

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/23/02622/FPA
FULL APPLICATION DESCRIPTION:	Full planning application for the erection of a 74-bed care home facility (Class C2 Use), with associated access road, car parking, cycle storage, landscaping, boundary treatments and refuse facilities.
NAME OF APPLICANT:	Torsion Care Ltd
ADDRESS:	Land South of South College The Drive Durham DH1 3LD
ELECTORAL DIVISION:	Neville's Cross
CASE OFFICER:	Steve France Planning Officer Telephone: 03000 264871 steve.france@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Application

1. This is a full planning application, proposing the erection of a new 74-bed Residential Care Home on land at Mount Oswald, a development site at the southern extent of Durham City. The application includes the associated access road, car parking, cycle storage, landscaping, boundary treatments and servicing.

The Site and its Surroundings

2. The main Mount Oswald development site within which the proposals sits is based around the Grade II listed Manor House, latterly Golf Club House, that was granted Outline Planning Permission in 2013 for a mixed-use development guided by masterplans 'comprising 291 dwellings, including specialist market housing for the elderly, student accommodation, office, retail, community uses and associated infrastructure'.
3. The golf course sat bordered by residential and University development to the north, and further residential development to the south. The A177 (South Road) ran along the eastern boundary, with the Howlands Farm Durham University campus and Howlands Park and Ride car park, Durham Crematorium, and Durham High School beyond, the surrounding countryside designated as Green Belt and as an Area of High Landscape Value (AHLV). The A167, including a cycle lane ran along the western boundary, with open countryside beyond again designated as Green Belt and part designated as an AHLV.

4. Within the site, a central band of landscape framing the listed building was included in the Local List of Historic Parks and Gardens, that further includes individual and groups of protected trees (TPOs).
5. The current application site sits north-east of the listed building and is unaffected directly by any of the landscape designations. Individual protected trees are however affected by the proposals, within and adjacent the site.
6. The majority of the approved 2013 Outline consent have now been implemented including a development of 1000 bedrooms of purpose-built student accommodation (PBSA), to the north and market housing to the west. An Outline consent for a further 850 student rooms was approved, effectively renewed from a previous consent, by this Committee in April this year to the north-west of the application site, potentially filling the currently vacant gap between the new College and the new residential estates.
7. The Listed Building has been redeveloped and extended as the base of the County Council Record Office, a History Centre and Registry Offices, named 'The Story', within the protected trees and designated parkland to the south of the application site.
8. This mature woodland forms the south boundary of the site, through which a public right of way, footpath 18, runs parallel. The woodland is indigenous deciduous and in winter potentially offers glimpsed views of the extended listed Manor House from the site.
9. The broadly rectangular application site with a spur extending from it to connect to the adopted highway, is 0.44ha in area. The land is an undeveloped and maintained as close-mown grassland, with individual scattered trees. The land slopes down to the east where a highways access has already been formed from The Drive, in anticipation of a development in this area as envisaged by the Outline consent. The approved evolved Masterplan approved in application DM/15/03555/VOC as for Office/Retirement/Community uses. The immediately adjacent, still undeveloped land to the east of the application site at the main site entrance from the A177 was envisaged as a Convenience Store, with this and the site served by a common access.

The Proposal

10. The application proposes building with an L shaped footprint, three storeys in height. A flat-roof design and design cues to reflect some of the character of the adjacent college, as the dominant local built form, with contrasting brick panels, dark grey fenestration and black rainwater goods is proposed.
11. The accommodation proposed sits within Use Class C2 – Residential Institutions.
12. Proposed accommodation is set out along the 'legs' of the L, with each floor providing communal facilities including main dining room/lounge, activity rooms, sports lounge, gallery café, wellness suite, clinics and a hair salon along with entrance/reception and administrative and service elements where the legs join. There are further communal garden rooms and a stairwell at the gable end of the north elevation – where nearest The Drive and facing the nearby college. A small secure communal garden and six ground floor rooms on the west elevation have a small area of outdoor space. The building is 'cut' into the slope, with a 'lower ground floor' including service/staff/kitchen areas.
13. The scheme will provide for 23 parking spaces including 2no. accessible in layout. 4no. EV spaces are proposed. Cycle parking is available for staff and visitors.

14. This application is being considered by Committee as a 'major' development scheme.

PLANNING HISTORY

15. CMA/4/83 Outline planning application with access details (all other matters reserved) for a mixed-use development comprising 291 dwellings, to include specialist market housing for the elderly, student accommodation, office, retail, community uses and associated approved in 2013. This outline planning permission lapsed in 2020 in terms of potential for reserved matters applications but remains material in any planning assessment.
16. DM/14/01268/RM Reserved matters application in regard to northern access road pursuant to planning permission CMA/4/83 approved in September 2014.
17. DM/14/03391/RM Reserved matters application pursuant to outline planning permission CMA/4/83 in respect of internal western shared access road and associated earthworks and drainage approved in December 2014.
18. DM/15/02268/NMA Non-material amendment pursuant to drawing PAD7A as part of Reserved Matter application DM/14/03391/RM approved in August 2015.
19. DM/15/03555/VOC Variation of condition 3 (approved drawings) pursuant to planning permission CMA/4/83 in regard to a revised masterplan that includes landscape and drainage modifications approved in May 2016. This application identifies the current development site as for 'Office/Retirement Community' uses, and the facing land to the north of The Drive as 'Student Accommodation'.

PLANNING POLICY

NATIONAL POLICY

20. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
21. *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.
22. *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.
23. *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. Paragraph 65 exempts developments of specialist accommodation for students from providing an affordable element.

24. *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.
25. *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.
26. *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.
27. *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.
28. *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.
29. *NPPF Part 15 - Conserving and enhancing the natural environment.* Planning policies and decisions should contribute to and enhance the natural and local environment.
30. *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.

<https://www.gov.uk/guidance/national-planning-policy-framework>

NATIONAL PLANNING PRACTICE GUIDANCE:

31. 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.

32. Of particular relevance to the consideration of this application is: 'Housing for older and disabled people', published 26 June 2019. This states that, 'the need to provide housing for older people is critical. People are living longer lives and the proportion of older people in the population is increasing'. 'Offering older people a better choice of accommodation to suit their changing needs can help them live independently for longer, feel more connected to their communities and help reduce costs to the social care and health systems. Therefore, an understanding of how the ageing population affects housing needs is something to be considered from the early stages of plan-making through to decision-taking'. 'The National Planning Policy Framework glossary provides definitions of older people and people with disabilities for planning purposes, which recognise the diverse range of needs that exist. The health and lifestyles of older people will differ greatly, as will their housing needs, which can range from accessible and adaptable general needs housing to specialist housing with high levels of care and support'. Within the typologies of accommodation set out, 'Residential care homes and nursing homes: These have individual rooms within a residential building and provide a high level of care meeting all activities of daily living. They do not usually include support services for independent living. This type of housing can also include dementia carehomes'. 'Decision makers should consider the location and viability of a development when assessing planning applications for specialist housing for older people'.

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

LOCAL PLAN POLICY:

The County Durham Plan

33. *Policy 15 Addressing Housing Need* establishes the requirements for developments to provide on-site affordable housing, the circumstances when off-site affordable housing would be acceptable, the tenure mix of affordable housing, the requirements of developments to meet the needs of older people and people with disabilities and the circumstances in which the specialist housing will be supported.
34. *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 implementation 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.
35. *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.
36. *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.

37. *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.
38. *Policy 28 (Safeguarded Areas).* Within safeguarded areas development will be subject to consultation with the relevant authority and will be permitted where it can be demonstrated that it would unacceptably adversely affect public safety, air traffic safety, the operation of High Moorsley Meteorological Officer radar.
39. *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).
40. *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.
41. *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.
42. *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.
43. *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.
44. *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.

45. *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.
46. *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.
47. *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.
48. *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.
49. *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.
50. *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.
51. *Residential Amenity Standards Supplementary Planning Document (Amended 2023)* sets out guidelines for reasonable expectations of residential amenity including separation distances and minimum garden lengths on new development.
52. *Parking and Accessibility Standards Supplementary Planning Document (Adopted 2023)* sets out parking standards, advice on sustainability, walking, cycling, EV and motorcycle provision within developments.

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)

53. *Policy S1 Sustainable Development Requirements of all Development and Redevelopment Sites Including all New Building, Renovations and Extensions* - 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.
54. *Policy S2: The Requirement for Masterplans or Other Design and Development Frameworks* - supports the preparation of such documents for all major development sites prior to consideration through a planning application. Such Masterplans should consider job creation, design, impacts on views and settings of the WHS, amenities, impacts to conservation areas, reducing the need to travel, permeability and provision of green infrastructure.
55. *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.
56. *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. Such development should sustain and make a positive contribution to the character and distinctiveness of the area and avoid the loss of open space and public realm that contributes to the area, to be appropriate in terms of scale, density, massing, form, layout, landscaping and open spaces and use appropriate materials and finishes.
57. *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.
58. *Policy G3: Creation of the Emerald Network* - 17 sites of wildlife interest that are linked are identified by this policy which supports the improvement of biodiversity of the sites, improving the amenity of the sites and the accessibility to and between these sites provided there is no significant harm to biodiversity. Connections between the sites is relevant.

