

DARLINGTON BOROUGH COUNCIL
PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 4th December 2019

APPLICATION REF. NO:	19/00339/OUT
STATUTORY DECISION DATE:	9 July 2019 (extension of time agreed)
WARD/PARISH:	SADBERGE AND MIDDLETON ST GEORGE
LOCATION:	Reservoir (Disused), Darlington Road, Sadberge
DESCRIPTION:	Outline planning permission for redevelopment of former reservoir site for residential purposes of up to 46 dwellings with all matters reserved apart from access (amended ecological appraisal received 23 May 2019 and additional Transport Technical Note received 19 June 2019)
APPLICANT:	Northumbrian Water Limited

APPLICATION AND SITE DESCRIPTION

This is an outline application for the development of a former reservoir site for residential purposes, with access being the only matter for consideration at this stage. The proposed development will be served by a new access at the western end of the site, off Darlington Road, from which an internal spine road will access the proposed dwellings.

Matters of appearance, landscaping, layout and scale would be reserved for later determination and as such no further detail of the proposed houses have been provided. All of these matters of detail will be the subject of a separate planning application. An illustrative layout submitted with the application indicates that the site could accommodate up to 46 new dwellings, including the provision of 20% affordable housing, as well as the provision of a wildlife and SuDS area. As the proposal will involve the redevelopment and reprofiling of the former reservoir site, indicative sections have also been provided with the application. These sections show that the reservoir basin would be removed and re-profiled, leaving the south and western embankments in situ. These matters would be dealt with at the reserved matters stage.

The site is currently owned and managed by Northumbrian Water Limited (NWL). The former reservoir has been redundant since approximately 1985 and is surplus to operational requirements. NWL retain some operational infrastructure located below ground within the western embankment and this part of the site is excluded from the developable area.

The site lies on the south-western edge of Sadberge, within the Sadberge Conservation Area. The site extends to approximately 1.74 hectares and comprises the reservoir, a concrete lined tank with brick walls surrounded by earth embankments on all sides, and a disused stone tower on the embankment to the south of the reservoir. The northern, southern and western embankments are covered with scrub and trees and bounded by hedges.

The site is bounded by existing residential properties at Beacon Grange Park to the east, by Darlington Road to the north and by open countryside to the south and west. The A66(T) is located approximately 100 metres to the south.

The following information has been submitted in support of the application:

- Planning Statement
- Parameter Plan
- Design and Access Statement
- Statement of Community Involvement
- Heritage Statement
- Transport Statement
- Phase 1 Ecological Assessment
- Noise Assessment
- Flood Risk and Drainage Assessment
- Phase 1 Desk Based Assessment
- Arboricultural Impact Assessment
- Illustrative Earthworks Assessment

Application documents including plans, supporting documentation, consultation responses, representations received, and other background papers are available on the DBC website.

Environmental Impact Assessment Requirements

The Local Planning Authority has considered the proposal against the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

In the opinion of the Local Planning Authority, the proposal is development for which an Environmental Impact Assessment **is not required** as the development would not be likely to have significant effects on the environment by virtue of factors such as nature, size or location.

PLANNING HISTORY

97/00162/OUT – Outline application for residential development and open space. REFUSED on 7 July 1997 and DISMISSED on appeal 3 February 1998

04/00946/FUL – Demolition of reservoir and associated banking, grade site to reduce levels and seed. GRANTED 18 January 2006

RESULTS OF CONSULTATION AND PUBLICITY

Highway Engineer – No objection subject to conditions. [see conditions 6,7,8,9]

Conservation Officer – Overall the proposal would have only a negligible or neutral impact on the heritage asset the significance of the Sadberge Conservation Area and so it would preserve its heritage asset significance by leaving it substantially unharmed rather than entirely unchanged. No objection to the proposed development.

Environmental Health Officer – Recommends that conditions be attached relating to noise, contaminated land, construction management plan and hours of construction.

Ecology Officer – Conditions required to secure mitigation measures set out in the Ecology Report together with the provision of bat and bird boxes on each property, the submission of a lighting strategy and the requirement to update surveys as appropriate.

