CABINET
4 NOVEMBER 2025

TO CONSIDER THE USE OF LAND AT FAVERDALE INCLUDING FORMER ST MODWEN LAND FOR BIODIVERSITY NET GAIN AND NUTRIENT NEUTRALITY CREDITS

Responsible Cabinet Member -
Councillor Chris McEwan, Economy Portfolio

Responsible Director -
Trevor Watson, Director of Economy and Public Protection

SUMMARY REPORT

Purpose of the Report

1. To seek approval for the use of land at Faverdale East Business Park (Partly former St Modwen Land), specifically including using the site to generate Biodiversity Net Gain and Nutrient Neutrality credits but also to investigate the possibility of disposal of part of the land for employment purposes.

Summary

2. The site is approximately 35 hectares (Shown on the plan at **APPENDIX 1**). The site is wholly owned by Darlington Borough Council (DBC), comprising land previously in DBC ownership and land purchased from St Modwen in 2020.

3. The land is identified as an existing employment site in the Local Plan, and it was always intended that it would be used for employment purposes.

4. During discussions with a prospective developer it came to light that nearly 25% of the site is listed as Open Mosaic Habitat which is defined by Natural England as a priority habitat. This part of the site is expensive to replace if developed but highly valuable in biodiversity terms.

5. There has been interest in part of the site for employment purposes, and this needs to be investigated to ensure the best value for the Council.

6. Consideration needs to be given as to whether part or all of site could be used for Biodiversity Net Gain (BNG) and Nutrient Neutrality (NN) Credits.

7. The financial considerations are explained in **APPENDIX 3,** which will be considered under Part III.

Recommendations

8. It is recommended that Cabinet agrees:

(a) To approve the use of part of the land to generate Biodiversity Net Gain and Nutrient Neutrality Credits. Primarily for sale on the open market but also for use in Council developments.

(b) That Officers are authorised to initially register the land labelled Area one (Shown on the plan at **APPENDIX 2**) with Natural England for the purposes of Biodiversity Net Gain credits and to market the credits.

(c) That officers investigate the sale of Areas two and three on the plan at Appendix 2 for employment purposes. If the conclusions are that the land will generate a greater income for Biodiversity Net Gain and Nutrient Neutrality credits within two years of this decision that officers are authorised to register with Natural England either Area two or three or both sites

(d) That the necessary funds are approved from existing budgets and the capital Investment Fund to allow fencing off parcels of land and for the registration of the land with Natural England so that the credits can be marketed.

(e) That the Council enters into a Conservation Covenant with a registered 'Responsible Body' to ensure that the land is maintained in accordance with the Habitat, Management and Monitoring Plan (HMMP).

Reasons

9. The recommendations are supported by the following reasons:

(a) That the statutory requirement for developments to provide at least 10% in biodiversity net gain has put into question the viability of the site for employment purposes, either due to the lack of developable land or the costs associated with developing the whole of the site.

(b) There is a financial benefit to the Council if the conclusions are that the site would be better used for environmental credits, with the land registered with Natural England for the sale of credits.

(c) By registering Area one we can seek the financial benefits at an early stage and by further considering Areas two and three we ensure we get the best value for the Council.

(d) If the land is registered in phases, the land needs to be physically separated to manage the land.

(e) To register the land with Natural England there needs to be a Habitat Monitoring and Management Plan in place and a legal agreement to ensure the HMMP is delivered.

Trevor Watson
Director of Economy and Public Protection

Background Papers

No background papers were used in the preparation of this report

David Hand: Extension 6294

Council Plan	Efficient and effective use of resources: by considering the best and most financially beneficial use of the Council's assets it ensures the best value for money to ensure we can continue to deliver services.
Addressing inequalities	N/A
Tackling Climate Change	If the conclusion is the use of land for environmental credits, this could only have a beneficial effect on climate change as there will be no emissions from the site and only carbon capture.
Efficient and effective use of resources	This report intends to examine the best use of the Council's assets.
Health and Wellbeing	If the conclusions are that the land is used for environmental credits it can only have a positive impact on Health and Wellbeing of residents
S17 Crime and Disorder	No Implications
Wards Affected	Brinkburn and Faverdale
Groups Affected	None
Budget and Policy Framework	The conclusions of the report may have a positive impact on the budget
Key Decision	No
Urgent Decision	No
Impact on Looked After Children and Care Leavers	None

MAIN REPORT

Information and Analysis

10. The whole site is approximately 35 hectares (shown on the plan at Appendix 1). The site is wholly owned by Darlington Borough Council, comprising land previously in DBC ownership and land purchased from St Modwen in 2020. The land is identified as an existing employment site in the Local Plan, and it was always intended that it would be used for employment purposes.