59. *Policy T1: Sustainable Transport Accessibility and Design* – requires development proposals to be supported by evidence of how they contribute to sustainable transport accessibility and design where appropriate.
60. *Policy C4: Health Care and Social Care Facilities* - Development proposals for the provision of Health Centres, Surgeries, Clinics, Nursing Homes and Residential Care Homes will be supported where it is demonstrated that they: are well related to residential areas; are located close to public transport routes and are accessible by a choice of means of transport; would not have a detrimental affect upon the amenity of occupiers of adjoining and nearby properties and businesses; allow appropriate access for pedestrians, people with children and people with disabilities; provide car parking facilities at the premises.
61. Further, in the case of Nursing Homes and Residential Care Homes, in addition: are well related to shops, community and social facilities; for both the location and the form of the development itself, provide good standards of amenity and open space for the residents, including avoiding sites where existing non-residential uses may be to the detriment of the residents.

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:

62. *Highways* – comments confirm that from a Highways perspective, this proposal is considered acceptable. In terms of overall impact on the local road network, care facilities generate very small levels of traffic movement. Trip generation for this facility are proposed to be 11 movements (7 In, 4 Out) in the AM peak, and 10 (4 In, 6 Out) in the PM peak. Therefore, the impact on the local road network would be negligible.
63. A safe and suitable access to the site is proposed, conforming to the required standards for visibility. The junction would be accessed off a private road, and so permission from the Local Highway Authority is not required.
64. A total of 23 car parking spaces are proposed, which means the provision is in accordance with the 2023 Parking and Accessibility SPD. 4 active EV charging points are also to be provided, along with 6 cycle parking spaces.
65. Adequate turning facilities to allow servicing vehicles to enter the site, manoeuvre safely, and leave in a forward gear, have also been provided.
66. Conditions are requested to ensure that parking provision (including EV and cycle parking) is available before first occupation and that construction of the access junction and road is completed prior to first occupation.
67. *Northumbrian Water* – have not responded to their consultation.

INTERNAL CONSULTEE RESPONSES:

68. *Spatial Policy* – The principle of this development was accepted through the original outline application on this site for a mix of uses including specialist housing for the elderly, as well as through detailed pre-application discussions. The key policy considerations are Policy 15 of the County Durham Plan (CDP) supports specialist housing for older people, vulnerable adults and people with disabilities subject to a list of criteria, and The Durham City Neighbourhood Plan (DCNP) Policy C4 which supports proposals for nursing homes and residential care homes subject to a list of criteria.
69. It is considered that the proposed development meets most of the criteria within these policies in relation to the location of the care home, however in relation to part I of policy 15 of the CDP, and part g of DCNP policy C4, issues around amenity space have been raised by Design colleagues.
70. The standards set out in the Open Space Needs Assessment 2018 (OSNA) should be used. In this case we would request contributions for 72 x £714.00 (£790.50 – play space (£42.50- £34.00)) = £51,408.
71. *Archaeology* - There is no archaeological objection to this scheme
72. *Design and Conservation* – For the effect on Heritage Assets: The proposed development site lies to the north-east of Mount Oswald (Grade II) and Mount Oswald locally listed historic park, garden and designed landscape. Given the intervening woodland, inter-visibility between the site and the designated heritage asset is unlikely.
73. In Design terms: As noted at the pre-application stage, the plan form shows that the immediate area around the proposed building is limited in terms of amenity space and therefore outlook for residents. This limited space may be overshadowed by existing trees, and much of the area to the front of the building being taken for car parking. Whilst the site lies within a parkland setting and provides small communal spaces, the immediate green space adjacent the building is important in relation to outlook and amenity for residents and therefore some concerns remain in relation to the proposed site plan. In relation to the external communal spaces, the boundary treatment adjacent to the college encloses open space in an otherwise open public environment. The use of space within the site may need further consideration.
74. With regard to detailed design and architecture, the proposed building form and roofline is improved and the approach to introduce a variation on a theme relating to the existing student accommodation is welcomed. The building entrance is legible to visitors without over-reliance on signage. The large fenestration openings are set back with brick reveals, giving depth to the elevations. Details of materials and samples for consideration should be conditioned.
75. *Drainage and Coastal Protection* – have raised no objection to the surface water management proposals noting that a separate consent is required from the LLFA for the new culverted watercourse, it should be approved prior to construction commencing. It's separate requirement to planning and it can be applied for by the applicant, builder, or contractor.
76. *Ecology* – 'The applicant's submitted bio-diversity metric shows a net loss (albeit not a huge one) of biodiversity, neither does it meet trading rules and they have predicted that

certain urban trees will reach a medium size. There is debate over whether urban trees can realistically reach that size class and that a small size class is more realistic, and I have questioned other application around this issue’.

77. ‘Notwithstanding the above – the net loss falls below 1BU and it is considered appropriate to take a proportionate approach to the trading rules, if the loss is alternately mitigated via a payment of £5.3k which is the reduced £ contribution for low level impacts’.
78. ‘The delivery of the required Management Plan can be appropriately tied to a legal agreement requiring that monitoring reports will need to be sent to the Local Planning Authority’.
79. *Landscape* – advise that the site comprises open spaces with mature trees creating a parkland character but is not classified within any national or local landscape designations. It is north of the Listed Building of Mount Oswald and the locally listed Park and Garden. A public footpath is located south of the site with public views of it the site is visible from The Drive and the college buildings beyond and there are views from South Road looking west. The development will have an urbanising effect on the space and will be harmful to the character and distinctiveness of the landscape. The retention and management of existing trees combined with the proposed landscape planting would reduce landscape effects but not compensate for the level of harm incurred by the proposed building. The existing green space provides a landscape buffer between the college buildings and the locally listed designated landscape.
80. The harm brought about by development of the site for a care home requires consideration in relation to County Durham Plan Policies 20 Green infrastructure, 29 Sustainable Design, 39 Landscape and 40 Tree Woodlands and Hedges. The proposed building of scale, with surrounding infrastructure and hard surfaces would adversely impact upon existing open space, mature trees and associated parkland character which would be transformative and contrary to policies 29, 39 and 40, unless the benefits clearly outweigh the anticipated harm. The extent of retained and proposed vegetation should also be considered as effects would diminish as the proposed landscape scheme develops to maturity. The cumulative effects of this proposed development in combination with the proposed adjacent developments and resulting adverse impacts on the established parkland character of the locality and on visual amenity, should be considered.
81. *Tree Officers* – originally objected to the proposals effects on surrounding protected trees, in response to which the developer has provided a series of protective measures and ‘tree friendly’ construction techniques. A detailed list of requirements for the operation of this has been provided in updated comments, along with note of the basic requirements for trees of Policy 39 (Landscape) and Policy 40 (Trees, Woodland and Hedges).
82. *Public Rights of Way* - note Public Footpath 18 lies just to the south of the application site, and that this path would appear to be unaffected by this proposal.
83. *Environmental Health (Air Quality)* – The Applicant's approach to air quality has been systematically assessed in detail, with recommendations for consistency in documentation for the construction phase met in process.
84. In terms of the operational phase it is noted that the Planning Statement describes the promotion of sustainable means of transport in the Travel Plan, the provision of EV parking, and cycling spaces that will have co-benefits for air quality. It is further noted that

the proposed solar panels and air source heat pumps on the roof plan will reduce emissions associated with domestic energy use. This is welcomed.

85. *Environmental Health (Contamination)* - have examined the submitted reports and information submitted in support of the wider development site, concluding there is no need for a contaminated land condition, suggesting a standard precautionary 'informative' to cover the potential for unforeseen contamination being discovered during the course of development works. There is no requirement for a contaminated land condition.
86. *Environmental Health (Nuisance)* - Officers we suggest a Construction Management Plan should be submitted based on the following criteria:
1. No construction/demolition activities, including the use of plant, equipment, and deliveries, which are likely to give rise to disturbance to residents should take place before 0800 hours and continue after 1800 hours Monday to Friday, or commence before 0800 hours and continue after 1300 hours on Saturday. No works should be carried out on a Sunday or Bank Holiday.
 2. The best practicable means shall be used to minimise noise, vibration, light and dust nuisance or disturbance to local residents resulting from construction/demolition site operations. No burning of waste is to be carried out on the development site. It shall be considered that the best practicable means are met by compliance with all current British standards/relevant guidance.
87. *Adult and Childrens Health Services* – have written setting out a number of concerns with the proposed development, summarised below:
88. A lack of engagement with the Adult and Health Services Commissioning Team is noted. With 2 large new Older Persons Care Homes being built in County Durham with anticipated completion dates in 2023, there is an overprovision of Older Persons care home beds in County Durham. In early 2023/24 2 Older Persons Care Homes closed Furthermore, existing Older Persons care homes have flagged concerns with DCC regarding a lack of placements, so a new large care home is very likely to cause additional financial sustainability pressures to the other existing care homes around that area. This also, critically, puts pressure on DCC fees due to that under occupancy and this is significant, being the single biggest spend area for the Council. That the County has significant issues with the quality or capacity of the existing Older Persons Care Homes is an unsubstantiated statement presented as fact.
89. The Council and wider Care Partnership (integrated with NHS colleagues) strategy is to reduce the need for care home placements by developing home care and extra care services so this development is not in line with our strategic direction as a LA nor national best practice for a 'home first' approach. Our adult social care data does not support the suggested need for increased care home beds and for the increasing population we have plans to support through alternative models of service delivery and not through additional care homes.
90. In terms of the local NHS, a care home will not reduce the strain on health services as it will create significant additional pressure on local GP practices which will need funding and also pressure on the UHND hospital in Durham city, more older people is inevitably more people requiring admissions to hospital or outpatient appointments at A&E. In terms of adult social care, a care home will not reduce the strain on social care as we do not need any additional OP care home beds and in fact the existing providers already struggle to recruit and retain staff.