Sustainable Transport – Request a sustainable transport contribution towards the Service 20. [see 106 requirements]

Historic England – Do not wish to comment on the application. The views of your specialist conservation and archaeological advisers should be sought.

Highways England – No objection

Durham County Archaeology – No objection

Local Lead Flood Authority – The applicant has provided sufficient information to satisfy the Local Lead Flood Authority that a surface water runoff solution can be achieved without increasing existing flood risk to the site or the surrounding area. A detailed design for the management of surface water runoff from the proposed development shall be secured by condition. [see condition 17,18]

Northumbrian Water Limited – Recommend conditional approval

Police Architectural Liaison Officer – No objection however the current layout appears too cramped without sufficient parking spaces for the number of properties proposed. This will lead to vehicles being left on pathways and neighbour disputes.

CPRE - Objects to the proposals and wishes to register its support for local residents and the Parish Council who also object. The proposed development, whilst 'brownfield' is outside the development limits, the site is not proposed for allocation in the emerging Local Plan and Darlington has a 5 year supply of housing land.

Northern Gas Network – No objection

Sadberge Parish Council – Objects for the following reasons:

- The site is outside limits to development and would be contrary to E2 and CS1
- Sadberge is not a suitable location for sustainable development
- The Sadberge community does not want development of this scale in or near Sadberge
- The proposed development would not make a worthwhile contribution to the vitality and sustainability of Sadberge
- The proposed development would result in even more traffic passing through a village which is already experiencing problems due to traffic volumes.

Three letters of objection have been received which raise the following issues:

- *The site is outside the village envelope.*
- *Sadberge has no bus service, no school, no shops and is not suitable for development. Building 46 houses will not bring these back.*
- *The old reservoir is a haven for wildlife*
- *The entrance to the estate will come out onto a 60mph road which isn't safe*
- *Darlington Road is already busy. 46 extra houses and 2 cars per household will mean the road is far busier and noisier. There is far too much traffic in the village. We do not want more noise and pollution.*
- *The removal of trees and bushes adjacent to the boundary with Beacon Grange Park would affect wildlife, including squirrels and bats and would result in new properties directly overlooking the gardens of Beacon Grange Park, intruding on our privacy.*

PLANNING POLICY BACKGROUND

The following policies are relevant to consideration of the application:

Saved Policies of the Borough of Darlington Local, 1997

E2 – Development Limits

E17 – Landscape Improvement

H7 – Areas of Housing Development Restraint

Darlington Core Strategy Development Plan Document, 2011

CS1 – Darlington's Sub-Regional Role and Locational Strategy

CS2 – Achieving High Quality, Sustainable Design

CS4 – Developer Contributions

CS10 – New Housing Development

CS11 – Meeting Housing Needs

CS14 – Promoting Local Character and Distinctiveness

CS15 – Protecting and Enhancing Biodiversity and Geodiversity

CS16 – Protecting Environmental Resources, Human Health and Safety

CS17 – Delivering a Multi-Functional Green Infrastructure Network

CS19 – Improving Transport Infrastructure and Creating a Sustainable Transport Network

Tees Valley Minerals and Waste Development Plan Documents
Policy MWC4: Safeguarding of Minerals Resources from Sterilisation

Planning Obligations Supplementary Planning Document, 2013

Revised Design of New Development Supplementary Planning Document, 2011

National Planning Policy Framework, 2019

PLANNING ISSUES

The following issues are to be taken into consideration of the application:

- Planning Policy
- Impact on Designated Heritage Assets
- Impact on Visual and Residential Amenity
- Highway and Sustainable Transport Issues
- Surface Water Drainage
- Ecology
- Trees
- Land Contamination
- Developer Contributions
- Statement of Community Involvement

Planning Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan **unless material considerations indicate otherwise**. The National Planning Policy Framework, 2019 supports a plan led system providing that planning decisions are 'genuinely plan-led' (para. 15).

