan and the Councils Highway officer is satisfied that enhancement of the park and ride service together with increased parking provision and a strong travel plan can mitigate the impact of generated traffic from the development.

### **Landscape and Visual Impact**

237. The planning application includes a section which outlines the likely landscape and visual impacts of the development including the impact on trees. The site has been surveyed and a database of trees compiled. Some

trees are protected by TPO and of these one tree is recommended for removal because of its poor condition and short life expectancy.

238. A landscape and visual impact assessment (LVIA) has been carried out to determine the effect that the proposals would have on the landscape and the character and visual amenity of the surrounding area taking into account key viewpoints.
239. The result of the LVIA which the Council's Landscape officer has acknowledged, is that the proposed development would be mainly contained by the existing topography, built development and mature tree belts, and as a result would not have a significant effect upon the amenity of the wider setting and appreciation of important local features such as the World Heritage site, areas of high landscape value or the green belt.
240. The LVIA proposes a mitigation strategy based upon the retention and enhancement of key landscape features supplemented by new native tree, shrub and hedgerow planting, particularly along the new areas of public open space boundaries and main access routes and streets.
241. The proposed development would involve the loss of some areas of upstanding ridge and furrow earthworks which originate from the 18th or 19<sup>th</sup> Centuries. Whilst these add interest and character to the landscape they are not significant in landscape heritage terms and their loss is considered of minor importance to the wider landscape character.
242. A representative area of ridge and furrow could be retained by incorporating elements into the open spaces within the development, in the south east of the site.
243. Subject to these requirements the landscape impacts of the proposed development are considered acceptable and meet the objectives of Policies E14, E15, Q5 and Q6 of the Local Plan and parts 7 and 11 of the NPPF.

## **Conservation**

244. The existing Mount Oswald Manor house is a grade II listed building and an important part of the whole development site. However, it does not form part of the current submission and there are no submitted proposals included at this stage whilst discussions continue regarding future uses. Nevertheless it is necessary as part of the assessment of the current proposal to consider the impacts upon the setting of this important Heritage Asset.
245. The layout of the proposed development as shown on the master plan indicates that significant areas of open space would frame the setting of the Listed Building. This would be within an appropriate context, retaining important trees and providing views and vistas from the areas of proposed built development that enhance its contribution towards the attractive parkland setting of the overall site.
246. Both the Council's own Design and Historic Environment officers and English Heritage have acknowledged the acceptable relationships of the proposed development to the Manor House. This element of the proposals is therefore considered to accord with Policy E21 of the Local Plan and Policy 8 of the RSS and parts 7 and 12 of the NPPF.



## **Archaeology**

247. An initial desk top study and geo physical study has been undertaken of the site to assess its potential for archaeology. There is no ancient monument on or near to the site. However, there is evidence of prehistoric and Roman occupation within the surrounding area and potential for this to extend onto the application site.
248. The area lies beyond the probable limits of the medieval settlement of Durham, and was likely to have been moorland in this period, later becoming Elvet Moor. The moor may have been used as a temporary settlement during the 16<sup>th</sup> Century plague in Durham and there is potential for remains relating to this to exist on the site.
249. The archaeological information submitted with the application has been examined by the Council's Archaeologist who is satisfied with the approach taken so far and recommends further investigatory work which forms part of the schedule of suggested planning conditions.
250. This element of the proposals is considered to accord with Policy E24 of the Local Plan and part 12 of the NPPF.

## **Ecology**

251. The key likely ecological impacts in terms of changes to habitats and the effects on birds, bats, newts and other protected species has been surveyed and reported as part of the application submission.
252. Surveys have identified 30 different species of bird meaning that the site is of local importance for bird habitat. The survey work has also shown that there are no large bat roosts located within the site (except the Manor House) but there are small numbers of temporary bat roosts in individual trees. A badger survey also revealed there would be no setts lost or disturbed as part of the development.
253. The County Ecologist accepts the submitted mitigation Strategy designed to protect wildlife and their habitats at Mount Oswald and the objectives of Local Plan Policies E14 and E21 and part 11 of the NPPF are therefore considered to have been addressed.