91. It's location near to large student accommodation is not ideal due to noise issues. Older People often prefer to go to bed early and we would suggest that student lifestyle doesn't align to that. Therefore, it is our view that the care home development does not adhere to this element of your planning policy regarding specialist housing: 'the development is in an appropriate location with reference to the needs of the client'.
92. *Planning Monitoring/Enforcement Officers* – requested working hours standardised with Durham County Council's standard approach and additional details on the approach to dust monitoring. The subsequent addition of dust monitors on and around the site should complaints be received or if visual monitoring found dust levels at a high risk and revised working hours removed any adverse comments.
93. *Sustainable Travel* – no response received.

EXTERNAL CONSULTEE RESPONSES:

94. *NHS Local Healthcare Estates* have requested funds to be secured through s.106 agreement, and using a standard methodology have requested the sum of £15,540 to mitigate the likely demands that the development of a 74 patient increase would place on the local healthcare system: the affected practice, the Claypath and University Health Centre falling with the Durham West Primary Care network, which is at full capacity with regards to space requirements to provide appropriate services to patients.
95. *Durham Constabulary* – no comments received.

PUBLIC RESPONSES:

96. Following a consultation exercise consisting of a press notice, site notices and 80 direct mail letters a response consisting of: 1 letter in support from the City of Durham Trust of the proposals and 3 objections, from an individual and the Principal of the adjacent College, and belatedly as this report was being written, from the Claypath & University Medical Group (CUMG).
97. The *City of Durham Trust* welcomes the proposed additional care home facility noting the Durham City Area will need additional care beds in future due to demographic trends. The Neighbourhood Plan Policy C4 sets out criteria to be met and the proposal broadly meets them – with a note for pedestrian access suggesting direct connection to the adjacent PROW. The Neighbourhood Plan describes anticipated future need and concludes that it will either be necessary to expand existing care homes or build new ones. 'This is the basis of the Trust's support in principle for the proposal'.
98. *The Principal of South College*, directly opposite the development site to the north of The Drive writes that 'the College is home to 492 students, the large majority of whom are undergraduates. Approximately 700 additional students of Durham University are members of South College. These non-resident members frequently come to college for meetings of clubs and societies, to hear visiting speakers, use our drama and music studios, exercise in the college gym, drink in our bar or eat in our dining hall'.

99. 'Every year we host events including matriculation, graduation, college days, remembrance day, formal dinners, college balls, fashion shows and drama performances. Each attracts large numbers of students, and some are accompanied by live and/or amplified music. The houses at Mount Oswald were distanced from our buildings precisely because such events were anticipated and understood. This distancing has worked well, and noise pollution rarely disturbs our existing neighbours'.
100. 'The proposed care home will be directly opposite South College, closer than any of the existing private residences. I fear the possibility of conflict between student lifestyles and the expectations of families placing their aged relatives in residential care'.
101. 'In term time, students will often return to college late at night. The college Bar is frequently very busy, and students sometimes socialise on the Balcony of the Pitcairn Building. These facilities will be in direct line of sight from the proposed development. On special occasions such as those mentioned above, particularly large numbers of students are present'.
102. 'Plainly, I am anxious to ensure that South College students can continue to enjoy student life without inconveniencing or disturbing any neighbours. With this in mind, I seek assurance that those considering the planning implications and any developers are aware of these issues and have considered them carefully'.
103. A resident of Nevilles Cross considers the location adjacent student accommodation and not part of 'any recognised community' as inappropriate. They understand that residents of the area can find the area noisy in summer in relation to the 'various college sites'. The justification of the need for the development is questioned.
104. Summarised, the *Claypath and University Medical Group* as the only practice directly affected by the development has significant concerns for the negative impact the proposal could have on their services. Their current buildings are considered 50% smaller than their patient list demands. Architects and land agents have been engaged to seek additional land or building capacity within Durham City. They note the NHS letter suggesting securing £15k of funding through s.106 agreement but contend that this would only cover a small fraction of the costs of expansion and would only contribute to estate costs rather than ongoing labour expenses as essential to support a care home of this size.
105. Patients in a care home facility place considerable extra demand on the NHS and Primary Care facilities such as the Practice. The additional demands from people in the last year of their life is up to 10 times greater than for those with a five-year life expectancy: the Practice would incur substantial costs to service Nursing Home residents' additional needs.
106. The resources required to support the Care Home would necessitate a reallocation of current services that may mean the level of care available to existing residents of Durham would deteriorate. 'This proposed development poses a substantial risk to our ability to maintain the current standard of service for our (sic) existing patients'.
107. The closure of the nearby Hallgarth Care Home, a smaller facility, in 2023 from a lack of demand concludes in questioning the need for the current scheme.

APPLICANT'S STATEMENT:

108. The proposed development seeks to obtain full planning permission for the construction of a 74-bed care home facility, with associated access road, car parking, cycle storage, landscaping, boundary treatments and refuse facilities. Torsion Care are experts in delivering communities for people to live, building modern care homes and extra care facilities of the future. The principal aim of this development is to deliver a superior level care facility to exceed the Care Quality Commission Fundamental Standards, while affording residents a safe and secure environment so that they may live with dignity.
109. The design and layout of the proposed scheme has been informed by the team at Torsion Care and Stem Architects with their collective decades of experience in the residential social care sector, both as developers, architects, and operators of award-winning care schemes. The scheme will provide high quality care facilities for the local population, meeting an identified need for older persons housing, reducing the strain on the capacity of existing health and social services. The development will make functional use of an underutilised site, where the principle of development has already been established as acceptable through the previous planning history.
110. The proposed development will consist of a 3 storey, L-shaped building to house the 74-bed facility. The layout of the proposed building follows an efficient and proven operational model used extensively by Torsion Care, whilst also respecting the existing site and constraints. The external appearance of the building has been developed through consultation with the Local Planning Authority to relate well to the character and appearance of the local area. The scheme will also incorporate satisfactory levels of parking and access arrangements, external communal gardens with attractive landscaping, and high-quality spaces and facilities throughout the development. The design is focused on the wellbeing and requirements of the future occupants.
111. The proposed care home will offer the clear benefit of providing purpose built and specialised housing to meet the requirements of an ageing population, which is recognised both locally and nationally. The development therefore represents the opportunity to meet the growing care needs for an increasing elderly population. The new facility will also provide local employment opportunities within an accessible and sustainable location, as the facility will require 50 full time and 25 part time staff. This represents a clear public benefit. The care home facility will also be constructed to be highly energy efficient, which will future-proof the building and help reduce energy costs and consumption.
112. Through the consultation and application process, concerns have been raised with regards to the impact of the proposed development on the operations of the existing Durham University South College Campus. This relates to the impact of noise and disturbance to future residents. A Noise Impact Assessment has been undertaken by a qualified professional and has demonstrated that the proposal will comply with the relevant technical guidance and national policy. Furthermore, design and mitigation measures will be implemented to further reduce any impact. Further information has also been provided throughout the application process to satisfy the requirements of consultee comments relating to Flood Risk & Drainage, Ecology and Design & Conservation.
113. The proposed development brings social, economic, and environmental benefits, falling within the definition of sustainable development. The proposal will deliver a high-quality care home facility to cater for the needs of an elderly population, delivering clear public benefits to the locality.

PLANNING CONSIDERATIONS AND ASSESSMENT

114. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that 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 and the detailed nature of the use and in particular the implications for the residential amenity of existing and proposed dwellings, sustainability, highway safety and access, layout and design, scale and massing, ecology, and drainage, and other matters.
115. The issue of the need for the development has also been of significant interest. The degree to which this is a material consideration will be discussed below.