Five year housing land supply position

The NPPF and NPPG states that housing requirement figures identified in strategic policies should be used as the starting point for calculating the five year land supply figure for the first five years of the plan and where the strategic housing policies are more than 5 years old but have been reviewed and are found not to need updating. In other circumstances, the starting point for calculating the five year land supply will be local housing need using the standard method. Utilising the local housing need figure for Darlington (177 dwellings per annum) which uses the 2014 household projections, the Council considers that a 17 year supply of deliverable housing land can be demonstrated. This being the case, as Darlington Borough Council can demonstrate a five year supply of housing land, relevant policies for the supply of housing should be considered up to date and the titled balance in paragraph 11 of the NPPF is not engaged.

A 5% buffer has been applied to the five year supply figure. The Council has produced a Five Year Housing Land Supply Position Statement (April 2019) which sets out the

housing land supply position for the period 1 April 2019 to 31 March 2024, when measured against the local housing need figure.

It is relevant to note that this housing supply includes a number of sites which are located beyond development limits but have been assessed and are considered as being suitable, sustainable and deliverable for housing development in the emerging Local Plan.

Principle of development

The aim of Saved Local Plan Policy E2 (Development Limits) is to direct new development to within development limits of the village and to safeguard the character and appearance of the countryside. The application site is located beyond the village development limits and therefore residential development would be contrary to Saved Local Plan Policy E2 and Core Strategy Policy CS1 (Darlington's Sub-Regional Role and Locational Strategy) which directs housing, outside of the main urban area, to within the development limits of the Borough's villages.

Sadberge is not identified as one of the larger service villages in the Core Strategy or the Interim Planning Position Statement. For this reason, the site has not been identified as a suitable location for housing development in the Core Strategy or the Interim Planning Position Statement. This stance is to be maintained in the emerging Local Plan. There are limited services and facilities in the village and a reduced bus service which runs through the village on a Monday only.

The Council is of the view that substantial weight can be attached to Saved Policy E2, particularly when a five-year supply can be demonstrated, as the policy is consistent with the NPPF with regard to a number of areas. Saved Policy E2 also seeks to direct development to the urban areas, which are likely to be more sustainable.

Policy E2 does not provide a blanket protection or impose a blanket ban of certain types of development. There are a number of exceptions to E2 which include rural exception residential development. As such, each case is able to be judged on its own merits according to whether it is an appropriate use in the countryside and whether the development has an unacceptable impact on the character and appearance of the rural area.

Settlement boundaries can be considered out of date when they have been drawn to accommodate a level of growth up to a certain point. This is not the case for the Darlington 1997 Local Plan as the limits were also drawn to protect the character and appearance of the countryside and to differentiate between the urban and rural areas. As such Policy E2 can be attributed substantial weight in the planning balance.

Policy CS1 also has consistencies with the NPPF and so can be given weight in the planning balance. The policy sets out the Council's locational strategy for new development, focussing upon the main urban area, the larger service villages of Hurworth, Heighington and Middleton St George and within development limits of other villages within the Borough. This strategy is to be carried forward into the emerging Local Plan. This approach is consistent with the NPPF in focusing significant development in locations which are or can be made sustainable. In the same regard as

Policy E2, CS1 does not result in a blanket restriction on development in the countryside and exceptions are allowed to meet identified rural needs.

The Council's approach has been supported in a number of recent appeal decisions against the refusal of planning permission for residential development on sites beyond settlement limits in rural villages. The Inspectors gave weight to policies E2 and CS1 and the appeals were dismissed.

Saved Local Plan Policy H7 (Areas of Housing Development Restraint) permits certain types of residential development outside of development limits and sets out those circumstances where such development will be permitted. The Inspectors in considering the aforementioned appeals attached varying degrees of weight to Policy H7 insofar as they considered it to be consistent, or not, with paragraph 79 of the NPPF. Notwithstanding that, paragraph 79 of the NPPF advises that the development of isolated homes in the countryside should be prevented unless one of or more of the exceptional circumstances are met. The proposed scheme does not meet any of the exceptional circumstances set out in either Saved Policy H7 or paragraph 79 of the NPPF.