11. During discussions with a prospective developer it came to light that nearly 25% of the site is listed as Open Mosaic Habitat which is defined by Natural England as a priority habitat. This part of the site is expensive to replace if developed but highly valuable in biodiversity terms.

12. There is however still developer interest on parts of the site outside the Open Mosaic Habitat. These areas are shown as Area two and three on the plan at Appendix 2**.** These areas are less valuable per hectare for credits than the Open Mosaic Habitat but still have some value. It is considered these areas should be investigated further to determine whether the potential for an immediate capital receipt may be financially beneficial than registering the land for Biodiversity Net Gain and Nutrient Neutrality where there is no certainty of the timeline of income. By registering all the land in the first instance that would prevent any development of land for at least 30 years. We can register the further areas at a later date if it is best value for the Council, this would involve more costs, but these are expected to be marginal.

13. Whilst over the last year there has been some interest in the land for employment purposes, this was at a time when the implications of the 10% Biodiversity Net Gain were not known. The costs of developing the whole of the site just in terms of biodiversity are included in Appendix 3 (to be considered in Part III).

14. Members will be aware that March 2022 saw the introduction of Nutrient Neutrality in the Tees Catchment Area, which affects the whole of Darlington Borough. The implications are that there needs to be mitigation to ensure any development even down to a single dwelling does not increase the flow of nitrogen into the rivers. Mitigation or partial mitigation can be provided on site by various means, such as small packet treatment works or removing land from agricultural purposes.

15. Natural England set up the first Nutrient Neutrality mitigation credits scheme in the Country in the Tees Catchment area in 2023. This scheme has successfully unlocked housing developments throughout the Tees Valley including over 2000 homes in Darlington. The Council's joint venture projects have made use of this credit scheme. These credits must be provided by sites within the River Tees catchment area; they do not have to be sited within the individual local authority boundaries.

16. Whilst the Natural England scheme has been hugely beneficial to the Tees Valley in unlocking housing sites, it is a bidding process where Darlington Borough Council has no control over which sites have been successful.

17. Natural England set up the mitigation credits scheme to unlock housing developments as an immediate solution, but it is not part of their normal business and are now encouraging the market to provide alternative solutions such as private credit schemes under the strict control of Natural England. The use of the Council's land for these purposes would result in the Council maintaining control over how the credits are used, so could be used for its own developments or for sale.

18. Whilst this site could provide some credits, the whole of the site could not be used for credits as it would not mitigate against the flow of nitrogen into the water courses. The provision of credits from this site and their estimated value are outlined in Appendix 3 (to be considered in Part III). These credits will only be generated by Areas two and three.

19. February 2024 saw the introduction of a mandatory requirement that all major development sites (including commercial and residential) must show how they are providing at least 10% biodiversity net gain. Minor developments were added to this requirement in May 2024; this currently applies to a single dwelling or large household extension. It is hoped that the net gain in most instances can be provided on-site but this is not always the case. Biodiversity can be provided off-site, where a developer has control of other land and can guarantee its use and management for those purposes for 30 years. A legal agreement and monitoring would be required to secure this, and monitoring arrangements would be put in place at a cost to the developer.

20. An alternative solution to on-site and off-site mitigation is the purchase of Biodiversity net gain credits. Several companies and landowners have already seen this as a commercial opportunity as unlike Nutrient Neutrality, where there may be other technical solutions there is a long-term requirement. The credit costs have been set relatively high as they are the least favourable solution. Unlike the Nutrient Neutrality credit scheme, Biodiversity Net Gain credits can be bought from anywhere in the Country.

21. To enter into the sale of credits, the land to be used needs to be placed on a national register managed by Natural England and need to have a Habitat Management and Monitoring Plan in place and the legal agreements to secure the credits. Any land used for credits will have to be registered with the Land Registry as it can only be used once in 30 years.

22. The registration of the land for the sale of credits would involve entering into a Conservation Covenant with a Responsible Body. The land would be retained in the Council's ownership and after a 33-year period has lapsed it could consider its options for the land going forward.

23. As of February, there were 90 sites registered in England covering over 1,000 hectares. There is only one site registered in Darlington Borough.

Financial Implications

24. The financial value of using the land for the sale of Nutrient Neutrality and Biodiversity Net Gain credits including indicative costs are highlighted in Appendix 3 (to be considered in Part III).

Legal Implications

25. There would have to be legal agreements over the Conservation Covenant.

Estates and Property Advice

26. Estates and Property have been aware of this report coming forward.

Procurement Advice

27. There are no procurement implications at this stage, depending on the conclusions of the investigations, any procurement which may be required will be discussed with the relevant departments.

Carbon Impact and Climate Change

28. The use of the land for environmental credits will have a positive benefit on carbon impact and climate change.