Principle of Development

History

116. The history of the site is material. It is contained within the extended settlement limit, at the southern extent of Durham City. Whilst the site is greenfield, it sits within the Mount Oswald development site that has been master-planned and largely built out for a variety of uses including market residential, student accommodation, retail, offices, community and retirement. At the heart of the wider site the former Manor House, a listed building is being converted and extended into a new County record office. This is surrounded by the remains of the parkland associated with the Manor – latterly a golf club and now the County Council History Centre, including trees that form the south boundary of the current site and new land uses must respect the retained heritage ‘core’ of the overall site.
117. The site has good links to sustainable transport opportunities and is considered a generally sustainable location for development. Recently developed to modern expectations of locational sustainability, Mount Oswald includes networks of footpath and cycle paths complimenting the historic footpaths that have crossed the site and include new public transport links – with a bus stop with shelter directly opposite the site. The wider site includes existing and proposed informal leisure areas. The Botanical Gardens are a short distance from the site. Whilst access to shops, a requirement of Policy C4 is currently lacking, the site is adjacent the area of Mount Oswald earmarked for a retail unit.
118. Likewise, expectations for sustainable drainage have been addressed phase by phase on a site-wide basis.
119. The application site is undeveloped but at present is well maintained as amenity grassland with retained trees which contributes to the parkland appearance of the wider estate and was previously identified for development.
120. The principle of a form of development for older residents in this part of the site was established in the evolved masterplans in the Outline consents. The current application is submitted as a ‘full’ planning application in its own right, and whilst the Outline consents

and their Variations have now expired, it is considered that these historic approvals, and the expectations and implications for adjacent land uses have a degree of materiality in the assessment of the current proposals. The consents to date have accepted that the location is sustainable, with the elements of development delivered to date as described here, further increasing the sustainability of the location.

Principle of the Development

The Development Plan

121. 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 one part of 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 Durham City Neighbourhood Plan (DCNP) was adopted on 23rd June 2021 and now forms part of the statutory Development Plan for the Durham City Neighbourhood Area, which includes this application site. The relevant policies must be given full weight in determining the application.
122. The advice in the NPPF and NPPGs is material, with particularly relevant elements outlined in detail above.
123. The lead Policy in the County Plan for the use principle of use is Policy 15, and in the Neighbourhood Plan, Policy C4.
124. The justification for Policy 15 notes that there is a need for specialist housing in County Durham for older people, for the disabled and for vulnerable adults. Such forms of development include sheltered and extra care facilities (both for rent and owner occupation) and nursing homes.
125. Specialist housing should be designed with the particular requirements of the future residents in mind and buildings should be fit for purpose, accommodating for facilities which meet residents' needs. Specific consideration should be given to access for emergency vehicles and other safety measures linked to the needs of residents. Specialist housing should accommodate satisfactory outside amenity space designed with the occupiers in mind. Access and parking should seek to make suitable provision for residents, carers and visitors. These aspects have been assessed and concluded acceptable.
126. In respect of specialist accommodation for older people, this policy brings into effect the Optional Standards as set out in Building Regulations requiring 100% of new accommodation to meet M4(2) (accessible and adaptable dwellings) and a minimum of 25% of accommodation also to meet M4(3) (wheelchair user dwellings). However, where it can be evidenced by the applicant to the council's satisfaction that applying the Optional Standards at the proportions as set out in the policy, would make a proposal unviable, then the council will consider alternative proportions of dwellings which meet the Optional Standards, as proposed by the applicant.
127. The applicant writes that this approach does not align with their standard model, with this requirement considered more relevant to C3 dwellings and C2 extra care/independent living. They state, 'Care home residents are fully catered for, and individual care plans are created for each resident which staff put into place to ensure that each residents' needs are met. Meals are provided to all and where necessary residents are assisted with

washing, eating, and going to the toilet as necessary. Staffing is on a minimum of 1:6 ratio'. The accompanying text for Policy 15 sets out, 'Specialist housing should be designed with the particular requirements of the future residents in mind and buildings should be fit for purpose, accommodating for facilities which meet residents' needs.

128. As bare reflection of the Policy requirements the application fails Policy 15 M. and N. however it is accepted that the wording within the Policy refers to 'housing' and 'dwellings' and so it could be argued that institutional provision may not be encompassed within it. This issue is such that it may not be a strong basis for a refusal and as such must be dealt with within the planning balance.
129. The Neighbourhood Plan, at Policy C4 sets out in the case of Nursing Homes and Residential Care Homes, in addition:
- f) are well related to shops, community and social facilities; and
 - g) for both the location and the form of the development itself, provide good standards of amenity and open space for the residents, including avoiding sites where existing non-residential uses may be to the detriment of the residents.
- These issues are dealt with elsewhere in this report but are concluded acceptable.
130. The principle of development in this location is concluded acceptable, with the location capable of meeting particular requirements of the future residents in mind, with the buildings fit for purpose, and clearly accommodating facilities designed to meet residents' needs.

Layout and Design

131. 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. In similar vein, Policy S1 of the Neighbourhood Plan requires development to harmonise with its context in terms of scale, layout, density, massing, height, materials, colour, and hard and soft landscaping. Policy C4 includes requirements for sustainable location, with development well related to residential areas and located close to public transport routes and accessible by a choice of means of transport. 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.
132. The scale, form and layout of the application is consistent with the expectations of the masterplan both in it's own right, and also in how the scale of the existing College buildings presents to The Drive. The scales and massings will likely further be reflected in the expected development of the retail unit at the entrance to Mount Oswald, immediately east of the application site, sharing the access from The Drive. The proposed building is shown cut into the slope, reducing it's size by degree, so that there will be a subservience to the College buildings and an apparent reduction in scale and size adjacent the woodland.
133. The elevational design of the building has been changed through the process, in particular in removing a proposed pitched roof to better reflect the surrounding urban form. Large fenestration openings are set back with brick reveals that give articulation and depth to the elevations. Indications of materials are appropriate but will require conditioning with any approval.

134. The layout of the building includes for some flats with small areas of individual private space, a communal area of private open space and easy access to the surrounding open space of Mount Oswald. Design Officers have questioned the communal space in extend and positioning adjacent The Drive and the fact that, enclosed for privacy, the open aspect of land adjacent The Drive compromises an otherwise open public environment. The submitted Landscape Plan shows a scheme of railings supplemented with a native hedge inside around this amenity space, which, subject to detail is an appropriate design response for a parkland estate type setting, and in conjunction with existing and new trees helps soften the east elevation of the building from the main approach into the north part of Mount Oswald.
135. In terms of the scale and character of the buildings proposed, their relationship to surrounding existing and expected structures and the layout of the site, the proposals are considered significantly in accordance with the requirements of Policies 29 and 31 of the CDP, Policy S1 of the CDNP and parts 12 and 15 of the NPPF.

Residential Amenity

136. 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. Policy 32 seeks to ensure that historic mining legacy and general ground conditions are suitably addressed by new development. A Residential Amenity Standards Supplementary Planning Document (SPD) has also been adopted by the Council. The SPD has been produced to provide guidance for all residential development across County Durham and will form a material planning consideration in the determination of appropriate planning applications. It sets out the standards Durham County Council will require in order to achieve the Council's commitment to ensure new development enhances and complements existing areas and raises the design standards and quality of area in need of regeneration in line with the aims of the County Durham Plan.
137. The Residential Amenity SPD advises that, all new development, including new dwellings, will have some bearing on neighbouring properties and it is important to ensure that the impact does not result in a significant loss of privacy, outlook or light for occupiers of new dwellings and existing dwellings. The design and layout of new development should ensure that reasonable privacy and light is provided for surrounding residents and occupiers, particularly in relation to residential use and enjoyment of dwellings and private gardens. Spacing between the windows of buildings/dwellings should achieve suitable distances for privacy and light, whilst also preventing cramped and congested layouts. Distances may also be relaxed having regard to the character of an area. Shorter distances than those stated in the document could be considered in those urban areas typified by higher densities. It will however be important to ensure that the amenity of existing residents is not significantly impacted upon. Further, primary habitable room windows that are adjacent to each other across a public highway may not be required to meet these standards, for example, where doing so would not be in keeping with the established building line and character of the immediate vicinity and where this is considered desirable.
138. Neighbourhood Plan Policy C4: Health Care and Social Care Facilities requires that for both the location and the form of the development itself, provide good standards of amenity and open space for the residents, including avoiding sites where existing non-residential uses may be to the detriment of the residents.
139. 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 unacceptable risk from, unacceptable levels of pollution.

140. A significant aspect of the planning assessment for this case has been the appropriateness of the proposed land-use and the particular residential amenity needs of its occupants in relation to its neighbours, and likewise the needs of the neighbours. The reasonable expectations of existing and proposed residents for residential amenity must be carefully considered. The aforementioned policies and SPD should be afforded significant weight.
141. In terms of the amenity of the proposed residents in relation to the physical elements of South College campus to the north, the proposed structure has an angled relationship to the nearest four storey student residential accommodation block separated by a distance of over 26m with the main access road serving the residential estates in the north part of the Mount Oswald development in between, with a separation of 32m to the 'Hub' building to the north-west. The east-facing residential elevation of the proposal is 125m from the balcony of the veranda of the bar to the north-east.
142. Whilst the closest part of the proposed building, the gable end of one leg of the wings of the L shape, with service elements and communal living rooms faces across The Drive to the nearest student accommodation block. The main relationship is from the facing windows of the lower leg of the newbuild. Fifteen bedrooms, five on each of the three floors face towards a four-storey block of student accommodation at a distance of 60m. Within this distance is the proposed development's car park, landscaping including existing and proposed trees, and The Drive, which has two footways and one cycleway either side of it. This relationship is not considered unreasonable, and likewise, that between the student bedroom windows and the secure gardens the nursing home proposes.
143. The Hub, a circular building, nominally 3 storeys in height is described on the Durham University John Snow College website: 'The Hub has an events hall, gym, music practice rooms, a performance practice room, a yoga/dance studio, a launderette and a faith room'. The Principal of the College, in his objection, above, notes for the functions that, 'some are accompanied by live and/or amplified music'. The curved elevations facing the site appear to consist of principally 'service' elements with the external spaces associated with it for access and transit rather than associated functional areas – the main entrance, principal fenestration and functional associated outdoor spaces are situated on the north east elevation of the Hub building, where it faces towards the student accommodation blocks and the designed social spaces between them.
144. The proposed building's gable elevation presents a blind element containing a service stairwell and two (of three) windows of a communal 'garden room' on each of the three residential floors. Windows on the west elevation of the proposed building do not face directly towards 'the Hub', however seven bedrooms on the ground floor have small external fenced private areas available. Given the indirect relationship of residential windows to The Hub, the nature and (communal) use of the most affected proposed windows, the less functional aspect of the facing element of The Hub building, and that likelihood that proposed private external areas – and their associated doors are more likely to be most intensively used during daytime, Officers conclude that the proposed relationship to that building are likely to be acceptable.
145. The small veranda area on the first floor of The Pitcairn Building, at 125m is both a significant distance from the proposed facing residential, part screened and at a lower level. This is described by the College Principal as an area where students sometimes socialise, being frequently very busy. One internal elevation of the application faces

towards the veranda, and it is considered relevant that there are existing trees and proposed landscaping interrupting this relationship.

