

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/21/04262/FPA
FULL APPLICATION DESCRIPTION:	9 no. dwellings and alterations to existing access road
NAME OF APPLICANT:	The Banks Group Ltd.
ADDRESS:	Mount Oswald Golf Club South Road Durham DH1 3TQ
ELECTORAL DIVISION:	Neville's Cross
CASE OFFICER:	Steve France Senior Planning Officer Telephone: 03000 264871 steve.france@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site, within the Mount Oswald estate is at the southern extent of Durham City, 1.4 miles from the City centre. This wider development site bounded by the A167 to the west and A177 South Road to the east, these highways converging at the Farewell Hall roundabout and two existing housing developments, one from the 1960s which forms the south boundary of the new Mount Oswald estate development, the other within it. The estate was historically formed of the parkland around Mount Oswald, a grade II listed building, latterly used as a golf club. The immediate remaining parkland around the listed building is included on the list of Local Historic Parks, Gardens and Designated Landscape, the proposal's site access passing through this. The developable area of the site itself lies outside, and south of this designation.
2. Within the Mount Oswald development, immediately north of this application site is a very large, detached dwelling, currently under construction in the estate's former walled garden, with the listed house currently subject to a scheme of extension and conversion to a public 'history centre' beyond this. These two developments share the first 50m of the access to the proposed housing development. This access, from South Road passes between two gate houses and the estate wall, these listed by association with the manor house, both in very poor condition, but benefitting from an existant approval for conversion/rebuild in a scheme for a single dwelling and outhouse.
3. West of and facing the current proposed development is an earlier phase of new housing development also within the estate grounds, served by a part adoptable and part private drive cul-de-sac: five dwellings in Fowler Wynd. The separation distances from these to the proposed development exceeds 50m, including 30m of public open

space and the two access roads. South of the development are two small areas of mature woodland, both benefitting from Tree Preservation Orders. South-east of and separating the two components of the site is large SuDS basin, with planting now established around it and passed by a communal part-implemented footpath link. South again, beyond the trees, Richardby Crescent fronts another completed area of new residential development within the estate. These two earlier phases of development consist wholly of large two storey detached dwellings.

4. The red-lined application site extends to 1.15ha in area and is currently formed of undulating grassland in two parts, separated by the landscaped SuDS feature pond referred to above, and joined by the part completed access road, which then extends beyond, as far as the shared vehicular access from South Road to the Manor House, this access framed by the aforementioned gatehouses.

The Proposal

5. This proposal was submitted in February 2022 as a development of 12 detached dwellings, with a cluster of 4 dwellings closest the site entrance and a cluster of 8 in the further land parcel. Reduced to a scheme of 9 dwellings during the course of the application, the amendments replace the cluster of 4 dwellings with a single large house in the east part of the site. All dwellings are detached, two storey and face outwards into the surrounding estate parkland. The required spur to the access road that will serve this development has already been set out, although some changes to specification are proposed.
6. The grouped dwellings include modern interpretations of vernacular detailing, attached garages and large rear gardens, resulting in a lower density of development than the surrounding phases. All outward facing, this part of the scheme will sit as a small cell within the remaining parkland, surrounded by trees and open grassland.
7. The single unit accrues consistency with the overall proposal through the materials palette but presents a more contemporary elevational approach. A dropped and varied eaves line makes windows projecting into the roof-slope a feature. With accommodation proposed above the three-bay attached garage, this dwelling is T shaped in layout. This plot sits above the SuDS feature bracketed by woodland to the north, and the roadside trees of South Road/A177 to the southeast, from where it will be partly visible.
8. The application as submitted was directed to be considered by Committee as a 'major' housing scheme as for more than 10 units and on the basis of the site area. The amended/reduced scheme is now for 9 units but maintains the same site area.

PLANNING HISTORY

9. The development of the Mount Oswald estate was granted outline consent (8/CMA/4/83) in 2013 with an illustrative masterplan for a development of up to 291 dwellings, student accommodation, office, retail, a community hub and associated infrastructure. The outline consent allowed for submission of reserved matters applications until February 2020. The implications of this consent are still material for planning conditions and obligations, albeit that consent has effectively lapsed as far as this part of the site is concerned.

10. DM/15/03555/VOC Varied condition 3 (approved drawings) pursuant to planning permission CMA/4/83, approving a revised masterplan that includes landscape and drainage modifications in May 2016.
11. DM/15/03734/VOC varied condition 1 pursuant to DM/15/03555/VOC in relation to Phase 1 of the development, with alterations to hard and soft landscaping, layout, and substitution of house-types on plots 18, 19, 21 and 39 (amended description) in August 2016.
12. DM/16/04087/FPA approved the 'Installation of temporary construction access road' to phases 4a, 4b and 5 – the latter being the current development site.
13. Planning application DM/17/00453/RM was granted consent under delegated powers in August 2017 for 'Upgrade of existing Manor House access road, provision of pedestrian access, and creation of private access road to serve 5 development plots'.
14. DM/17/02688/FPA approved erection of 5 Dwellings in March 2018. There were no public representations. Determined before the adoption of the County Plan and the Neighbourhood Plan, the application was concluded to give a modest boost to housing land supply at a time when the Council's position for that had not been, with weight given to some economic benefits in providing high quality, executive homes within the City.

PLANNING POLICY

NATIONAL POLICY

15. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
16. *NPPF Part 2 - Achieving sustainable development.* The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
17. *NPPF Part 4 - Decision-making.* Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
18. *NPPF Part 5 – Delivering a wide choice of high-quality homes.* The Government advises Local Planning Authority's to deliver a wide choice of high-quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities.
19. *NPPF Part 8 – Promoting healthy and safe communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive

communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.

20. *NPPF Part 9 – Promoting sustainable transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
21. *NPPF Part 11 Making Effective Use of Land.* Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously developed or 'brownfield' land.
22. *NPPF Part 12 Achieving Well-Designed Places.* 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.
23. *NPPF Part 14 – Meeting the challenge of climate change, flooding and coastal change.* The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
24. *NPPF Part 15 - Conserving and enhancing the natural environment.* Planning policies and decisions should contribute to and enhance the natural and local environment.
25. *NPPF Part 16 - Conserving and Enhancing the Historic Environment.* Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
26. *NPPF Part 17 – Facilitating the Sustainable Use of Minerals –* Highlights the need to safeguard mineral resources including through the use of Mineral Safeguarding Areas and Mineral Consultation Areas.

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

NATIONAL PLANNING PRACTICE GUIDANCE:

27. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality; historic environment; design process and tools; determining a planning application; flood risk; healthy and safe communities; land affected by contamination; housing and economic development needs assessments; housing and economic land

availability assessment; light pollution; natural environment; neighbourhood planning; noise; open space, sports and recreation facilities, public rights of way and local green space; planning obligations; travel plans, transport assessments and statements; use of planning conditions; and; water supply, wastewater and water quality.

<https://www.gov.uk/government/collections/planning-practice-guidance>
<http://planningguidance.planningportal.gov.uk/>

LOCAL PLAN POLICY:

The County Durham Plan

28. *Policy 1 - Quantity of Development* outlines the levels of employment land and housing delivery considered to be required across the plan period.
29. *Policy 6 - Development on Unallocated Sites* supports development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
30. *Policy 15 Addressing Housing Need* notes the need to increase the range and quality of housing provision within the County and with regard to meeting the needs of older people and people with disabilities.
31. *Policy 19 Type and Mix of Housing*. Advises that on new housing developments the council will seek to secure an appropriate mix of dwelling types and sizes, taking account of existing imbalances in the housing stock, site characteristics, viability, economic and market considerations and the opportunity to facilitate self build or custom build schemes.
32. *Policy 21 Delivering Sustainable Transport* states that all development shall deliver sustainable transport by (in part) ensuring that any vehicular traffic generated by new development, following the delivery of sustainable transport measures, can be safely accommodated on the local and strategic highway network and does not cause an unacceptable increase in congestions or air pollution and that severe congestion can be overcome by appropriate transport improvements.
33. *Policy 22 Durham City Sustainable Transport*. Seeks to reduce the dominance of car traffic, address air quality and improve the historic environment within the Durham City area.
34. *Policy 25 Developer Contributions*. Advises that any mitigation necessary to make the development acceptable in planning terms will be secured through appropriate planning conditions or planning obligations. Planning conditions will be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning obligations must be directly related to the development and fairly and reasonably related in scale and kind to the development.