## **Sustainability**

254. The Mount Oswald site presents a good opportunity for innovative sustainable design because of the size of the site and the variety of forms of development proposed. At this stage the details of sustainable design are not finalised because the proposal is at the outline application stage.
255. Opportunities for combined heat and power, solar thermal, ground source heat pumps, and photo voltaic cells to roofs would all be possible and appropriate to consider at the detailed design stage.
256. The combination of these technologies has the capability to meet and significantly exceed the target of 10% renewable energy generation on site and thereby meet the requirements of Policy U14 of the Local Plan, Policy 2 of the RSS and the core principle of the NPPF of achieving sustainable development.

## **Flood Risk and Drainage**

257. The proposal contains proposals for the drainage of surface water and foul water including a flood risk assessment. There is less than a 1 in 1000 annual probability of river or sea flooding in any year. Nevertheless, it is necessary to avoid exacerbating flood risk elsewhere.
258. It has been agreed with the Environment Agency that the surface water discharge should be restricted to the equivalent of an agricultural run-off. A system of sustainable urban drainage would be introduced to ensure this is achieved. The system will include a series of swales and two large balancing ponds at low points within the site. In the Central Park area the detached houses would have soak- away systems for rainwater.
259. It is anticipated that the foul water will discharge into the university sewage treatment works. These works have sufficient spare capacity to accommodate approximately 60% of the foul flows from the proposed development before upgrading works are implemented. The application proposes a build out rate for development prior to the upgrade. It would be necessary to construct one foul pumping station in the south east portion of the site.
260. The Environment Agency has offered no objections to this proposal, requiring only that the pond be protected. Northumbrian Water accepts the applicant's approach to the site's drainage as contained within the submitted Foul Drainage Strategy Report. Adherence to that Strategy, and the safeguarding of Northumbrian Water apparatus running through the site would be required by planning condition.
261. The objectives of Local Plan Policy U8A and part 10 of the NPPF are therefore considered to have been addressed.

## **Ground Conditions**

262. The site lies within an area where coal is believed to exist at or close to the surface, which may have been worked in the past. Coal seams exist between 70m and 230m below ground level but since the last remaining activity took place in 1951 ground movement associated with historical workings should have ceased.
263. Historical plans do not suggest deep made ground is present however, upon the advice of the Coal Authority further ground investigation would be carried out before detailed proposals are formulated and required by planning conditions and this would accord with the principles of Policy Q1 of the Local Plan.

## **Air Quality**

264. The planning application includes an assessment of the potential local air quality impacts of the proposed development. Durham City has an Air Quality Management Area (AQMA) which is of prime concern but there are additional areas which may be close to inclusion within the AQMA. As part of application submission 38 locations were modelled to predict increases in nitrogen dioxide (NO<sub>2</sub>).

265. Fifteen of the modelled receptor locations were predicted to exceed the annual mean objective (irrespective of whether the development goes ahead). The greatest predicted air quality impact of the proposed development was predicted to be at Church Street and South Road. Using the established criteria the change in NO<sub>2</sub> is considered to be “small”. Near the Nevilles Cross junction, the change in annual mean concentration predicted to occur on Darlington Road was also small and a slight adverse impact. In all other locations, the changes in annual mean NO<sub>2</sub> concentration were predicted to be imperceptible.
266. Vehicle emissions will improve in the future due to engine emission legislation. This will coincide with the implementation of the development. The proposal to provide additional capacity in the park and ride system will mitigate air quality impacts as well as transport impacts.
267. Taken together these proposals are considered to meet the objectives of Policy Q1 of the Local Plan and part 8 of the NPPF.

### **Phasing of Development**

268. It is inevitable that a development of this size and diversity would not be brought forward by one builder in one phase. Whilst it is not possible to be definitive about phasing the applicant anticipates that the first phase of development would see the construction of 400 student bed spaces, 57 houses in Neighbourhood South and an initial release of several units within Central Park, taking around two years to complete.
269. Green infrastructure would be provided along with built development throughout the life of the site but it is hoped that significant early provision could be made enabling enhanced access to the site.
270. Given the time periods involved for implementation and submission of detailed or Reserved Matters submissions the use of the ‘standard’ planning condition requiring these to be submitted within 3 years of the grant of outline planning permission could present a significant hindrance to bringing forward future phasing of the development and require costly and unnecessary renewal of the planning permission on a regular basis. The Government has recognised this very problem when exploring ways of speeding up the planning process and boosting economic growth in its 2009 guidance ‘Greater Flexibility for Planning permission’.
271. Given the circumstances relating to this development it is considered that a period of 7 years could reasonably be justified for the submission of Reserved Matters details rather than the usual 3 years.