146. Further, the residential amenity relationships to The Drive which has regular traffic movements serving the residential estates in the north part of the Mount Oswald development to the north along with what the College Principal describes as students returning to college late at night. Like the orientation of The Hub building, described above, the main external social and circulation spaces of South College are contained within it, thereby capable of containing large elements of the audible effects of the social interactions within it. Noting the most likely direction of the student walking access is from the north, this aspect of the concerns is not of such significance that it could likely lead to an evidenced refusal.
147. Informing each of the above conclusions and noting that no concern was raised in their written response, Planning Officers discussed the residential amenity relationships between the proposed and the nearby student uses with Environmental Health (Nuisance) Officers. In addition to the detailed relationships, layouts and operations discussed above, the fact that both the proposal and the adjacent College will have site management structures in place capable of responding to any day-to-day issues that could emerge if the physical relationships were concluded acceptable was considered relevant.
148. The potential effects of the operation of the nursing home on the student's reasonable expectations of residential amenity must also be considered. Additional general vehicle movements generated have been assessed as likely to be low. Emergency vehicle attendance could be higher than usual but would be occasional and not by definition with sirens. Noise generation from the residents themselves is likely to be low. Staff movements are likely to be on a shift pattern but are an additional dimension to movements along The Drive, rather than introducing a new feature. The operation of the nursing home is considered unlikely to have an unreasonable effect on the residential amenity of the students.
149. The footpath that passes through the woodland to the south of the site is not considered compromised in use. The development will bring a transformative change to this part of the route, but such has been the case where it passes the new housing and will further be the case when the scheme for the retail unit finally emerges.
150. Design Officers have raised some concerns for the 'limited amenity space and therefore outlook for residents', reflecting the Neighbourhood Plan's requirement for 'good standards of amenity and open space for the residents', with similar requirement in Policy 15 of the County Plan. Five of the rooms on the west elevation have very small private areas accessed through patio doors. There is a communal garden to the front of the building. In it's own right this not considered acceptable, but set within the available open space and parkland of the Mount Oswald development and in particular The Storey, is concluded on balance acceptable. This point is made in the representation from the City of Durham Trust. Likewise, the relationship of the proposed windows on the south elevation of the woodland will restrict natural light to those rooms by degree. This gives the large lounge/dining communal rooms and bedrooms on that elevation a direct connection to the woodland – that could be preferred by some. The arrangement is not such that it is considered it could justify a refusal in its own right, but a sufficient response to the relevant requirements of Policies 15 and 29.
151. There are no residential amenity issues in relation to the new residential estates to the north-west and no objections have been received from the 13 dwellings consulted for this relationship. The proposed Construction Management Plans seek to ensure that potential impacts of the construction phase on these residents can be controlled.

152. The assessment of the amenity issues is complex and multi-faceted. The detailed assessments of both physical relationships and likely use relationships concludes that the relationship to the College is on balance acceptable, noting that both parties have facility management structures in place that are capable of dealing with individual problems. To this end the proposals are on balance considered compliant with the relevant policies that protect residential amenity: Policies 15, 29 and 31 of the CDP, Policy C4 of the CDNP and parts 12 and 15 of the NPPF.

Addressing Housing Need

153. The County Plan states, 'There is a need for specialist housing in County Durham for older people, for the disabled and for vulnerable adults. Such forms of development include sheltered and extra care facilities (both for rent and owner occupation) and nursing homes.' Policy 15 sets out in detail that, 'The council will support the provision of specialist housing for older people where: the development is in an appropriate location with reference to the needs of the client; it is designed to meet the particular requirements of residents; appropriate measures will be in place to ensure access for emergency vehicles and safety measures such as fire escapes; and satisfactory outside space, highway access, parking and servicing can be achieved'. Likewise the Neighbourhood Plan sets out general criteria for : Health Care and Social Care Facilities, with additional detail for Nursing Homes and Residential Care Homes, that they be, 'well related to shops, community and social facilities; and for both the location and the form of the development itself, provide good standards of amenity and open space for the residents, including avoiding sites where existing non-residential uses may be to the detriment of the residents'.
154. In the supporting text of the Neighbourhood Plan it is advised, 'Care homes must relate well in scale and appearance to adjacent development; careful design and generous amenity space will often be required to prevent large institutional buildings from dominating their surroundings. Areas of amenity space are similarly essential for the well-being of residents, to provide private sitting out and walking areas as well as pleasant surroundings. Care homes require satisfactory access and adequate parking in order that they do not impinge upon the neighbouring areas. Similarly, proposed extensions should not result in the over-development of sites. Sites suffering from high levels of noise or pollution, from traffic or other sources, are not suitable for these uses'.
155. Spatial Policy Officers advise that, 'It is considered that the proposed development meets most of the criteria within these policies in relation to the location of the care home', noting that Design Officers have raise queries for the external amenity space (this issue is dealt with elsewhere in this report).
156. The City of Durham Trust opine that the Neighbourhood Plan sets out the criteria that needs to be satisfied for residential care homes, and this proposal broadly meets them. They note that the Plan describes the anticipated future need and concludes that it will be necessary either to expand existing care homes or build new ones.
157. The objection from the County Council's Adult and Health Services is set out above. They note the closure of two homes in the County – one nearby, one a significant distance away and an apparent lack of demand from remaining homes, this having significant financial implications for the Council. They also detail two new homes being built and cite concerns for competition. The applicant's evidence and case of need for the facility is queried against Council data and does not align with the Council's strategic approach to care provision which relies on 'alternative models of service delivery'.

158. County Council's Adult and Health Services consider additional strain will be placed on local NHS health services and foresee staff recruitment problems. The relationship to the student accommodation is offered as a further issue.
159. The applicant has responded to these views, with an updated Operator Statement. They note that they did engage with the Council as Planning Authority pre-submission. County Council's Adult and Health Services did not respond to their consultation in this process. They offer alternative reasons for the closure of the two care homes relating to running costs rather than demand for places, they provide alternate survey work relating to a five-mile radius of the site.
160. A recent Planning Inspectorate decision is offered for a comparable case, with that Inspector attributing moderate weight to benefits of energy efficiency, sustainable travel and job creation, acknowledged the responsibility of Local Authorities under The Care Act 2014, and Government support for the 'home first' approach, but significantly 'concluded it is not the role of the planning system to manage the care home market'.
161. County Council's Adult and Health Services have responded further acknowledging the role of the Council as Local Planning Authority but repeating the role and responsibilities of the Authority under the Care Act. They dispute the reasons behind the closure of Hallgarth Care Home and note another has opened at Durham Gate which will be in direct competition with that proposed. County Council's Adult and Health Services do not consider employment opportunities as positive with difficulties recruiting in this sector. They also contend that provider commissioned data analysis is not considered objective. They conclude that there is insufficient evidence of need for a new care home and the proposal would place extra pressure on existing care homes, local NHS and risk Council financial impacts.
162. To repeat the introduction of this report, Section 38 of the 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. The dispute around the proposals from County Council's Adult and Health Services are effectively formed around the 'need' for the Care Home and how this fits within the strategic approach to this within the County led by government advice and other legislation, i.e. The Care Act. However, there is no 'need' component of the two relevant Development Plan policies – Policy 15 and Policy C4 and to again quote the provided caselaw, 'it is not the role of the planning system to manage the care home market'. Accordingly, there is no policy requirement for the applicant to demonstrate a need for the development.
163. Further objection, as set out above, has been received from the Claypath University Medical Group (CUMG) who do not consider that the mitigation requested by the NHS Integrated Care Board Estates Officer sufficient to mitigate the pressures expected from the development on their operation. The amount requested is from a standard calculator that is informed by the tests and restrictions inherent in planning legal agreements. Noting they are 'actively seeking additional building land or building capacity within Durham City', the CUMG consider the amount 'would only cover a small fraction of the actual cost required for expansion'. Planning agreement secured mitigation must be directly proportionate to the development proposed. The Estates Officer's response uses an agreed and tested methodology to quantify this impact. The CUMG response shows the provider is actively looking to increase capacity in the practice, and the NHS Estates response shows the Health Service has an established methodology for local healthcare providers to access funds provided to mitigate the impacts of new developments. The NHS Board is the official body tasked with assessing whether a financial contribution is required and communicating that to the LPA. The CUMG have the opportunity to feed into this process to access available funds directly with the NHS.