35. *Policy 26 Green Infrastructure.* States that development will be expected to maintain and protect, and where appropriate improve, the County's green infrastructure network. Advice is provided on the circumstances in which existing green infrastructure may be lost to development, the requirements of new provision within development proposals and advice in regard to public rights of way.
36. *Policy 29 Sustainable Design* Requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out detailed criteria which sets out that where relevant development is required to meet including; making a positive contribution to an areas character and identity; provide adaptable buildings; minimise greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; providing suitable landscape proposals; provide convenient access for all users; adhere to the Nationally Described Space Standards (subject to transition period).
37. *Policy 31 Amenity and Pollution* Sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
38. *Policy 32 Despoiled, Degraded, Derelict, Contaminated and Unstable Land* states [in part] that development will not be permitted unless the developer can demonstrate that the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact on the environment, human health and the amenity of local communities.
39. *Policy 35 Water Management.* Requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water.
40. *Policy 36 Water Infrastructure.* Advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and waste-water infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
41. *Policy 39 Landscape* states that proposals for new development will be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views and that development affecting valued landscapes will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of the development in that location clearly outweigh the harm.

42. *Policy 40 Trees, Woodlands and Hedges* states that proposals will be expected to retain existing trees where they can make a positive contribution to the locality or to the development, maintain adequate standoff distances between them and new land-uses, including root protection areas where necessary, to avoid future conflicts, and integrate them fully into the design having regard to their future management requirements and growth potential.
43. *Policy 41 Biodiversity and Geodiversity* states that proposal for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or as a last resort, compensated for.
44. *Policy 43 Protected Species and Nationally and Locally Protected Sites*. Development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts upon locally designated sites will only be permitted where the benefits outweigh the adverse impacts. Appropriate mitigation or, as a last resort, compensation must be provided where adverse impacts are expected. In relation to protected species and their habitats, all development likely to have an adverse impact on the species' abilities to survive and maintain their distribution will not be permitted unless appropriate mitigation is provided or the proposal meets licensing criteria in relation to European protected species.
45. *Policy 44 Historic Environment*. Seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.
46. *Policy 45 Durham Castle and Cathedral World Heritage Site*. Both are designated heritage assets of the highest significance. New development should sustain and enhance the significance and be based upon Outstanding Universal Value, protecting and enhancing it in the immediate and wider setting and important views across, out of and into the site. Harmful development is only permitted in wholly exception circumstances.
47. *Policy 56 Safeguarding Mineral Resources*. Sets out that planning permission will not be granted for non-mineral development that would lead to the sterilisation of mineral resources within a Mineral Safeguarding Area unless certain exception criteria apply.
48. *Residential Amenity Standards Supplementary Planning Document (Amended 2022)* sets out guidelines for separation distances and minimum garden lengths on new development.

The above represents a summary of those policies considered relevant. The full text, criteria, and justifications can be accessed at: <http://www.durham.gov.uk/article/3266/Development-Plan-for-County-Durham> (Adopted County Durham Plan)

City of Durham Neighbourhood Plan

49. *Policy S1 - Sustainable Development Requirements of all Development and Re-development Sites Including all New Building, Renovations and Extensions* - seeks to sets out the economic, social and environmental criteria that development proposals will be required to meet to: Promote economic well-being, to Conserve, preserve and

enhance the neighbourhood, to increase resilience to climate change, and secure equity and benefit to the local community.

50. *Policy H1 - Protection and Enhancement of the World Heritage Site* - requires development within the Durham Cathedral and Castle World Heritage Site to sustain, conserve and enhance its outstanding universal value and support the current adopted management plan. Development within the WHS must take account of the historical and present uses of the site, propose high quality design, use appropriate materials and seek balance in respect of scale, density, massing, form, layout, landscaping and open spaces. Development proposals within Our Neighbourhood will need to sustain, conserve, and enhance the setting of the WHS where appropriate, by carrying out an assessment on how the development will affect the setting, including views to and from the WHS, protect important views and take opportunities to open up lost views and create new views and vistas.
51. *Policy H3 - Our Neighbourhood Outside the Conservation Areas* - requires development outside of Conservation areas to, where appropriate, demonstrate an understanding of the area of the proposed development and its relationship to the Neighbourhood area as a whole. Development should sustain and make a positive contribution to the character and distinctiveness of the area and avoid the loss of open space that contributes to quality and character, to have high quality design, to be appropriate in terms of scale, density, massing, form, layout, landscaping and open spaces and use appropriate materials and finishes.
52. *Policy G1 - Protecting and Enhancing Green and Blue Infrastructure* - seeks to support developments that retain existing green or blue assets with significant recreational, heritage, cultural, ecological, landscape or townscape value and developments that provide additional green or blue assets, particularly if there is an identified deficiency. Any new or replacement assets must be appropriate to the context and setting. The policy requires developments to protect and enhance public rights of way and footpaths and green corridors. It offers support to proposals that provide net gains for biodiversity. The policy requires features of geological value to be protected. The policy seeks to protect and enhance the banks of the River Wear by supporting proposals with desirable access that do not have significant impacts on current assets. The policy also seeks to protect dark corridors by ensuring developments minimise lighting in such areas.
53. *Policy D2 - Housing for Older People and People with Disabilities* - requires 10% of housing to be appropriate for older people on sites of 10+ homes or over 0.5ha. Housing schemes that are solely for older people would be supported. Provision should be close to shops and services or public transport with appropriate footpaths and pavements.
54. *Policy D3 - Affordable Housing* - requires 25% of housing to be affordable on sites of 10+ homes or over 0.5ha unless an off-site contribution is justified or deemed appropriate by the LPA.
55. *Policy D4 - Building Housing to the Highest Standards* - states all new housing, extensions and other alterations to existing housing should be of high-quality design relating to the character and appearance of the local area, aesthetic qualities, external and internal form and layout, functionality, adaptability, resilience and improvement of energy efficiency and the reduction of carbon dioxide emissions. New residential development should meet the Building for Life 12 standards provided for in County Durham Building for Life Supplementary Planning Document (2019).

56. *Policy T1 - Sustainable Transport Accessibility and Design* - seeks to ensure that development proposals will be required to demonstrate best practice in respect of sustainable transport accessibility, impact and design.
57. *Policy T2 - Residential Car Parking* - supports developments with or impacting on car parking provided that car parking is designed to reduce vehicle movements on residential streets and is in designated bays or small groups separated by landscaping or features and designed with safety in mind. Consideration should be given to communal off-street parking for dwellings without garages. Any EV requirements should not hinder movement by pedestrians or disabled people and should be in keeping with area character. The policy supports the use of car clubs. Should the parking demand require parking controls these will need to be funded through developer contributions.
58. *Policy T3 - Residential Storage for Cycles and Mobility Aids* - requires residential development including change of use to seek to provide storage facilities for cycles and, where appropriate mobility aids. Cycle parking should meet DCC standards and should be adaptable for other types of storage with access to electricity. Where there is communal storage and a travel plan this should be managed appropriately in terms of removal and capacity needs. Design and location of storage should accord with the style and context of the development

The above represents a summary of those policies considered relevant. The full text, criteria, and justifications can be accessed at:

<https://www.durham.gov.uk/media/36020/Durham-City-adopted-neighbourhood-plan/pdf/DurhamCityNeighbourhoodPlan.pdf?m=637738120004600000>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

59. *Highways Development Management* - From a Highways perspective, this proposal is considered acceptable. The addition of traffic from 9 houses would not have a material impact on the local road network.
60. It is noted that there has been objection to the proposed construction traffic route. The proposed construction route is an established construction route which has operated for a number of years, in which time there has been no recorded accidents. It is considered that this route is preferable and safer than the only alternative which would be from the Gatehouse on South Road: here, the road is only single carriageway and is unable to be widened - this route would create the potential for an unacceptable road safety risk of conflict between vehicles and pedestrians.
61. *Coal Authority* – has confirmed no objection to the proposals as the content and conclusions of the Ground Investigation Report (July 2016), and the professional opinions of the report authors set out therein, are sufficient for the purposes of the planning system and meets the requirements of the NPPF (paras. 183 and 184) in demonstrating that the application site is, or can be made, safe and stable for the proposed development.