### **Other Issues Raised**

272. As a significant large scale major development proposal this application has raised a number of detailed and technical issues and comments from a wide section of the community who are either, or both, resident in the area, use the existing facilities, or are representatives of local commerce and industry. These are all described in detail within the main body of this report.
273. Having regard to all of these views consideration of the proposal requires the competing policy and technical issues, demands and impacts to be carefully

balanced. In this respect it is therefore appropriate to also consider the benefits the scheme would bring to the area. These are listed as follows:

- Contributing to a thriving Durham City in line with the County Durham Plan
- Increased public access to the site and to the wider green infrastructure of the Wear Valley.
- Relieving pressures on local communities by providing student accommodation in a campus location.
- Supporting affordable housing through developer contributions.
- Providing much needed community facilities in the south of the City such as shops, medical, recreational and meeting place
- Increasing public transport provision in the area.
- Restoring the listed Manor House for a sustainable use
- Bio-diversity enhancements
- Approximately 120 full time jobs during construction and approximately 100 spin off jobs in the local economy.
- Approximately 116 full time jobs embedded within the development in offices, retail and health centre
- Attracting entrepreneurs to Durham who will generate new employment
- £5 million New Homes Bonus over six years and Council Tax of £800,000 per annum.

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## **CONCLUSION**

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274. This proposal for outline planning application with access details (all other matters reserved) for a mixed use development comprising 291 dwellings, to include specialist market housing for the elderly, student accommodation, office, retail, community uses and associated infrastructure has the potential to bring many benefits to both the City and wider County. However, significant levels of concern have been expressed regarding the scale of development and the change in the site's nature that would result.
275. In planning policy terms the scheme's acceptability comes down to an assessment of whether the benefits of the scheme justify a departure from adopted Local Plan Policy EMP3. Such a judgement must be made against the background that the site has been allocated for prestigious employment use for a period of 24 years within two successive Local Plans and that aspiration is now most unlikely to be ever fulfilled.
276. It has been concluded that little weight can be attached to the emerging County Durham Plan in respect of its mixed use allocation for residential and University development due to the scale of objections, and in relation to advice within the NPPF. However, the Plan's aspirations do indicate a direction of travel by the County Council. With this in mind, the proposal has been assessed against existing development plan policies in the light of NPPF advice, and it has been concluded that the objectives of Local Plan Policy E5 (part 2) remains relevant in respect of low density development, with most of the site being set aside for landscaping and open space.
277. This proposal comprises low overall density development, and includes significantly more useable public open space than is currently the case at the private golf course. However, whilst the development proposed in Neighbourhoods North and South is of a nature and scale that could be in conflict with Policy E5 (part 2), across the site as a whole the majority of land

is proposed to be open space or private landscaping in keeping with the aspirations of Policy E5 (part 2).

278. The current business park allocation is most unlikely to be fulfilled, while the Council's Employment Land Review has concluded that the site should not be retained as an employment allocation. It must therefore follow that alternative land uses cannot be dismissed, and their benefits must be weighed against a policy departure.
279. The Development Brief that forms part of adopted Local Plan Policy EMP3 accepts development across the northern and southern parts of Mount Oswald, so measured against that Brief only the very low density central area housing has been added.
280. In carefully balancing the benefits of this proposal against its dis-benefits, officers have taken full account of concerns raised regarding the loss of a golf course, and impact upon open space, local highways, school places, and such issues as ecology and flood risk.
281. Developer contributions have been offered to mitigate highway and school place impact, whilst additional sums have been offered to provide 58 off-site affordable homes at a time when Government funding is being reduced yet need remains high. An additional sum would also be provided for community benefits, more specifically a new community building at Lowes Barn.
282. Sport England has, significantly, accepted the loss of the golf course; whilst in respect of open space it can reasonably be argued that the proposed scheme offers more functional public open space than there at the moment, given that the space currently associated with the golf course is private.
283. Concerns surrounding other matters such as ecology and flood risk have been taken fully into account and addressed by appropriate specialists, and due weight has been attached to their conclusions.
284. The benefits of this proposal are considerable. Durham University would be supported in its objective of remaining one of the country's leading seats of learning, while pressure on the City's housing stock from student lets would be significantly reduced. Truly aspirational executive housing would be provided in a prestigious location, and a mix of market housing, including that for the elderly, would be developed within interconnected neighbourhoods of distinctive and individual identities with associated community and retail facilities. Fifty eight Affordable homes would be provided off-site.
285. The master plan governing the site's development has been independently reviewed and found to be creative and sustainable, and through planning conditions and a Design Code a development visually worthy of its sensitive location is achievable.
286. Members will be aware that the relevant legislation permits the decision maker to make decisions contrary to the Development Plan in force for the area. In this case it is therefore concluded that the potential benefits to both Durham City and the wider County, in terms of economic investment, employment retention and creation, conclusively outweigh any perceived harm to the character and appearance of Mount Oswald, justifying a departure from Local Plan Policies EMP3 and E5 (Part 2) of the City of Durham Local Plan. Furthermore, if the benefits of the scheme that have