164. In terms of the remit of the planning decision, these aspects are considered acceptable.

Highways Safety and Access

165. Policy 21 of the CDP outlines 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. Specifically, 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.
166. Policy 22 compliments these Policies, targeting Durham City for Sustainable Transport Improvements. Policy T1 of the Neighbourhood Plan requires development proposals to be supported by evidence of how they contribute to sustainable transport accessibility and design. Adverse transport impacts should be avoided where practicable. To mitigate adverse impacts, proposals should improve access by walking, cycling and public transport in the area around the development, and thereby contribute to modal shift towards sustainable transport. CDNP Policy T3 requires cycle parking to County standards and the design and location of storage should accord with the style and context of the development. Policy C4 includes relevant elements for this topic including that these types of uses, 'are well related to residential areas; and are located close to public transport routes and are accessible by a choice of means of transport; are well related to residential areas; and are located close to public transport routes and are accessible by a choice of means of transport; and are well related to shops, community and social facilities.
167. The location can be considered highly sustainable in relation to the opportunities for sustainable access for residents, staff and visitors with the parking scheme providing for cycles and EVs. The site sits within a newly developed and master-planned estate that includes network and hierarchy of paths including cycleways that are attractive to the needs of people with mobility impairments. There is a new bus stop – with shelter – adjacent the site on The Drive, segregated cycle use on footpaths, and the park and ride bus terminus is 260m (path) to the east. One of the remaining unimplemented elements of the Mount Oswald masterplan involves a retail unit on the land immediately east of the application site, with progress on this hoped for soon.
168. In the wider area, the wider Mount Oswald site bracketed by two main roads – the A167 and A177 there are regular bus access to Darlington to the south and the Tyneside conurbation to the north. Durham City centre includes a main line railway station for long distance sustainable travel.
169. Highways Officers confirm that from a Highways perspective, this proposal is considered acceptable. In terms of overall impact on the local road network, care facilities generate very small levels of traffic movement. A safe and suitable access to the site is proposed, conforming to the required standards for visibility. A total of 23 car parking spaces are proposed, which means the provision is in accordance with the 2023 Parking and Accessibility SPD. 4 active EV charging points are also to be provided, along with 6 cycle parking spaces. Adequate turning facilities to allow servicing vehicles to enter the site, manoeuvre safely, and leave in a forward gear, have also been provided.
170. Close access to social facilities is restricted at present. Medical facilities in Durham appear concentrated across the north of the City. The NHS has requested funds to develop

additional capacity in the area to reflect the additional demands the development would bring.

171. In terms of the highways Policy requirements for safety and for sustainability, the scheme is concluded acceptable. Highway safety elements are fully met, likewise on-site provision of EV and cycle storage. Locational sustainability in terms of the opportunities offered by the surrounding Mount Oswald development and the wider area is good. More challenging aspects of the proposals in terms of the relationship to medical facilities – distant, but with the NHS suggesting appropriate mitigation, to retail opportunity – with the masterplan providing for such and progress expected on this element, and to social opportunities, which are not obvious in this area are Policy requirements that are not fully addressed but are not such that they are considered to render the scheme unacceptable. These aspects must be considered in the planning balance.

Landscape and Visual Impacts

172. 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 by (amongst other things) recognising the intrinsic character and beauty of the countryside. Policy H3 of the CDNP includes criteria which require development proposals within the neighbourhood outside the Conservation Areas to: avoid the loss of open space and public realm that contributes to the character and appearance of the surrounding area, to use high quality design which contributes to the quality and character of the area; and to have scale, density, massing, form, layout, landscaping and open spaces appropriate to the context and setting of the area. Both reflect the design quality and landscape advice set out in parts 12 and 15 of the Framework.
173. Landscape Officers are critical of the scheme describing the loss of the open space and the enclosure of outdoor areas as 'major and locally adverse', arguing the separation from the woodland provides a 'proportionate open space' to the existing buildings providing parkland character in keeping with the character of Mount Oswald. It is further advised that the cumulative effects of this proposed development in combination with proposed adjacent developments and resulting adverse impacts on the established parkland character of the locality and on visual amenity. It is acknowledged that the proposed retained trees and landscape planting would soften the proposed building, fencing and hard surfacing which would help to reduce visual effects in the longer term.
174. These comments assess the site at face value as it is now, and do not acknowledge the expectations of the redeveloped former golf course and the site history. Whilst the host consents which framed the master-planned development of Mount Oswald have either been implemented or lapsed and are therefore of very limited material weight, the longstanding intent to develop in this part of the site is considered relevant to the current scheme, and like the adjacent land earmarked for retail development, has been an expectation of local residents and the developers alike.
175. The application site currently has a parkland character but is outwith the locally listed Historic Park and garden designated landscape. The land is a component of a landscape

that gives character to the Mount Oswald development and compliments the adjacent locally designated landscape feature. It is considered, as acknowledged in the Landscape comments that the retained and proposed landscape features will mitigate the impacts of the development, and this mitigation will increase over time. Acknowledging the wording of Neighbourhood Plan Policy H3, for 'b) avoiding the loss of open space and public realm that contributes to the character and appearance of the surrounding area', it is considered that the loss of the site is not such that it undermines the parkland character of the overall Mount Oswald developments, the designated park and garden, the setting of the listed building beyond to a degree that would justify refusal on this point as a stand-alone issue.

176. Tree Officers originally raised concerns for the proposal and the proximity to trees, however in response to additional information submitted during the course of the application acknowledge the areas identified for 'tree friendly' construction measures and products along with the requirements of NHBC guidelines and BS 3998:2010 for construction near trees, along with proposals for crown raising adjacent trees. These can form part of a condition on any approval and are considered to bring compliance with the requirements of Policy 40.
177. The proposals are concluded proportionately compliant with the requirements of Policy 39 of the CDP and Policy H3 of the Neighbourhood Plan.

Heritage and Archaeology

178. Policy 44 of the CDP sets out development will be expected to sustain the significance of designated and non-designated heritage assets, including any contribution made by their setting. Development proposals should contribute positively to the built and historic environment and should seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets whilst improving access where appropriate. The Neighbourhood Plan requires high levels of sustainability and design quality in the 'Neighbourhood Outside the Conservation Areas' (Policy H3) but offers no specific Policy advice for the historic environment in this area.
179. The NPPF advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
180. The Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a statutory duty that, when considering whether to grant planning permission for a development which affects a listed building or its setting, the decision maker 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. Any such harm must be given considerable importance and weight by the decision-maker. Under the Act also, special attention to the desirability of preserving or enhancing the character and appearance of a conservation area must be equally considered.
181. The proposed development site lies north-east of Mount Oswald Manor House, a Grade II listed building. The protected built structures of the Manor House, recently extended and renovated, the associated gatehouses, currently being part demolished and rebuilt under an approval for residential use (with extensions) and boundary walls are set within a reduced area of parkland setting. The master-planned development of the Mount Oswald Estate, latterly golf club, has reduced the extent of the parkland setting of the built structures, but with the restoration and extension scheme and planting has effectively

refocussed it within a tree surrounded core, expanding out into public areas shared with the amenity use of the new surrounding residential estates beyond.

182. Conservation Officers consider the intervening woodland between the principal listed building and the site renders inter-visibility 'unlikely'. Landscape Officers see the introduction of built form into the greenspace which provides a parkland setting and buffer between the college buildings and the locally designated Historic Park and Garden designation a significant harm. They advise that the cumulative effects of the proposed scheme in addition to proposed adjacent developments and resulting adverse impacts on the established 'parkland character' of the locality and on parkland character should be considered.
183. It is the view of the Case Officer that the extent and nature of the parkland, both in providing the setting of the listed building and of intrinsic value in its own right has already been significantly changed through the masterplanning of the overall Mount Oswald development, and the significant works undertaken to the listed structures. As noted above the masterplan envisaged development in this location, and immediately east, and the scale of the college north of The Drive was justified in expectation of this.
184. The intervening woodland is deciduous in nature meaning that through winter there are glimpsed views possible through it in either direction. There is therefore the case that there is potentially 'harm' to the listed buildings. However, taking into account the planned nature of the estate's development, including the planting schemes and woodland management that has and will be undertaken, the proposed relationship is qualified as of 'less than substantial' harm. Whilst great weight must be given to this less than substantial harm, the potential benefits of the scheme in providing modern specialist accommodation for which there appears to be a shortfall in the immediate area in a sustainable location is considered to outweigh this level of harm, and the effects on the listed building are concluded acceptable when assessed against the requirements of Policy 44 of the County Plan, and the statutory requirements of the Planning (Listed Buildings and Conservation Areas) Act and paragraph 202 of the NPPF.
185. In terms of the effect on the locally designated parkland, the development will be transformative, but again, is a planned and expected intervention of a scale to reflect adjacent development, in a location that retains the adjacent public footpath as physically unaffected, sitting alongside the replanned and enhanced setting of the listed building – the parkland setting reflecting this. Again, there is acknowledged 'less than substantial' harm to the parkland as the setting of the designated heritage assets and the potential benefits of the scheme are considered to outweigh this.
186. The site lies just outside the plan-defined inner setting of the World Heritage Site, and the actuality of the application site is that topography, existing trees and existing built structures ensure there is no physical or visual relationship, with UNESCO plans showing the site has having no direct line of sight with the Cathedral Tower. There is therefore no conflict with the requirements of Policy 45.
187. The required assessment leads to the same conclusion for the potential to affect the City Centre Conservation Area. The site is sufficiently detached from this Conservation Area so as to have no effect on it or its setting.
188. The County Archaeologist has confirmed that there no archaeological implications from the development.
189. The application is considered compliant with the requirements of Policy 44 of the CDP in so far as it is presented to date.