INTERNAL CONSULTEE RESPONSES:

62. *Affordable Housing* – after extended discussions with the applicants and in the absence of proposed property values from the developer, using a standard calculator

and recent property prices in the immediate area, Housing Officers advise a sum of £418,095 represents the figure required to provide for off-site provision, this allowing for a standard profit margin in line with current practice of 17.5%.

63. *Archaeology* – There is no objection to this scheme.
64. *Design and Conservation* - the amended plan to include one larger unit in the area closest to the driveway is considered a better approach to the site edge than the previous proposal. In addition, a corner turning unit is now proposed at the eastern edge of the site however this approach has not been applied to the corner units addressing the highway within the western parcel. It is noted that the architectural approach has not changed significantly from the previous proposal. As stated previously, it is disappointing given the bespoke contemporary nature of the previously approved scheme.
65. *Drainage and Coastal Protection* - advise approval of the proposed surface water sustainable solution, and the development should be constructed in accordance with the Drainage Impact Assessment. We would however advise the permeable paving construction detail (wrapped type) is included in the document.
66. *Ecology* – A scheme to achieve Biodiversity Net Gain (BNG) within the wider estate is achievable, although there will be implications for the proposed landscaping. The requirements to ensure delivery, management and monitoring over the required 30-year period can be secured in this instance by condition as the works are in the immediate vicinity and in the control of the applicant.
67. *Landscape* – There are detailed requirements for additional planting to the rear of the main development area and to soften the proposed estate railings boundary of the single dwelling that can be ensured through imposition of an appropriate planning condition. There has been some tension between the proposals for BNG and the estate landscape proposals and it must be ensured that the delivery within the wider estate of the ecology requirements does not undermine the agreed general landscape and amenity space plans.
68. *Spatial Policy* – This site is within a larger housing commitment on the southern edge of Durham City within the built-up area, and although the site is part of an existing outline planning permission, it is not allocated for housing within policy 4 of the County Durham Plan (CDP). The site is a small parcel of land within the larger site which has outline permission for 291 units, with reserved matters approvals granted on a number of phases within the site and the site has been under construction for a number of years. This application will need to be determined against policy 6, which deals with development of housing on unallocated sites. This states that the development of sites which are within the built-up area will be permitted provided the proposal accords with all relevant development plan policies and the criteria within the policy.
69. The site has previously had permission for 5 dwellings, and this application proposes a further 7 on a marginally larger footprint, increasing the density of the development. Therefore, the key issue is whether the units would comply with criteria c and d of policy 6 in terms of the impact on the approach to the development, and on the woodland area and listed building.
70. Policy S1 of the Durham City Neighbourhood Plan will also need to be considered, which sets out a number of principles to ensure sustainable development for all development and re-development sites, including all new buildings. Most relevant to this proposal would be criterion c and d. Criterion c requires development to harmonise with its context in terms of scale, layout, density, massing, height, materials,

colour, and hard and soft landscaping; and criterion d requires proposals to conserve the significance of the setting, character, local distinctiveness, important views, tranquillity and the contribution made to the sense of place by designated and non-designated heritage assets. These will be key considerations to this proposal.

71. Requirements are also identified for Open Space, as required by Policy 26, where for a development of this size, a contribution of £15,651.90 has been identified as required – 9 units being likely to generate a minimum of 19.8 people (based on 2021 census data of 2.2 persons per household), the methodology identifying a required payment of £790.50 pp – therefore $19.8 \times £790.50 = £15,651.90$.
72. *Trees* – have asked that existing trees located adjacent and overhanging gardens should be adequately protected, with protective measures put in place prior to development in accordance with the relevant British Standard.
73. *Environmental Health (Contamination)* – write to confirm they are satisfied with the findings of the submitted reports. They have no adverse comments to make. There is no requirement for a contaminated land condition. An ‘informative’ is suggested in case unexpected contamination is encountered in the build process.

EXTERNAL CONSULTEE RESPONSES:

74. *Northumbrian Water* - have no issues to raise with the application, provided it is approved and carried out within strict accordance with the submitted document / drawing entitled “Drainage Impact Statement”. A condition is suggested.
75. *NHS Healthcare Trust* – When consulted on the scheme for 12 units, confirmed no funds were required. Reconsulted for the reduced scheme, it was noted that the development now falls below the threshold for assessment.
76. *The Police Architectural Liaison Officer* – offers standard advice on Construction Site Security as part of the Designing Out Crime initiative.

PUBLIC RESPONSES:

77. A total of 40 consultation letters were sent out and an advertisement posted in the local press. In response there have been 6 representations, 7 objections and 5 letters of support. The objectors include the City of Durham Parish Council, The City of Durham Trust, Mary Foy MP, County Councillor Elizabeth Brown, the Mount Oswald Residents Association, and individual letters from 14 addresses.
78. *City of Durham Parish Council* - Whilst the developer has reduced the number of proposed dwellings from 12 to 9, this application clearly fails to meet the primary and stated object for this small section of the Mount Oswald estate: to create properties whose energy needs are primarily met using their own renewable energy and do not rely on external supplies, primarily imported from hydrocarbon sources. This application site currently benefits from planning permission for the development of 5 dwellings designed to provide an exemplar low-energy development and set itself apart from a sustainability perspective. Objection is raised that the scheme, ‘clearly fails the important policy test set out at CDP Policy 29 as well as DCNP Policies G1, D4 and S1’.
79. *City of Durham Trust* - describe the history of the Mount Oswald approval and the place if this site within it with a promise of innovative high sustainable design. The Trust consider existing residential development on the Mount Oswald development to be

lacking distinctiveness and futureproofing for sustainability. The lack of character derived from the parkland setting is a significant disappointment as is the response to the sustainability requirements, with conflict set out with Policies 29 of the CDP and S1, H3, G1 and D4 of the CDNP.

80. *Mary Foy MP* - writes to support the Residents' Association concerns for Health and Safety and Highway Safety on the construction access road.
81. *Councillor Elizabeth Brown* - objects on a number of grounds: the construction road is now used by existing residents and in also crossing a right of way represents a danger to pedestrians and children playing in the area and a compromise to residential amenity. Infringing into the open space next to South Road, the proposal compromises views across the site. The previously approved scheme proposed built to Passivhaus standards has been replaced with 'bog standard dwellings with not a nod? to sustainable energy among them'. There is conflict with CDP Policies 29 and 31 and CDNP Policies S1, H3, G1 and D4.
82. *Mount Oswald Residents' Association* - request review of the use of the existing construction access road, with residents reporting near misses, damage to street furniture, obstruction of the public right of way for pedestrians and cyclists. The use of the construction track is presented as a danger to residents and children in particular, creating unacceptable disturbance over an extended unspecified period, noting breaches of restrictive conditions controlling this aspect in the past.
83. Public objectors oppose the continued use of the existing construction access track referred to by Cllr. Brown, and any further restrictions that may be put in place for construction use to facilitate the development. The quality of housing proposed will be lessened, with this already compromised by other built elements. The housing cannot be described as 'low carbon'. A higher density of development will reduce the perception of remaining open space. There is no affordable or specialist housing on the Mount Oswald development site.
84. In support of the application, correspondents support the delivery of high quality, architect designed homes by a County Durham based company – meaning the economic benefits will 'most likely be retained within the county'. A greater number of dwellings in the development will give more people the opportunity to live on the development whilst the proposal is still low density compared to the wider development. The low density will help integrate into the parkland setting. This scheme when completed will allow for the removal of the existing construction access track, and the full implementation of the approved landscape strategy which will be welcomed by all residents.
85. Representations neither supporting nor objecting to the application question energy efficiency and sustainability elements of the scheme. Concern is raised for the route of the temporary construction access and a lack of adherence to date of restrictions imposed on site traffic and operating hours, along with requests for delivery of the park in the submitted Landscape Masterplan for all residents' use.