been advanced are accepted as outweighing its disadvantages, the presumption in favour of sustainable development advanced in the National Planning Policy Framework ( NPPF) would apply strongly in its favour.

287. It is not considered that any of the objections received to the proposed development comprise reasons to justify refusal of the scheme. Rather it is considered that any of the negative impacts of the proposal can be adequately mitigated against through a combination of the proposed Section 106 Planning Obligation and appropriate planning conditions.
288. In accepting that such a departure from Local Plan policy can be justified, referral to the Secretary of State would not be necessary as it does not fall within those circumstances requiring referral as defined by paragraphs 3-8 of the Town and Country Planning (Consultation) (England) Direction 2009.

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## **RECOMMENDATION**

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That the application be **APPROVED** subject to the following conditions and to the conclusion of an appropriate legal agreement under the provisions of Section 106 of the Town and Country Planning Act 1990:

1. Approval of the details of appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be obtained from the local planning authority before the development is commenced.

*Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.*

2. Application for approval of reserved matters must be made not later than the expiration of seven years beginning with the date of this permission, and the development must be begun not later than the expiration of three years from the final approval of the reserved matters, or in the case of approval on different dates, the date of approval of the last of the reserved matters to be approved.

*Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.*

3. The development hereby approved shall be carried out only in accordance with the approved plans and specifications contained within:

- Masterplan Layer-Topography (PA06a)
- Masterplan Layer-Movement Framework (PA07a)
- Masterplan Layer-Landscape Framework (PA08a)
- Masterplan Layer-Drainage (PA09a)
- Masterplan Layer-Bio-diversity (PA10a)
- Masterplan Layer-Character Areas (PA11a)
- Masterplan Layer-Public Realm (PA12a)
- Masterplan Layer-Highways and Adopted Roads (PA13a)
- Masterplan Layer-Landmarks & Scale (PA14a)
- Green Infrastructure Strategy (PA17a)
- Public Park Land in Durham (PA29a)

Detailed Access Proposal (PA20)  
Detailed Proposal Central Access (PA23)  
Planning Application Boundary (PA02)  
Masterplan Movement Framework (PA07a)  
Masterplan Layer Drainage (PA09a)  
Masterplan Layer Bio-Diversity (PA10a)  
Masterplan Layer Highways and Adopted Roads (PA13a)  
Masterplan Layer Landmarks and Scale (PA14a)  
Indicative Masterplan (PA15a)  
Green Infrastructure Strategy (PA17a)  
Northern Access Cross Sections (PA21)  
Cultural Heritage Plan (PA26)  
New Gateway to Manor House (PA30)  
Sketch of Proposed Green Screen on A167 South West Boundary (AJT 672.08c)  
Central Area Landscape Design Code (AJT 672.10c)  
Central Area Landscape Design Code Sections (AJT 672.11a)

*Reason: To meet the objectives of Policies E5.2 & E26 of the City of Durham Local Plan 2004*

4. No vehicular access shall be taken from the A167 until a signal controlled junction design, incorporating a pedestrian facility, is submitted to the Local Planning Authority and agreed in writing with that Authority. The access shall be constructed in accordance with that agreement and not brought into use until fully completed.

*Reason: In the interests of highway safety, in accordance with the objectives of Policy T1 of the City of Durham Local Plan 2004.*

5. The recommendations contained within the submitted Travel Plan (AECOM Transportation February 2012) shall be carried out and fully implemented in full accordance with the recommendations of that plan.

*Reason: In the interests of minimising traffic generation and encouraging sustainable travel, in accordance with the objectives of Policy T1 of the City of Durham Local Plan 2004.*

6. The proposed vehicular access from the A177, as shown in submitted drawing PA22 (Southern Access to A177), shall not be constructed until the exact positioning has been agreed with the Local Planning Authority, and an amended design submitted to, and approved in writing by, that Authority. Thereafter the access shall be constructed in accordance with that agreement and not brought into use until fully completed.