Ecology

190. Policies 26, 35, 41 and 43 of the CDP seek to secure net gains for biodiversity and coherent ecological networks. Policy 41 states that proposals 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. 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. Increasing biodiversity is included within the environmental element of the three objectives of achieving sustainable development set out in the Neighbourhood Plan, and then reflected within the criteria of Policy S1.e.
191. The County Ecologist advises that the submitted information shows a small BNG loss of and had questioned some of the projections based on tree sizes. Notwithstanding this it is considered that taking into account the size of the application site an appropriate approach to achieve the required BNG is monies in lieu (£5,300) for the shortfall and the securing of monitoring reports through legal agreement to ensure that those elements of the BNG offer that are to be achieved on the development site are delivered as expected, retained and maintained.
192. Policy G1 of the Neighbourhood Plan requires that where the loss of blue or green assets of significant value is unavoidable then alternate provision should be provided on-site or off-site where this is not viable or practicable. There are definitions of what constitutes a green asset, but no methodology for assessing 'significance' or 'value'.
193. Officers consider that the advice of the County Ecologist has the potential to satisfy these requirements in both the County Plan and the Neighbourhood Plan although it must be noted that monies in lieu secured by legal agreement for ecology as a relatively small amount may or may not be spent in the Neighbourhood Plan area.

Flooding and Drainage

194. Policies 35 and 36 of the emerging 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. As part of the Sustainable Development requirements of Policy S1 of the City of Durham Neighbourhood Plan criteria k) requires all developments to demonstrate incorporation of sustainable urban drainage system (SUDS) to achieve improvements in water quality, aquatic ecosystems, and habitats in order to increase resilience to climate change. 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 and only consider development appropriate in areas at risk of flooding where a sequential test and some instances exception tests are passed, informed by a site-specific flood risk assessment.
195. The site is in Flood Zone 1 which is a low flood risk area.
196. For this surface water control, Council Drainage Officers have confirmed the information provided to date is acceptable, including the detailed audit of calculations. Imposition of a

condition will ensure Policy compliance. An informative will help lead the applicants to the necessary separate consents for off-site culvert works.

197. For foul drainage, Northumbrian Water have not replied to their consultation. The size of the site and its location within a master-planned modern development site lead to the conclusion that the requirements of Policy 36 for foul water disposal will be capable for resolution between the developer and the statutory undertaker
198. For the foul and surface water drainage requirements of CDP Policies 35 and 36 the imposition of conditions will ensure that the scheme meets compliance.

Infrastructure and Open Space

199. Policy 26 (Green Infrastructure) of the CDP expects new development to maintain and protect, and where appropriate, improve the county's green infrastructure (GI) network. Development proposals should provide for new green infrastructure both within and, where appropriate, off-site, having regard to priorities identified in the Strategic GI Framework. New GI will be required to be appropriate to its context and of robust and practical design, with provision for its long term management and maintenance secured. The council expects the delivery of new green space to make a contribution towards achieving the net gains in biodiversity and coherent ecological networks as required by the NPPF.
200. Proposals for new residential development 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). Where it is determined that on-site provision is not appropriate, the council will require financial contributions secured through planning obligations towards the provision of new open space, or the improvement of existing open space elsewhere in the locality. The site sits within a wider masterplan area for Mount Oswald with strong GI links and spaces.
201. The standard requirement for the scheme using the standard methodology would be the sum of £52,836. The applicants note that their residents are likely to be infirm and potentially have restricted mobility. They suggest that the playspace and allotment elements of the calculator are not relevant and fail to meet the tests for financial demands to be directly, fairly and reasonably related to the scheme. Whilst Policy Officers caution against deviating from the standard calculator, the Case Officer considered these arguments reasonable, with the reduced requirements resulting in a required mitigation payment of £42,846 to mitigate demands the development could bring for use of open space.
202. This obligation would ensure compliance with the requirements of Policy 26 of the CDP and G1 of the CDNP and is considered an appropriate response to the requirements of the legal tests for such.

Other Considerations

203. Policy 25 requires that new development will be approved where any mitigation necessary to make the development acceptable in planning terms is secured through appropriate planning conditions or planning obligations. Such mitigation will relate to the provision, and/or improvement, of physical, social and environmental infrastructure taking into account the nature of the proposal and identified local or strategic needs.

204. NHS Local Healthcare has used a standard methodology to ascertain if mitigation is required to sure the demands the development could place on local healthcare services are met. Identifying that the Claypath & University and University Health Centres as the GP Practices that would be affected by the development, they suggest funding secured through a s.106 agreement would assist them in providing the additional floorspace required to provide services to patients. With a patient increase of 74 individuals, a contribution of £15,540 is requested. This would bring compliance with Policy 25 for this topic.
205. Policy 29 (Sustainable Design) of the CDP sets out the requirements to achieve well designed buildings and places. It should also be noted for comparison that the Nationally Described Space Standards would not be applicable if this development was classed as a purpose-built student accommodation (C2 use). However, the development would still be expected to provide a high standard of amenity in accordance with criteria e of the policy. Officers consider that this approach can be considered in this instance.
206. This Policy, complimented by Policy D4 of the Neighbourhood Plan also requires that developments should, 'minimise greenhouse gas emissions, by seeking to achieve zero carbon buildings and providing renewable and low carbon energy generation, and include connections to an existing or approved district energy scheme where viable opportunities exist. Where connection to the gas network is not viable, development should utilise renewable and low carbon technologies as the main heating source'. The proposal plays on a high level of energy efficiency and the use of solar panels and air source heat pumps to provide a highly energy efficient building that will increase the viability of the operation, this it is contended has been a significant issue with older comparable uses to the point where it has affected their viability. Whilst there has been dispute from objectors as to how far this apparent viability issue was relevant to the two nursing homes that have been described as closing recently and whether their demise was more related to 'need', the point that more efficient operations will be more viable is accepted.
207. The application includes for the use of solar panels and air source heat pumps and will build to BREEAM standards. To ensure these are provided and that other options for seeking to achieve zero carbon buildings are explored/achieved a condition is proposed, appended to the end of this report.
208. Policy 32 seeks to ensure that the potential for contamination or unstable land is assessed, considered and mitigated on any development site.
209. For land contamination potential, Environmental Health Officers advise that the site sits within the larger site that have been investigated as part of the whole site. On the basis of the ground investigation report from 2017, no adverse comments are made, and it is confirmed that there is no requirement for a contaminated land condition. A requested 'informative' to cover the eventuality of unforeseen contamination being discovered, suggested by the Officer will be appended to any consent. Compliance with the requirements of Policy 32 in so far as it relates to contaminated land is concluded.
210. In terms of land stability, the land is not affected by records of the Coal mining legacy and the proposals therefore comply with the requirements of Policy 32 in so far as they relate to land stability.
211. The site lies within a 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 extent 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 204 c) of the NPPF.

212. Policy 31 of the CDP states 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, aligning with similar requirements in part 15 of the Framework. The applicant has provided, and revised a Construction Management Plan and a Construction Environment Management Plan which seek to ensure that the construction process is managed to minimise impacts on surrounding land uses through restrictions including, but not restricted to dust and vehicle emissions and working hours. The suggested conditions, set out in the list below, will ensure that the necessary assessments and mitigations are delivered to bring compliance with Policy 31 through the reserved matters process.
213. Policy 28 (Safeguarded Areas) includes for protection of the Met. Office radar at High Moorsley. The height of the buildings proposed buildings is lower than those existant on site and with a separation of 8.6km there will be no impact on the data or the forecasts and warnings derived from it.
214. The application has been subject to an EIA Screening exercise concluding that it was not EIA development.
215. The proposal has generated no interest from local residents.