APPLICANT'S STATEMENT:

86. This site at Mount Oswald presents a fantastic opportunity to deliver very high-quality new homes in Durham City. The Banks Group has taken the lead role in delivering the wider Mount Oswald site over the last ten years in order to ensure that components come forward in a sympathetic and coherent manner. We are now starting a house

building arm of the company, and this will be our flagship scheme in a location near to our Durham headquarters.

87. Notwithstanding the existing permission on this site, we see considerable benefit in a nine-house scheme. These homes will still be very generously proportioned executive homes with a bespoke design. The new permission will have several additional benefits for the local area. It will:
- Provide £418,095 for new affordable housing in the City of Durham
 - Provide additional areas of bio-diversity net gain at Mount Oswald
 - Provide £15,651 for public open space provision in the local area
 - Include photo-voltaic solar panels on the roofs to generate renewable energy as well as electric charging points in each home.
88. We intend to start work on site this year and include the sensitive redevelopment of the historic gatehouses in the building project. Completion of the project will enable a temporary access route to be removed and reinstated as public parkland which local residents are eager to see happen.
89. Overall, we are proud to put forward this outstanding group of houses and look forward to delivering them along with the remaining elements of Mount Oswald.

The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=R4ELN5GD0ER00>

PLANNING CONSIDERATIONS AND ASSESSMENT

90. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with advice within the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to: the principle of the development, highway safety and access, the detailed layout and design of the development, landscape and visual impact, residential amenity, ecology, and public open space, and other matters.

Principle of the Development

The Development Plan

91. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) is the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035. The City of Durham Neighbourhood Plan 2020-2035 was 'made' in June 2021 and provides another layer to the 'Development Plan' for assessment of applications within its defined boundaries, setting out a vision and objectives, and a raft of planning policies and proposals for land use.

92. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means: 'approving development proposals that accord with an up-to-date development plan without delay.'
93. This planning application now proposes the erection of 9 units, amended from a scheme of 12. The site sits within the wider development of the Mount Oswald estate that was granted Outline consent in 2013 and has been subject to the expected series of Reserved Matters applications to build out the detailed elements that were expected from the Masterplan. Planning permission was granted in March 2018 on the part of the site subject to this application for an innovative scheme of highly sustainable dwellings, prefabricated in Sweden, with a contemporary appearance.
94. The current application is for erection of 9 detached units of a more standard appearance and construction. These will better integrate with the existing buildings on the immediately surrounding Mount Oswald Development, but they are not the sustainable and innovative scheme previously envisaged and approved. The proposals must be considered on the basis of their own merits and cannot be refused on the basis that a previous proposal may be preferable.
95. The principle of development lies within Policy 6, which requires proposals that are not allocated, but within the built-up area to be assessed against a list of detailed criteria, including being compatible with the use of adjacent land, in not resulting in the loss or contributes to the character of open land that has recreational, ecological or heritage value, and is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement. The implications for criteria e and f of Policy 6 and highway safety / transport sustainability will be considered below.
96. Through the Masterplan, the Outline consent and the previous approvals, most of these issues have already been accepted for residential development on both elements of the site in principle. A higher density of development – albeit of smaller units is proposed. Facing out onto the remaining and new parkland features, the proposed development is a more standard form of development, and thereby reflects surrounding elements of the newly built surroundings better than the previously approved scheme would have in terms of scale and character – notwithstanding the obvious advantages of that scheme. The development is concluded compliant with these and other requirements of Policy 6. Where these requirements overlap into other policies, such as for trees and historic environment, they are assessed in detail below.

Highways Safety and Access

97. Policies 6 and 21 of the County Plan require that development should not be prejudicial to highway safety or have a severe cumulative impact on network capacity. It also expects developments to deliver well designed pedestrian routes and sufficient cycle and car parking provision. Similarly, Policy 29 advocates that convenient access is made for all users of the development together with connections to existing cycle and pedestrian routes. Policies T1, T2 and T3 of the Neighbourhood Plan have requirements for Highways sustainability, residential car parking and cycle / mobility aid storage. The NPPF sets out at Paragraph 110 that safe and suitable access should be achieved for all people. In addition, Paragraph 111 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts on development are severe.
98. The site is located towards the southern extent of Durham City, within the context of existing residential properties, as the Mt Oswald re-development progresses to completion. Although the site lies beyond easy walking distance of many facilities, the

site has a good internal footpath layout and connections, along with excellent cycling and public transport. The site lies within 400m of Howlands Park and Ride site, which offers a bus service into the city centre at up to 10-minute frequency, as well as within walking distance of bus stops on the, providing regular access to the City centre, Chester-le-Street, Newcastle upon Tyne, Bishop Auckland and Darlington. The Duke of Wellington and New Inn Public Houses and several schools lie within 1km and could conceivably be accessed on foot. Overall, the site is considered to be established as a locationally sustainable site for housing. This is considered to bring consistency with the requirements of Policy T1 of the Neighbourhood Plan and Policy 21 of the County Plan and paragraphs 92 in part 8 and 104d in part 9 of the Framework.

99. The application meets required parking standards and therefore the requirements of Policy T2 of the Neighbourhood Plan and 21 of the County Plan.
100. Each of the proposed dwellings has a private garage, allowing for cycle storage, bringing consistency with Neighbourhood Plan Policy T3 and Policy 21 of the County Plan.
101. A condition is proposed to ensure the promised and Policy required EV parking is delivered before any dwelling is occupied.
102. Highways Officers consider the proposals acceptable. The addition of traffic from 9 houses would not have a material impact on the local road network.
103. Highway Officers have paid special regard in their comments to the fact there has been significant objection to the proposed construction traffic route. They consider the proposed construction route is established and has operated for a number of years, in which time there has been no recorded accidents. It is considered that this route is preferable and safer than the only alternative which would be from the Gatehouse on South Road, a single carriageway which is unable to be widened: this route would create the potential for an unacceptable road safety risk of conflict between vehicles and pedestrians.
104. The access road is present as a result of approval DM/16/04087/FPA which required the temporary construction access road to be removed and the land reinstated, 'within 6 months of the occupation of final dwellings within Phases 4a, 4b or 5'. Phases 4a and 4b are complete. Phase 5 is the current application site.
105. New site operations including construction vehicle access are proposed to be controlled through conditions in a Construction Management Plan which will give the Council as Local Planning Authority control over elements of the construction process which can include, delivery hours, vehicle sizes, road cleaning and similar as considered appropriate. It is proposed to reiterate the technical requirements of DM/16/04087/FPA for clarity and the benefit of site staff and contractors in this development site. This will also provide a clear single document for Planning Monitoring/Enforcement use. It is hoped this further control will give existing residents comfort that this aspect of the scheme can be controlled, although the nature of the operation is that some disruption is inevitable. It must be controlled to the level where any disruption is reasonable.
106. As pointed out by supporters, once this part of the site is developed the need for the contentious construction route will fall away and the pedestrian / cycle routes proposed in that area around a focal area of public open space can finally be delivered to the benefit of all residents.

107. Ultimately paragraph 111 of the Framework advises that, Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Acknowledging residents' concerns, Officers in accepting the Highways advice, conclude that the proposals are acceptable in this regard, acknowledging that this conclusion will depend on close monitoring of site operations, hence more detailed requirements than usual in the suggested Construction Management Plan condition.