Policy MWC4 (Safeguarding of Minerals Resources from Sterilisation) of the Tees Valley Minerals and Waste DPD would apply to the site. The site is also designated by Saved Local Plan Policy E17 (Landscape Improvement) which states that opportunities will be sought for the improvement of areas of poor or degraded landscape character will be sought. The site is one of four sites identified across the Borough where the reclamation and restoration of the site will be sought. The proposed development would result in the restoration of a brownfield site and would comply with Saved Policy E17.

Policy CS2 (Achieving High Quality, Sustainable Design) and the NPPF promote the effective and efficient use of land. Paragraph 117 of the NPPF gives support for development on previously developed or 'brownfield' land. Paragraph 118(c) states that substantial weight should be given to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land. While the first sentence of paragraph 118(c) supports brownfield development within settlements only, the latter part however supports the development as it refers to support being given for opportunities to remediate degraded or derelict land. This is also consistent with Policy E17. Paragraph 118(d) is also relevant and requires decisions to 'promote and support the development of under-utilised land and buildings'.

Planning Balance

The site lies beyond the limits to development for Sadberge village and the residential redevelopment of the site would therefore be contrary to Saved Local Plan Policy E2 and Core Strategy Policy CS1. The proposal would also be contrary to Saved Policy H7 and paragraph 79 of the NPPF. The Council can also demonstrate a supply of housing land well in excess of 5 years. The development of a greenfield site outside of limits to development for residential purposes would therefore be unacceptable for these reasons.

In this instance, the application site is previously developed or 'brownfield land' being a disused former reservoir site. The NPPF is overall very supportive of brownfield development, development which makes efficient use of land and the remediation of degraded land. The proposal would also comply with Saved Local Plan Policy E17 and Core Strategy Policy CS2.

Officers are of the view that the benefits of making more efficient use of this redundant site outweigh the conflict with the spatial strategy in the adopted 1997 plan. As will be set out in the relevant sections of this report, there is limited harm arising from the proposed development including heritage and ecology issues and any technical matters can be dealt with by appropriate planning conditions. As such, this can be afforded significant weight in the planning balance and would allow this application to be set apart from a 'standard' application for a greenfield site outside the settlement boundary.

Officers have sought Counsel opinion which confirms that it would be legitimate for the policy presumption to be set aside in this instance in favour of the weightier factors relating to the considerable support for the application within the NPPF and within Saved Local Plan E17 and Core Strategy Policy CS2.

Impact on Designated Heritage Assets

Core Strategy Policy CS2 (Achieving High Quality, Sustainable Design) includes provision that new development should reflect and/or enhance Darlington's distinctive natural, built and historic characteristics that positively contribute to the character of the local area and its sense of place. Policy CS14 (Promoting Local Character and Distinctiveness) states that the distinctive character of the Borough's built, historic, natural and environmental townscapes, landscapes and strong sense of place will, amongst other things, be protected by protecting and enhancing the separation and intrinsic qualities of the openness between settlements.

The NPPF requires that when considering the impact of development proposals on designated heritage assets, in this case the Sadberge Conservation Area, great weight should be given to the conservation of the asset's significance (para. 193). It also requires that if a heritage asset's significance is likely to be harmed by a development, including harm occurring to its setting, it is necessary to decide whether such works are necessary (para. 195) and justified (para. 194); whether such harm is substantial or insubstantial (paras. 195 and 196) and whether the amount of harm can be outweighed or offset by a matching amount of public benefits.

Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 also gives similar protection to buildings and spaces that help establish the special character and appearance of conservation areas.

A Heritage Statement has been submitted with the application to assess the significance of the application site and the impact of the proposal on the significance of the Sadberge Conservation Area, which conforms to paragraph 189 of the NPPF.

The Council's Conservation Officer has commented on the application and these comments are reproduced below:

Heritage Assets Significance

The reservoir dates from 1885-89 and is a clay and earth bank construction within which sits a brick lined concrete water basin. There is a circular masonry pumping and monitoring tower positioned close to the southern edge, but this is the only above ground level physical feature on the site. The tall earth banks project noticeably above what is a predominantly open and expansive agricultural setting to the conservation area and have a dominating physical presence in south-westwards views out from the historic core of the conservation area, although this presence is partly moderated by the existence of perimeter trees and other tall vegetation. The stone tower does not have a major visual connection with the surrounding area due to the same trees along the southern and eastern edges of the site, and its heritage significance has been further reduced by 20th Century alterations.