Planning Obligations

216. 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. The S106 Agreement which would secure the following all of which are considered to meet the required tests should include:
 - A financial contribution of £15,540 is required to fund additional healthcare demands of the NHS Local Healthcare Trust likely to be generated by the scheme.
 - The County Ecologist considers that a payment in lieu of on-site mitigation is an appropriate response to the net-biodiversity loss identified in the submitted scheme, with a figure of £5,300 identified as required.
 - Further for bio-diversity the securing of a monitoring and maintenance plan for a 30-year period with implementation through a future Section 39 legal agreement.
 - A financial contribution of £42,846 to mitigate demands for open space proportionate to the detailed implications of its occupants informed by the

CONCLUSION

217. 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 in this instance is formed of both the City of Durham Neighbourhood and the Durham County Plan.
218. The form of development was one anticipated as an option of the original masterplans that have informed the development of Mount Oswald that is heading towards its final phases. The locational sustainability is acceptable and will be increased if the anticipated retail unit comes forward.
219. There have been two principal areas of contention: Officers have considered the amenity relationship with the adjacent College and concluded that the two demographics and have the potential to coexist within reasonable expectations for residential amenity. The need for a Nursing Home and potential additional pressures on existing NHS facilities have been challenged by Council departments and local health providers, but offered mitigated as requested by NHS Estates. The obligations of the Local Authority under The Care Act are acknowledged, but Officers consider within their remit of representing the Local Planning Authority, to give significant and overriding weight to this issue would overreach s.38 of the Planning Act and not be defensible at appeal.
220. That the scheme offers both potential employment and specialist accommodation and these would usually be offered as clear benefits for any development must be qualified in this instance noting the objections on both issues. Officers consider that within the remit of the planning application both of these topics garner positive weight in the planning balance.
221. Policy 15 requirements for M4(2) and M4(3) access requirements are not met. The applicant considers these more relevant to standard forms of housing rather than their established model. The wording of the Policy could potentially be questioned and this is therefore not considered a viable reason for refusal, the applicant's explanation of a high staff ratio to assist residents giving some comfort in this regard. It is however attributed some negative weight in the balance
222. The scheme is considered to meet planning requirements for Highways, Sustainability, Historic and Natural environment.
223. All other aspects of the proposed development have been identified and considered in detail, with none that cannot be controlled or appropriately mitigated through legal agreement or the imposition of appropriate conditions.
224. On balance, it is considered that the merits of the scheme providing high quality specialist accommodation outweigh the identified conflicts, including landscape, heritage and open space issues within the County Durham Plan and the Neighbourhood Plan; the planning balance therefore lies with approval of the scheme.

RECOMMENDATION

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

- A financial contribution of £15,540 to fund additional healthcare demands of the NHS Local Healthcare Trust likely to be generated by the scheme.
- Monies to mitigate net-biodiversity loss, with a figure of £5,300 identified as required.
- The securing of a monitoring and maintenance plan for a 30-year period and the completion of a s.39 agreement.
- A financial contribution of £42,846 to mitigate demands for open space.

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 be carried out in strict accordance with the approved plans:
Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 15, 21, 22, 25, 26, 28, 29, 31, 32, 35, 36, 39, 40, 41, 43, 44, 45, 56, the Adopted Residential Amenity Guideline SPD of the County Durham Plan, Policies S1, S2, H1, H3, G1, G3, T1, C1 and C4 of the Durham City Neighbourhood Plan and Parts 2, 4, 5, 8, 9, 11, 12, 14, 15 and 16 of the National Planning Policy Framework.
3. Notwithstanding any details of materials submitted with the application no erection of structures shall commence until details of the make, colour and texture of all walling, roofing, ancillary structures and retaining structure materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.
Reason: In the interests of the appearance of the area and to comply with Policy 29 of the County Durham Plan, Policy H3 of the Durham City Neighbourhood Plan and Part 12 of the National Planning Policy Framework.
4. Prior to the first occupation the development hereby approved, details of all means of enclosure of the site shall be submitted to and approved in writing by the Local Planning Authority. The enclosures shall be constructed in accordance with the approved details within this timescale.
Reason: In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan, Policy H3 of the Durham City Neighbourhood Plan and Parts 12 and 15 of the National Planning Policy Framework.
5. Prior to the first occupation the development hereby approved, elevational details of all ancillary structures, including but not restricted to the substation, cycle storage, smoking shelter, bin store and garden furniture shall be submitted to and approved in writing by the Local Planning Authority. The structures shall be constructed in accordance with the approved details within this timescale.

Reason: In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan, Policy H3 of the Durham City Neighbourhood Plan and Parts 12 and 15 of the National Planning Policy Framework.

6. No development shall commence until detailed drawings, including sections, showing the existing and proposed site levels, and the finished floor levels of the proposed development and those of existing neighbouring buildings (if any), has been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details thereafter.

Reason: In the interests of the amenity of the surrounding areas and neighbouring properties, in accordance with Policies 29 and 31 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework. Required as a pre-commencement condition to ensure that the implications of changes in level are properly considered and accounted for in the development.

7. Construction of the access junction and road, the 4no. electric vehicle spaces and the cycle storage shown on plans 0100 Rev.K must be complete and available for use on first occupation of the site.

Reason: In the interests of delivering sustainable transport and to comply with Policy 21 of the County Durham Plan, Policies S1, S2 and T1 of the Neighbourhood Plan and Part 11 of the National Planning Policy Framework

8. The submitted landscape scheme as shown on plan R3-641-03-LA-01, with tree protection as shown on plan R3-641-03-AR-03 must be implemented in the first available planting season following the commencement of building works.

Implementation of the development and the landscape scheme must be in accordance with the submitted Cell Web information guidance where hard surfacing is within the root protection area of retained trees. Construction of the road and footpaths will have to be above existing ground level and at least 1.5 /2m away from the trunks and buttress roots of retained trees.

- No roots are to be severed (except for hand digging to remove rocks or protrusions taking care not to sever any roots over 2.5cm in diameter).
- The soil must not be compacted.
- Oxygen and water must be able to diffuse into the soil beneath the engineered surface.
- Footpaths and Roads will have to be above existing ground level and at least 1.5/2m away from the trunks and buttress roots of the retained trees.
- Where there is a risk of waterlogging appropriate land drainage should be incorporated into the design. If land drainage is required within the root protection area it must be designed to avoid damage to the tree/s.
- Cell web must be laid in line with manufactures instructions, for footpaths cell web can be the minimum depth of 75mm. As the surface will be raised, the first branch of those trees of which the surface is placed under must also be taken into consideration due to height of pedestrians and vehicles.
- Edging materials should be laid at ground level supported on pins or pegs driven into the ground. Concrete edging cannot be constructed within the tree's root protection areas (RPA). The final surface must be porous to allow moisture to tree roots. Final surface must also be considered, due to leaf and tree debris which may cause the surface to be hazardous.
- All protective fencing must be in place prior to construction and placed at those distances measured within the tree survey.

Foundation depths of buildings must comply with NHBC guidelines chapter 4.2 building near trees.

All tree work must be undertaken to a high professional standard in accord with arboricultural best practice and in line with British Standard 3998:2010 Tree Work - Recommendations.

All surface work near trees must comply with BS 5837 2012.

A landscape management and maintenance plan to support the submitted landscaping scheme must be submitted to and approved in writing by the Local Planning Authority in advance of the provision of the landscape scheme, and thereafter adhered to for a minimum period of 5 years.

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

9. The Drainage scheme must be carried out in full accordance with the Drainage Strategy and Supporting documentation set out in: Drainage Strategy 23103-DCE-XX-XX-D-C-100 P05, Drainage Strategy and Calculations 23103 CAL01(d) 17.11.2023, 23103-DCE- Civils Drawings 01, Issue Sheet, 23103 Calculations v2 16.11.23.

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

10. The submitted Framework Travel Plan, Ref: 22050 Mount Oswald FTP/1 dated 26.07.2023 shall be adhered to in full, adhering to the timescales set out in that document's Action Plan Framework (Table 4) and the monitoring arrangements set out in part 9.

Reason: In the interests of delivering sustainable transport and to comply with Policy 21 of the County Durham Plan, Policies S1, S2 and T1 of the Neighbourhood Plan and Part 11 of the National Planning Policy Framework.

11. Development must be undertaken wholly in accordance with the submitted Construction Management Plan Rev.B, which sets working hours at 07:30-18:00 Monday to Friday and 08:00-1300 Saturday and the Dust Management Plan Rev A.

Reason: To prevent the increased risk of flooding from any sources in accordance with the NPPF.

12. Within 6 months of occupation of the development hereby approved a written Verification Report by a competent person must be submitted to the Local Planning Authority confirming the use of the solar panels and air source heat pumps indicated in the application and confirming the energy efficiency of the building to EPC A.

Reason: In the interests of sustainability as required by Policy 29 of the Durham County Plan 2020, Policy D4 of the Durham City Neighbourhood 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 reasonable expectations of residential amenity for residents of different ages and backgrounds, both existing and proposed, to a Policy compliant standard that ensures the development has the potential to be attractive to all and that it does not introduced an 'agent of change' that could undermine reasonable expectations of amenity in and from the use of existing surrounding land uses, demonstrating 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 2020-2035

Durham City Neighbourhood Plan 2020

Residential Amenity Standards SPD (updated 2023)

'Housing our ageing population' Sep 2022, LGA (accessed 14.11.2023)



Planning Services

DM/23/02622/FPA

Full planning application for the erection of a 74-bed care home facility (Class C2 Use), with associated access road, car parking, cycle storage, landscaping, boundary treatments and refuse facilities.

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 2005

Date December 2023

Scale NTS