Layout and Design

108. Policy 6 of the County Plan requires that development is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement, and Policy 29 of the CDP outlines that development proposals should contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities. Policy H3 of the Neighbourhood Plan requires development to meet a set of criteria including: making a positive contribution to the character and distinctiveness of the area, using high quality design, having scale, density, massing, form, layout, appropriate to the context and setting of the area, and using appropriate materials and finishes for the area. Parts 12 and 15 of the NPPF also seek to promote good design, while protecting and enhancing local environments. Paragraph 130 of the NPPF also states that planning decisions should aim to ensure developments function well and add to the overall quality of the area and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit.
109. It is acknowledged that the previously approved scheme provided a higher level of design quality and innovation, but this is not relevant to the current assessment despite being a disappointment to both objectors, including the local Ward member, and the Design Officer. The applicant has also made comparisons – but only so far as showing a comparison between the footprints of the approved and proposed schemes.
110. The Design Officer acknowledges for the reduction in the number of units proposed that 'the amended plan to include one larger unit in the area closest to the driveway is considered a better approach to the site edge than the previous proposal. In addition, a corner turning unit is now proposed at the eastern edge of the site however this approach has not been applied to the corner units addressing the highway within the western parcel. The reduced density on the South Road boundary by degree addresses a concern of the Ward Member. The proposed dwellings are large, detached units, incorporating some basic, if generic references to vernacular architecture complimented by the proposed consistent materials palette, albeit with a slightly confused approach to fenestration. The larger unit does have a contemporary approach and detailing but ensures consistency by the use of common materials. The quality of design must be assessed – as set out in Policy D4 of the CDNP – in the context of 'the character and appearance of the local area'. In this assessment the proposals meet the wording if not necessarily the higher aspirations of this Policy. That Policy also requires comparison with the Building for Life BfL12 assessment tool (now updated to Building for a Healthy Life), with the scheme considered to perform generally well, with any lower 'scores' relating to having a 'memorable character' mitigated by the parkland setting and the quality of the surrounding environment. The scheme falls below the threshold set for BfL Panel assessment in the County Plan.
111. The development proposed does sit as a low-density element – despite the increase in numbers over the approved scheme – in the parkland setting of the estate and accrues some character from this.

112. Considered on its own merits, the scheme meets the requirements of the above policies for a high quality if standard approach of scheme that reflects the character and quality of surrounding existing development. The scheme must be considered on its own merits and in the context of these surroundings. That it falls below the standard of the exemplar development previously approved is not considered of material weight in the determination of this stand-alone application. Officers conclude the scheme does meet the standards required in CDP Policies 6 and 29, CDNP Policies H3 and D4, and Parts 12 and 15 of the NPPF.

Residential Amenity

113. Policies 29 and 31 of the CDP outline that developments should provide high standards of amenity and privacy, minimise the impact of development upon the occupants of existing adjacent and nearby properties and not lead to unacceptable levels of pollution. A Residential Amenity Standards Supplementary Planning Document (SPD) has also been adopted and recently updated by the Council. The policies and SPD can be afforded significant weight. Parts 12 and 15 of the NPPF, which require that a good standard of amenity for existing and future users be ensured, whilst seeking to prevent both new and existing development from contributing to, or being put at risk from unacceptable levels of pollution.
114. Guidance within the SPD advocates separation distances of 21m between facing principal elevations on two storey development and 13m between principal and two storey gable elevations. There are no implications for levels on this site. Gardens should be at least 9m in length. The site layout shows that required separation distances between proposed and existing dwellings in the development meet required standards and Policy compliance is concluded.
115. Residential amenity requirements extend in Policy 29 to requiring all new residential development to comply with the Nationally Described Space Standards (NDSS) and in Policy 15 to meeting the Needs of Older People and People with Disabilities for major developments. Similar requirements are included in Policy D2 of the Neighbourhood Plan, but with an alternate threshold: including sites of 0.5ha or more. These policies are informed by part 5 of the Framework that requires new development to deliver a wide choice of high-quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities
116. The size of the proposed units is such that NDSS requirements are met in the type 3 and type 4 units. The submitted Planning Statement contends house type 4 can achieve the aspiration of the policy to increase the housing options of older people. No further detail or evidence is provided. It is considered reasonable to require the developer to provide evidence that at least one of the dwellings is configured to allow easy conversion to a 'housing products (sic) that meet the specific needs of a multi-generational family', for example through additional electric and waste connections to allow for easy conversion for future ground floor separate living accommodation.
117. The above approach is considered to appropriately secure the Policy requirements of CDP Policies 15, 29 and 31, CDNP Policy D2 and Parts 12 and 15 of the NPPF.

Landscape and Visual Impacts

118. Policy 39 of the County Durham Plan states proposals for new development will be permitted where they would not cause unacceptable harm to the character, quality or

distinctiveness of the landscape, or to important features or views. Proposals would be expected to incorporate appropriate measures to mitigate adverse landscape and visual effects. Policy 26 outlines developments are expected to provide new green infrastructure and ensure provision for its long-term management and maintenance. Similar requirements are outlined in Policy 29. Policy 40 seeks to avoid the loss of existing trees and hedgerows unless suitable replacement planting is provided. Parts 12 and 15 of the NPPF promotes good design and sets out that the planning system should contribute to and enhance the natural and local environment.

119. In the Neighbourhood Plan, Policy G1 states that 'Any new or replacement green or blue assets should be appropriate to the context, having regard to the landscape, townscape and ecology of the locality and where appropriate the setting of heritage assets'.
120. Landscape Officers have identified areas immediately adjacent the site that require improvements to planted areas for landscape benefits. Discussed and agreed in principle, these can be secured by an appropriate condition or legal agreement. It should be noted that the landscape requirements and Ecology requirements for the site are not necessarily compatible, as will be discussed below.
121. Again, the scheme will sit as a low density, prominent element, surrounded by open space within the surrounding, higher density housing scheme, in doing so reflecting the parkland setting by degree. Whilst the scheme presented again suffers in comparison with what has been approved before, it must be considered on its own merits and in the context of its current surroundings. The Landscape and visual impacts are concluded acceptable and Policy compliant on the basis that a condition can be imposed to agree the detailed delivery of new planting.
122. The reduction in the number of proposed units reduces the density of the scheme when viewed from the A177 South Road, a concern of the local member,
123. Tree Officers have asked that existing trees located adjacent and overhanging gardens should be adequately protected, with protective measures put in place prior to development in accordance with the relevant British Standard. This can be achieved by condition.
124. With development on the site having been both proposed as part of the original masterplan and more recently approved in detail, that the effect on the landscape is concluded acceptable is noted as consistent with previous assessments of the site. Support is also given from CDP Policies 26, 39 and 40, CDNP Policy G1 and Parts 12 and 15 of the NPPF.

Ecology

125. Policies 26, 35, 41 and 43 of the CDP seek to secure net gains for biodiversity and coherent ecological networks. Policy 43 relates to protected species and nationally and locally protected sites. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them. Policy G1 offers support to proposals that provide net gains for biodiversity.
126. The application as first submitted included baseline biodiversity information but did not demonstrate that it would provide net bio-diversity gain. Recent discussions have examined a range of options for providing the required gain on and off-site. These have evolved to a proposal that has identified potential areas for the required amount of gain on the Mount Oswald development site (the preferred approach), which does

not conflict with existing expectations of local residents or existing landscape typologies. Ecology Officers are satisfied that an acceptable scheme could be achieved. Alternatives that were considered to potentially compromise use of the proposed park area were rejected, as were different proposals for planting in areas that were considered to conflict with existing planting and landscape features.

127. The developer has ultimately shown that sufficient and appropriate area exists within the Mount Oswald development to achieve a net biodiversity gain to meet Policy compliance. This can be achieved by a condition to require a s.39 agreement to ensure submission of a Biodiversity Implementation, Monitoring and Maintenance Plan – the latter for a standard 30-year period – and a negative covenant in the s.106 agreement preventing commencement until this document has been submitted and agreed and the S39 is completed.
128. Subject to this formal agreement and suggested conditions, the scheme is considered compliant with Policies 26, 35, 41 and 43 of the CDP and Part 15 of the NPPF.