*Reason: In the interests of highway safety, in accordance with the objectives of Policy T1 of the City of Durham Local Plan 2004.*

7. Prior to the submission of a reserved matters/full application the developer must undertake an agreed programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority. The strategy shall include details of the following:
  - i) The proper identification and evaluation of the extent, character and significance of archaeological remains within the application area, as

- identified by the geophysical survey, evaluation to be undertaken following outline planning permission being granted,
- ii) An assessment of the impact of the proposed development on any archaeological remains identified during the trial trench evaluation phase;
  - iii) Proposals for the preservation in situ, or for the investigation, recording and recovery of archaeological remains and the publishing of the findings, it being understood that there shall be a presumption in favour of their preservation in situ wherever feasible;
  - iv) Sufficient notification and allowance of time to archaeological contractors nominated by the developer to ensure that archaeological fieldwork as proposed in pursuance of i) and ii) is completed prior to the commencement of development permitted in the area of archaeological interest; and
  - v) Notification in writing to the County Durham Principal Archaeologist of the commencement of the archaeological works and the opportunity to monitor such works.

*Reason: In accordance with the objectives of Policy E24 of the City of Durham Local Plan 2004 as the area has archaeological potential.*

8. A copy of any analysis, reporting, publication or archiving required as part of the mitigation strategy shall be deposited at the County Durham Historic Environment Record within one year of the date of the completion of the archaeological phase of work associated with this development.

*Reason: To comply with paragraph 141 of the NPPF which requires the developer to record advance understanding of the significance of a heritage asset to be lost, and to make this information as widely accessible as possible.*

9. Mitigation measures contained within the submitted Mount Oswald Bat Report (March 2012), Mount Oswald Protected Species Report (September 2011), Mount Oswald Badger Report (November 2011) and Mount Oswald Breeding Bird Report (November 2011), prepared by Baker Shepherd Gillespie Ecological Consultants shall be carried out and implemented in full accordance with the recommendations of those reports.

*Reason: To comply with the objectives of Policy E16 of the City of Durham Local Plan 2004.*

10. The submitted Surface Water Drainage Strategy (Shadbolt Consulting February 2012) shall be carried out and implemented in full accordance with that report, and in particular surface water run-off generated by the site shall be limited to 4.4 l/s per hectare of the developed area.

*Reason: in accordance with the objectives of Policy U8A of the City of Durham Local Plan 2004.*

11. No development shall commence until a scheme for the incorporation of artistic elements within the scheme's buildings, spaces and landscapes has been submitted to, and agreed in writing by, the Local Planning Authority. Thereafter the agreed scheme shall be carried out and implemented in full accordance with that report.

*Reason: In accordance with the objectives of Policy Q15 of the City of Durham Local Plan 2004.*



12. No development shall commence until a scheme for the provision and management of 5 metre wide buffer zone alongside the pond has been submitted to, and agreed in writing by, the Local Planning Authority. Thereafter the development shall be carried out and implemented in full accordance with that scheme. The buffer zone shall be free of any built development, including lighting, domestic gardens or formal landscaping, and should form a vital part of green infrastructure provision. The scheme shall include:

- i) plans showing the buffer zone's extent and layout,
- ii) details of any proposed planting scheme
- iii) details of any proposed footpaths, fencing, and lighting
- iv) details demonstrating how the buffer zone will be protected during development and managed and maintained in the long term, including a management plan, financial provision, and named responsible body.

*Reason: Development that encroaches on ponds has the potential for severe impact and loss of wildlife, in accordance with Policy E16 of the City of Durham Local Plan 2004 and paragraph 109 of the NPPF.*

13. No development shall commence until a strategy for the protection or avoidance of Northumbrian Water equipment passing through the application site has been submitted to, and agreed in writing by the Local planning Authority in consultation with Northumbrian Water. Thereafter, development shall be carried out and implemented in full accordance with the agreed strategy.

*Reason: In the interests protecting essential of statutory undertaker equipment.*

14. Prior to the commencement of the development a scheme to minimise energy consumption shall be submitted to and approved in writing by the local planning authority. The scheme shall consist of energy from renewable or low carbon sources provided on-site, to a minimum level of at least 10% of the total energy demand from the development, or an equivalent scheme that minimises carbon emissions to an equal level through energy efficiency measures. Thereafter the development shall be carried out in complete accordance with the approved scheme prior to first occupation and retained so in perpetuity.