Flooding and Drainage

129. Policies 35 and 36 of the CDP relate to flood water management and infrastructure. Policy 35 requires development proposals to consider the effects of the scheme on flood risk and ensure that it incorporates a Sustainable Drainage System (SuDS) to manage surface water drainage. Development should not have an adverse impact on water quality. Policy 36 seeks to ensure that suitable arrangements are made for the disposal of foul water. National advice within the NPPF and PPG with regard to flood risk advises that a sequential approach to the location of development should be taken with the objective of steering new development to flood zone 1 (areas with the lowest probability of river or sea flooding). When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere.
130. Council Drainage officers have advised for surface water implications that the SuDS solution shown in the submitted Drainage Impact Assessment should be ensured constructed adding that a permeable paving construction detail should also be included. A condition to ensure compliance with the specified document and the additional detail request is considered to bring compliance with CDP Policy 35.
131. For foul drainage requirements Northumbrian Water have no objection to the proposal, suggesting a condition to ensure compliance with the approach set out in the submitted Drainage Impact Statement. Officers consider this expedient would bring CDP Policy 36 compliance.

Infrastructure and Open Space

132. Policy 26 of the CDP outlines that new residential developments will be required to make provision for open space to meet the needs of future residents having regard to the standards of open space provision set out in the Open Space Needs Assessment (OSNA).
133. The applicants argue that this has already been provided through the phased delivery of the Mount Oswald Masterplan which sets out an open space strategy with 16 hectares of Green Infrastructure including 4 hectares woodland. The current application is however submitted in the form of a stand-alone application that must be assessed independently and on its own merits – mitigating its own harms and demands. Policy Officers have therefore identified a requirement for a contribution for

Open Space provision under Policy 26 of £15,651.90. This is proposed secured through a s.106 legal agreement. Said contribution will off-set and mitigate demands from new residents that is not met by the proposals for a range of open space typologies.

134. Policy G1 of the Neighbourhood Plan states, 'Development proposals which avoid the loss of existing green or blue assets with significant recreational, heritage, cultural, ecological, landscape or townscape value will be supported. Where the loss of green or blue assets of significant value is unavoidable then alternative equivalent provision should be provided on-site or off-site where this is not viable or practicable'. 'The above list includes open spaces. An open space is defined as any open piece of land that is undeveloped (i.e. has no buildings or other built structures on it): it can be both public or private (with or without public access allowed). Open spaces can be green or hard, or a bit of both'.
135. Whilst elsewhere in this report caution is urged for any materiality being given in the current assessment from the approved Passivhaus scheme, that the principle of development has been accepted on this land and an approved scheme remains capable of implementation is relevant. This part of the site as one of the final phases of the Mount Oswald development has been brought into informal recreational use by local residents whilst it has remained undeveloped. Conversely, in retaining the construction access road to this site, the developer has not implemented the intended formal access area that lies on its path. It is concluded that the development of this land has already been accepted, and that in allowing the implementation of the approved open space features there is no actual loss of a protected functional green space, and that the land has been available for informal interim use pending development.
136. In terms of the implications for open space set out in Policy 26 of the CDP and Policy G1 of the CDNP, the proposals are considered compliant.

Affordable Housing

137. Affordable Housing requirements on the site are set by Policy D3 of the Neighbourhood Plan which states 25% of housing must be affordable in nature on sites of over 0.5ha unless an off-site contribution is justified or deemed appropriate by the LPA. This area-based threshold is over and above the triggers set out for provision of affordable housing in the County Plan, where Policy 15 sets a requirement for schemes of over 10 units within urban areas.
138. Policy 15 does however set a useful methodology for the provision of off-site affordable housing, accepting contributions in lieu of on-site provision where; there would be five or fewer affordable homes on the site, there is clear evidence that a greater number of affordable homes could be delivered off-site, in a more suitable location; or the resulting financial contribution would contribute to specific regeneration activity including bringing viable vacant housing back into use.
139. In the absence of proposed property values from the developer, using a standard calculator and recent property prices in the immediate area, Housing Officers advise a sum of £418,095 represents the figure required to provide if off-site provision is proposed. On-site provision is accepted as difficult to deliver on a small-scale development. The suggested sum could be secured through a Planning Legal Agreement. Paragraph 57 of the NPPF, and Paragraph 122 of The Community Infrastructure Levy Regulations 2010 set out three planning tests which must be met in order for weight to be given to a planning obligation. These being that matters

specified are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development.

140. The s.106 Agreement which would secure the affordable housing contribution is considered to meet the required tests. As a Neighbourhood Plan rather than a County Plan Policy, the legal agreement will ensure that the monies are ring-fenced for use in the Neighbourhood Plan area.
141. On-site, the proposal widens the housing offer on the Mount Oswald development by degree – therefore this contribution is seen as critical in achieving the Framework’ requirement for new development to ‘widen opportunities for home ownership and create sustainable, inclusive and mixed communities’ as set out in part 5.

Sustainability

142. Policy 29 of the County Plan and D4 of the Neighbourhood Plan of the Neighbourhood Plan require, ‘the improvement of energy efficiency and the reduction of carbon dioxide emissions’, and specifically, ‘*achieve reductions in CO2 emissions of 10% below the Dwelling Emission Rate (DER) against the Target Emission Rate (TER) based on current Building Regulations. The policy would not apply in the event that the relevant Building Regulations were enhanced*’. In response to the applicant proposes to install photo-voltaic cells to the roofs of the nine houses, the exact size and location of the cells to be conditioned. This approach is presented as representing sustainable energy generation on-site. It was previously proposed to achieve carbon savings using a fabric-first approach. Although the building designs and methods have changed, the submitted Sustainability Checklist indicates that the houses will achieve a greater than 10% reduction in CO2 emissions against the Target Emission Rate.
143. The proposed houses are described by the applicant as not a standard product, therefore they propose to carry out SAP calculations once planning permission is issued and follow the new Part L building standards ‘which require an improvement against 2013 performance which is greater than 10%’. Changes to Part L (Conservation of fuel and power) of Building Regulations came into force on 15 June 2022 in the form of two new Approved Documents. There are higher performance targets – CO2 emissions are reduced by 31% for dwellings and 27% for other buildings – and a new emphasis on low carbon heating systems.
144. To ensure that the promised sustainability elements are achieved, conditions to agree the siting of the PV units and a Sustainability Validation report to demonstrate the necessary standards have been met, to be prepared by a competent person and submitted before occupation, is proposed.

Other Considerations

Heritage

145. Policy 44 of the County Plan relates to Historic Environment, reflecting government advice in part 16 of the Framework. The entrance to the site, shared with the History Centre and the development of the dwelling in the Walled Garden is within an area included on a Local List of Historic parks, Gardens and Designated Landscape. This access road including the spur leading to the two elements of the development has been part implemented under previous consents. The majority of this woodland is formally protected by Tree Preservation Order. The History Centre, Mount Oswald is

a grade II Listed Building. The walls and attached gatehouses of the estate fall under this listing as being part of the boundary of the listing. The Walled Garden is a non-designated Heritage Asset.

146. The Planning (Listed Buildings and Conservation Areas) Act 1990 states when considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'. Part 16 of the Framework sets out and quantifies the account to be given to the historic environment, designated and undesignated and concludes that where a proposed development will lead to harm, this harm should be weighed against the public benefits of the proposal (paras 201, 202, 203).
147. Notwithstanding these assessments have been undertaken for previous schemes, both for the overall estate and for the development site under consideration, the form of the current application requires reassessment. That both elements of the development are designed to sit within the remaining parkland landscape, with the site retaining treed copses and open areas of grassland is considered to show due regard for the setting within the non-designated area of the former estate, and in the context of the landscape included on the List of Parks and Gardens.
148. The use of the access road through the gatehouses at the entrance to Mount Oswald is established, with its use by new development both on this site and in the walled garden considered acceptable. The development will be largely screened by existing mature woodland from views on the approach to the listed building, and, set in the wider parkland are not considered to present any 'harm' to the heritage assets, formal and informal, and their setting.
149. The physical and visual separation of the heritage assets garnered from the presence of the intervening trees ensures that the development will cause no harm to the significance nor setting of the listed and non-designated structures. Conservation Officers have offered no objection to the proposals. The proposal is considered to meet the requirements of Policy 44 of the County Plan and Part 16 of the Framework, and the responsibilities of the Local Planning Authority set out in the above Acts by preserving the setting of the heritage assets. The Neighbourhood Plan does not have specific policies for heritage assets outside Conservation Areas.
150. Archaeology Officers have confirmed that there are no implications from the development for their interests.

Ground Conditions

151. Policy 32 seeks to ensure that the potential for contamination or unstable land is assessed, considered and mitigated on any development site.
152. For contamination, the applicants have submitted a Ground Investigation Interpretive Report that concludes following investigation and soil sampling that the risk to future users of the site is low. An informative to account for unexpected contamination that may be discovered during the course of building works has been advised as appropriate and will meet the requirements of the relevant elements of Policy 32 of the County Durham Plan and paragraphs 183 and 184 of Part 15 of the framework.
153. The Coal Authority have confirmed that the submitted reports have demonstrated that the site is, or can be made, safe and stable for the proposed development, noting

further, more detailed considerations of ground conditions and/or foundation design may be required as part of any subsequent building regulations application. The scheme is concluded to comply with the relevant elements of Policy 32 of the County Durham Plan and paragraphs 183 and 184 of Part 15 of the framework.

154. The site lies within the Coal Resource Mineral Safeguarding Area. Policy 56 of the CDP states that planning permission will not be granted for non-mineral development that would lead to the sterilisation of mineral resources within such areas unless specific criteria apply. The application site is underlain by deposits of coal, forming part of a larger deposit to surrounding area east of Durham City. Whilst some sterilisation could occur, it is considered the proposed development would have minimal impact on the future working of the more extensive deposit. In addition, given the site's location within the built edge of Durham City and sensitive receptors, the prior extraction of minerals may not be feasible as it could lead to an adverse impact on the environment and/or local communities. This outweighs the need to safeguard the mineral thereby satisfying Policy 56 criteria d and Paragraph 210c of the NPPF.

Other Material Benefits

155. Whilst not quantified within the submitted documentation. The development will bring economic benefits to the local economy through the supply and employment chains. This is acknowledged as of positive material weight in principle.
156. The development of 9 dwellings will bring material if small benefits to meeting housing demand and needs in the area. This is attributed an appropriate degree of positive material weight.

Representations

157. The proposal has generated some public interest, with support and objection having been received from local residents, representatives and amenity groups and authorities. The objections, queries and concerns raised have been taken account and addressed within the report, where appropriate.

CONCLUSION

158. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan consists of the adopted Policies in the Durham County Plan and the City of Durham Neighbourhood Plan.
159. The principle of development in this location has been accepted in the original Masterplan and there is an existant, implementable consent for 5 dwellings.
160. The submitted scheme has been reduced in process from 12 to 9 units thereby reducing density and effects on the parkland and surroundings. Whilst of a lower design and sustainable quality than the approved scheme, it must be assessed on its own merits, and Officers have concluded that it meets Policy requirements, notwithstanding objectors concerns for such, it meets the Framework's aspiration for delivery of high-quality homes, to widen opportunities for home ownership and create sustainable, inclusive and mixed communities.

161. Significant concerns relate to the implications of construction traffic, with requests for use of an alternate access. Highways Officers consider the alternative unsatisfactory. Officers suggest a detailed Construction Management Plan is an appropriate and enforceable device to mitigate these concerns, which will be complementary to controls over it in other consents.
162. In summary, the application site is concluded on its own merits compliant with the Policies in the two elements of the Development Plan and consistent with the advice in the NPPF, if approved with conditions and a legal agreement to secure elements to mitigate identified harms, ensure compliance with the scheme as presented and agree detailed elements capable of resolution by Officers.

RECOMMENDATION

That the application be **APPROVED** subject to the completion of a Section 106 Legal Agreement to secure the following:

- a financial contribution of **£418,095** for the provision of off-site affordable housing within the area covered by the City of Durham Neighbourhood Plan.
- The sum of **£15,651.90** to mitigate likely demands from new residents for open space typologies not provided within the scheme.
- a section 39 agreement and management plan to secure the long-term management, maintenance and monitoring of the biodiversity areas

And subject to the following conditions:

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

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall only be carried out in accordance with the following approved plans and documents:

- PA01a (HJB/4188/3a) Planning Application Boundary
- A04a (HJB/4188/17a) Proposed Layout
- PA07a (HJB/4188/12a) House Type 3 – Floor Plans and Elevations
- PA08a (HJB/4188/13a) House Type 4 – Floor Plans and Elevations
- PA09a (HJB/4188/14a) Boundary Treatments
- PA10a (HJB/4188/15a) Proposed Street Scene
- PA13a (HJB/4188/21a) Proposed Road Arrangement
- PA14a (HJB/4188/20a) Tree Survey
- PA15 (HJB/4188/22) Highway Construction Details
- PA16a (HJB/4188/23a) Proposed Levels Plan
- PA17 (HJB/4188/34) House Type 4 Corner Variant
- PA18 (HJB/4188/35) Plot 9 Floor Plans and Elevations
- PA19 (HJB/4188/32) Pedestrian and Cycle Movement Framework
- PA20 (HJB/4188/36) Proposed Plot Drainage
- PA21 (HJB/4188/37) Garage Elevations and Plans
- Sustainability Checklist

- Arboricultural Method Statement and Tree Protection Plan
- The Shadbolt Group (July 2016) Mt. Oswald Golf Course Self Build Plots, Ground Investigation Interpretive Report
- The Shadbolt Group (Dec 2021) Mt. Oswald Drainage Impact Statement

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 1, 19, 21, 22, 25, 26, 29, 31, 32, 35, 36, 39, 40, 41, 43, 44, 45, 56, Residential Amenity Standards SPD 2022 of the County Durham Plan, Policies S1, H1, H3, G1, D2, D3, D4, T1, T2, T3 of the City of Durham Neighbourhood Plan and Parts 2, 4, 5, 8, 9, 11, 12, 14, 15, 16, 17 of the National Planning Policy Framework.

3. Full details of the specification, colour and make of all external construction materials, including walls, roofs, roof edging, rainwater goods, fenestration, cladding where proposed and hard surfacing must be submitted to and approved in writing by the Local Planning Authority prior to the construction of any dwelling above base course level. The development shall thereafter be carried out in accordance with the approved details.

Reason: In the interests of the visual amenity of the surrounding areas in accordance with Policy 29 of the County Durham Plan, Policies H3, D4 of the City of Durham Neighbourhood Plan and Part 12 of the National Planning Policy Framework.

4. Finished floor levels for all dwellings in the development must be implemented and completed in full accordance with the details set out on drawing PA16a (HJB/4188/23a).

Reason: In the interests of the visual amenity of the area, to ensure residential privacy and amenity, to provide residential security and to comply with Policies 29 and 31 of the Durham County Plan 2020, Policies H3 and D4 of the City of Durham Neighbourhood Plan and part 12 of the Framework.

5. No development of the dwellings above base course level shall commence, until full details of passive EV charging points to serve each property have been submitted to and approved in writing with the Local Planning Authority. The development shall thereafter be completed in complete accordance with the approved details.

Reason: To ensure adequate provision for electric vehicles is made as part of the development and charging points are provided in optimum locations, in accordance with Policy 21 of the County Durham Plan, Policy T2 of the City of Durham Neighbourhood Plan and adopted County Council Highway and Parking Standards.