*Reason: In the interests of sustainable construction and energy generation in accordance with the aims of Policy 38 of the Regional Spatial Strategy for the North East.*

15. Prior to development commencing, a construction working practices strategy that includes (but not exclusively) dust, noise, and light mitigation; tree protection; compound location; traffic management and hours of working, shall be submitted to, and agreed in writing by, the Local Planning Authority. Thereafter construction will take place in full accordance with that agreement.

*Reason: In the interests of public health, highway safety and amenity, in accordance with the objectives of Policies E14 and T1 of the City of Durham Local Plan 2004.*

16. The existing trees and hedges on the site shall be retained and shall not be felled, lopped or topped without the written consent of the Local Planning Authority. Any trees removed without such consent or dying or being severely damaged or becoming seriously diseased shall be replaced in the same

position with trees of the same species and, as nearly as possible, of the same maturity as those removed having regard for current arboricultural practice.

*Reason: In the interests of visual amenity in accordance with Policy E14 of the City of Durham Local Plan 2004.*

17. That before development commences, agreement shall be reached with the Local Planning Authority regarding those trees, shrubs and hedges which shall be retained. These shall be properly fenced off from those parts of the land to be developed and shall remain so protected, as agreed with the said Authority, until the cessation of building works. Details of this fencing shall be submitted to and approved in writing by the Local Planning Authority.

*Reason: In the interests of visual amenity in accordance with Policy E14 of the City of Durham Local Plan 2004.*

18. No development shall commence until intrusive site investigation works are undertaken to establish the need for any remedial works to areas of shallow mine working, ensuring by establishing the coal mining legacy of the site. Any remedial works identified by the site investigation shall be carried out prior to any development taking place.

*Reason: To ensure that the application site is safe and stable for the approved development, as required by paragraph 121 of the National Planning Policy Framework.*

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## **REASONS FOR THE RECOMMENDATION**

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- I. The development of the site for a mixed use comprising housing, student accommodation, office, retail and community uses represents a departure from Policies EMP3 and E5 (part 2) of the City of Durham Local Plan 2004. However, the proposal is in a location that is suitable, sustainable and accessible and with clear economic benefits, is fully in accordance with key Government objectives as contained within the National Planning Policy Framework, parts 1, 4, 6, 7, 8, 10, 11 and 12.
- II. The proposals will not cause significant effects to highway safety, residential amenity, or harm to interests of flora and fauna, significant loss of open space and where impacts have been identified these can be mitigated either through planning conditions or requirements of a section 106 Planning Obligation. The proposals provide for an acceptable level of Affordable Housing and make provision for sustainable transport initiatives and additional educational provision in the area. As such the proposals are considered to comply with Policies: E5, E5A, E14, E15, E16, E21, E23, E24, E26, H12, H12A, H13, H16, C3, Q1, Q2, Q6, Q8, Q15, R3, T1, T5, T7, T8, S7, U8A, U14 of the City of Durham Local Plan 2004 and Policies 1, 2, 3, 4, 7, 8, 9, 24, 28, 29, 30, 35, 38, 39 and 54 of the North East of England Plan – Regional Spatial Strategy to 2021.
- III. The application has attracted substantial amount of public opposition, particularly in respect of the loss of a golf course, loss of open space, and traffic generation. These concerns have been taken fully into account by both the Local Planning Authority and its external specialist advisors, and it has

been concluded that there would remain sufficient golf course provision within the area, more publicly accessible open space than is currently the case would be made available, and a substantial financial contribution towards Park and Ride will mitigate highway impact.