6. Before the occupation of any dwelling hereby approved, the applicant must submit in writing and receive written approval from the Local Planning Authority, and thereafter construct in full, and, in full accordance with said written agreement a scheme for the erection of PVs on that dwelling before it is occupied.

Reason: In the interests of sustainability and as required by Policy 29 of the Durham County Plan, Policies S1 and D4 of the City of Durham Neighbourhood Plan and part 14 of the Framework.

7. Before the occupation of any dwelling hereby approved, the applicant must submit to the Local Planning Authority, receive written agreement for a Sustainability Validation

Report, prepared by a competent person, to show said dwelling achieves the reduction in CO2 emissions set out in Policy 29o. of the County Plan.

Reason: In the interests of sustainability and as required by Policy 29 of the Durham County Plan, and part 14 of the Framework.

8. Before the occupation of any dwelling hereby approved, the applicant must submit to the Local Planning Authority, receive written agreement for and deliver in full a scheme for at least one of the dwellings is configured to allow easy conversion to a 'housing products (sic) that meet the specific needs of a multi-generational family'.

Reason: To ensure that housing products that meet the specific needs of a multi-generational family are achieved on site in accordance with the requirements of Policy D2 of the City of Durham neighbourhood Plan and part 5 of the National Planning Policy Framework.

9. No development shall commence until the tree protection measures detailed within the approved plans and reports have been erected on the site. The tree protection shall be retained throughout the construction period unless the local planning authority have agreed in writing to any variation. Protective Measures must be in place prior to development and must be comply with BS 5837 2012. No materials, equipment or vehicles shall be stored inside the protective fencing.

Reason: To ensure that adequate tree protection is in place prior to the commencement of any construction works and that there are no resulting adverse impacts on mature trees or historic hedgerows to be retained within the site, to preserve the visual amenity of the surrounding area, in accordance with policies 6, 29 and 40 of the County Durham Plan, Policy G1 of the City of Durham Neighbourhood Plan and Parts 12 and 15 of the NPPF.

10. Notwithstanding the submitted information, no development above base course level of the dwellings hereby approved shall commence until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall be based on the following:
 - Details of all means of enclosure, including materials to be used.
 - Details of areas of residential curtilage and areas of maintained open space/landscaping
 - Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers.
 - Details of planting procedures or specification.
 - Finished topsoil levels and depths. Seeded or turf areas, habitat creation areas and details etc.
 - Details of land and surface drainage.
 - The establishment maintenance regime
 - The detailing of the management of all areas of maintained open space/landscaping for the lifetime of the development.

The approved landscaping scheme shall be completed in the first planting season following the substantial completion of the development. No trees, hedges and shrubs shall be removed without agreement within five years. In the event that any landscaping is removed, die or fail to establish within 5 years it shall be replaced in the first available planting season and thereafter maintained for a minimum period of 5 years.

Reason: In the interests of the visual amenity of the area and to comply with Policies 29 and 39 of the County Durham Plan, Policy G1 of the City of Durham Neighbourhood Plan and Parts 12 and 15 of the National Planning Policy Framework.

11. The development hereby approved shall only be carried out in accordance with the ecological mitigation measures contained within Section 4 of the ecology report "BSG Ecology - Mount Oswald Ecology Survey Report 5th June 2017 "

Reason: To enhance biodiversity on the site and ensure there are no adverse impacts to protected species, in accordance with Policies 41 and 43 of the County Durham Plan, Policy G1 of the City of Durham Neighbourhood Plan and Part 15 of the National Planning Policy Framework.

12. Each of the houses hereby approved shall include a minimum of 1 x bat roost unit and 1 x breeding bird unit per new dwelling.

Reason: To enhance biodiversity habitat on the site in accordance with Policies 41 and 43 of the County Durham Plan, Policy G1 of the City of Durham Neighbourhood Plan and Part 15 of the National Planning Policy Framework.

13. Before the erection of any dwelling above dpc level commences, the developer must submit to the Local Planning Authority and formally agree a Biodiversity Implementation, Monitoring and Maintenance Plan, in a s.39 agreement under the Wildlife and Countryside Act 1981, including provision for maintenance for a minimum 30-year period and timings for implementation.

Reason: To ensure net-biodiversity gain for the benefit of the natural environment Policy 41 of the County Durham Plan, Policy G1 of the City of Durham Neighbourhood Plan and Part 15 of the National Planning Policy Framework.

14. Development must be constructed in full accordance with the drainage scheme contained within the submitted document entitled Drainage Impact Statement dated Dec. 2021 and Drawing PA20 (HJB/4188/36). The drainage scheme shall ensure that foul flows discharge to the foul sewer at manhole 6203 and ensure that surface water discharges to the SuDS pond. All hardstanding areas must be constructed in a permeable paving construction (wrapped type).

Reason: To prevent the increased risk of flooding from any sources in accordance with Policies 35 and 36 of the County Durham Plan and parts 14 and 15 of the National Planning Policy Framework.

15. The development shall be carried out in accordance with recommendations of The Shadbolt Group (July 2016) Mt. Oswald Golf Course Self Build Plots, Ground Investigation Interpretive Report.

Reason: The site may be contaminated as a result of past or current uses and the Local Planning Authority wishes to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems in accordance with Policy 32 of the Durham County plan 2020 and Part 15 of the National Planning Policy Framework.

16. No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:
- The hours during which construction and demolition activities would take place.
 - A Dust Action Plan including measures to control the emission of dust and dirt during construction.
 - Measures to control the emission of noise and vibration.
 - Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
 - Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.
 - Designation, layout and design of construction access and egress points, including specific detail for managing potential conflicts with pedestrians and cyclists using the Public Footpath.
 - Confirmation of arrangements to prevent deliveries, contractors and construction staff vehicle movements within the Mount Oswald development outside of specified construction hours
 - Details of protection of/from the construction access route consistent with the details shown on plan HBJ/PA677/394 from approval DM/16/04087/FPA.
 - Maximum vehicle sizes of construction traffic.
 - Details, including timings for the reinstatement of the construction traffic access route and delivery of the approved landscape scheme on its path.
 - Details for the provision of directional signage (on and off site).
 - Details of contractors' compounds, materials storage and other storage arrangements, including site cabins (with heights and orientation of windows), cranes and plant, equipment and related temporary infrastructure.
 - Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.
 - Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site and passing on and approaching the construction access track during the construction period.
 - Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
 - Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
 - Detail of measures for liaison with the local community and procedures to deal with any complaints received, including where this will be displayed on site.
 - Details of temporary topsoil and subsoil storage provision.
 - Details of temporary lighting.
 - Details of measures for liaison with the local community and procedures to deal with any complaints received.
 - Surface water drainage measures throughout construction.

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required to be pre commencement to ensure that the whole construction phase is undertaken in an acceptable way, ensuring public safety and amenity.

17. In undertaking the development that is hereby approved:

- No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0730 to 1400 on Saturday.
- No internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 on Saturday.
- No construction works or works of demolition whatsoever, including deliveries, external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays.
- For the purposes of this condition, construction works are defined as: The carrying out of any building, civil engineering or engineering construction work involving the use of plant and machinery including hand tools.

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority 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.

PUBLIC SECTOR EQUALITY DUTY

Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic.

In this instance, Officers have assessed all relevant factors and consider that the scheme in reflecting in particular the needs of older residents and less able residents to a Policy compliant standard incorporates elements that ensure the development has the potential to be attractive to all and demonstrates that the requirements of this Act have been considered.

BACKGROUND PAPERS

- Submitted application form, plans, supporting documents and subsequent information provided by the applicant
- Statutory, internal and public consultation responses
- The National Planning Policy Framework
- National Planning Practice Guidance Notes
- County Durham Plan (2020)
- City of Durham Neighbourhood Plan (2020 to 2035)
- Residential Amenity Standards SPD (2023)



Planning Services

DM/21/04262/FPA

9 no. dwellings and alterations to existing access road

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Date: 7 March 2023

Scale: NTS