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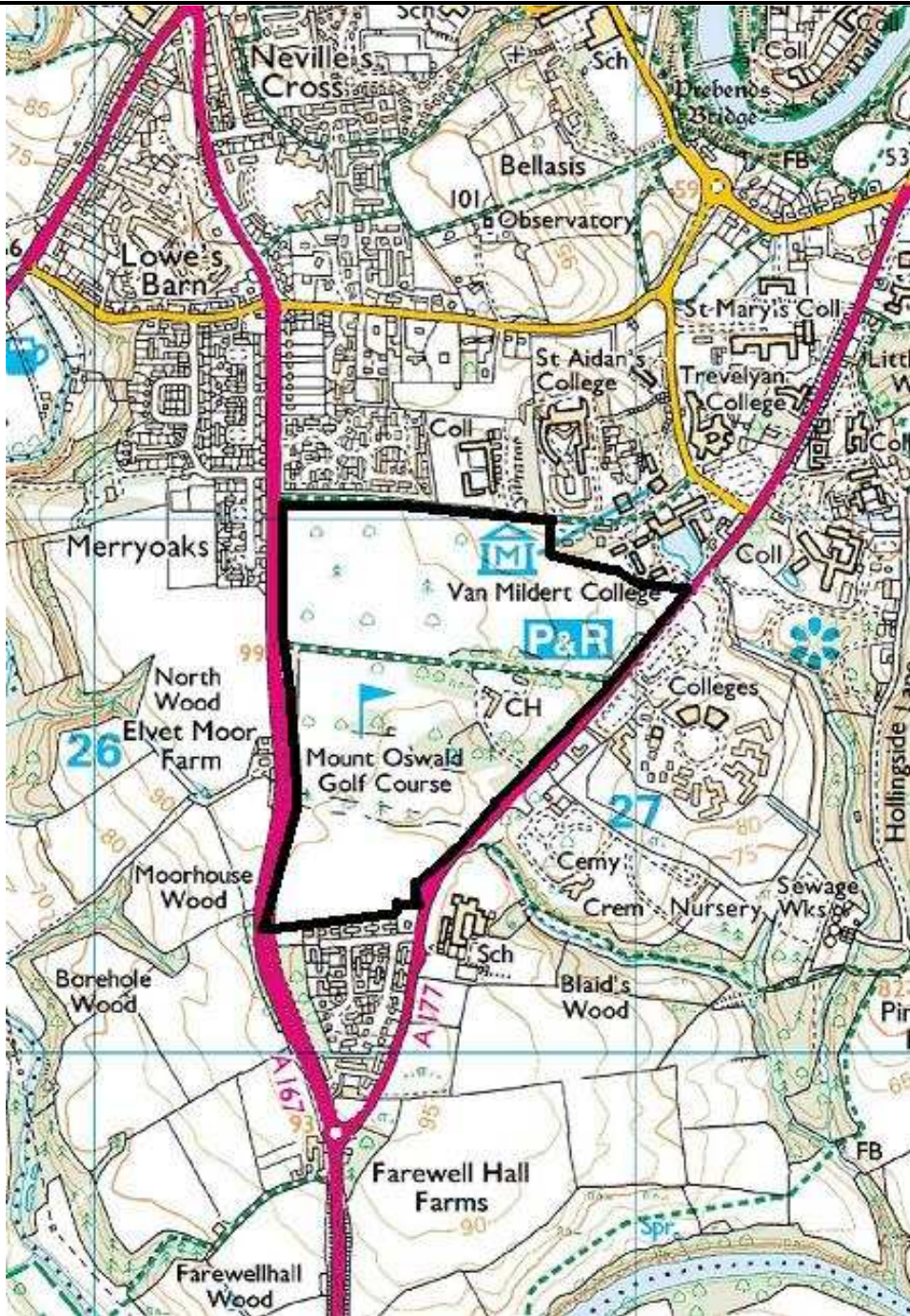
## **STATEMENT OF PROACTIVE ENGAGEMENT**

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The Local Planning Authority in arriving at its decision to support this application has, without prejudice to a fair and objective assessment of the proposals, issues raised, and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (*Statement in accordance with Article 31(1) (CC) of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012.*)

### **BACKGROUND PAPERS**

- Submitted application form, plans, supporting documents and subsequent information submitted by the applicant.
- National Planning Policy Framework (2012)
- North East of England Plan Regional Spatial Strategy to 2021 (RSS) July 2008
- City of Durham Local Plan 2004
- Durham County Council Regeneration Statement (2012-2022)
- Durham County Plan “Preferred Options Draft”
- Town and Country Planning (Consultation) (England) Direction 2009
- Statutory, internal and public consultation responses.



**Planning Services**

CMA/4/83

Outline planning application with access details (all other matters reserved) for a mixed use development comprising 291 dwellings, to include specialist market housing for the elderly, student accommodation, office, retail, community uses and associated infrastructure at Mount Oswald Golf Course, South Road, Durham, DH1 3TQ

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**Comments**

**Date** February 2013

**1:10,000 (approx)**