The reservoir was part of a broad social improvement impetus in Victorian Britain to provide clean drinking water and better sanitation to meet the needs of rapidly growing industrial towns. In physical terms it has relatively modest heritage values, the stone water tower being the only upstanding feature of any design merit, and even this structure appears to have been modified in the later 20th Century.

Impact of the Proposals

The proposal is to remove the reservoir basin and to re-profile a significant part of the site's introverted landform so that a housing development of up to 46 dwellinghouses can be created, while leaving the south and western embankments in situ. The landscape re-profiling would create a slight gradient rising to the south and in any subsequent reserved matters application it is recommended that section drawings with greater detail be provided to allow a judgement to be formed on whether any skyline impacts in views into the site from the south are sufficiently mitigated.

The proposal would undoubtedly impact on the historic form and perceived monumentality of the embanked reservoir, as it contributes to the special historic interest of the conservation area, but because its architectural interest is quite minor, the overall impact of the proposals would be only negligible or neutral.

*In applying the statutory duties of the Planning (Listed Building and Conservation Areas) Act 1990, my advice is that overall the proposal would have only a negligible or neutral impact on the heritage asset significance of the Sadberge Conservation Area, and so it would preserve its heritage asset significance by leaving it substantially unharmed rather than entirely unchanged. **Therefore, offer no objection to the proposed development.***

In view of the Conservation Officer's comments it is considered that the proposed redevelopment of the site would, in principle, comply with the requirements of Policy CS14 (Promoting Local Character and Distinctiveness) and the National Planning Policy Framework. While it is acknowledged that this is an outline application, details of appearance, landscaping, layout and scale relating to the redevelopment site, and how these will impact upon the significance of the Sadberge Conservation Area will be assessed once more at the reserved matters stage.

Impact on Visual and Residential Amenity

Policy CS14 (Promoting Local Character and Distinctiveness) of the Core Strategy seeks to protect, and where appropriate enhance, the distinctive character of the Borough's built, historic, natural and environmental townscapes, landscapes and strong sense of place. This includes protecting and enhancing the separation and the intrinsic qualities of the openness between settlements. The second part of Saved Local Plan Policy E2 (Development Limits) relates to the protection and character of the countryside and falls to be considered as part of the planning balance. The reasoned justification to this policy seeks to maintain well-defined settlement boundaries and safeguard the character and appearance of the countryside by strictly controlling development outside of development limits.

The reservoir is an incongruous and artificial feature in the landscape and is visible from a number of public vantage points. Mature tree, shrub and hedgerow planting around the site does however help assimilate it into the wider landscape. Planning permission was granted for the demolition of the reservoir and embankments and for the regrading of the site to reduce levels in 2006 (04/00946/FUL) although this was never implemented. Saved Local Plan Policy E17 (Landscape Improvement) also seeks opportunities for the improvement of areas of poor or degraded landscape character, and specifically identifies the reservoir site as one of four sites where reclamation and restoration will be sought.

While there would be no in principle objection to the removal of the former reservoir, the proposal will result in the extension of the built form of the village into the former reservoir site, albeit the details of the proposed development are not for consideration at this stage. The proposal must therefore be assessed in terms of its impact on the character and appearance of the area and that of the surrounding countryside which Policy CS14 and Saved Policy E2 seek to protect.

The reserved matters application will need to demonstrate through the design and layout of the proposed site, supported by sectional drawings, that skyline impacts in views of the site from the south are sufficiently mitigated. At this outline stage however it is considered that the impact of the development of this site from wider ranging views from the south west and from the A66 would be limited, retaining much of the form of the reservoir and embankments currently seen from this aspect.

The most significant impact would be from closer ranging views from Darlington Road to the north. The northern embankment would be removed almost in its entirety to allow access to the site, thereby opening up the site most considerably from this aspect, with the built form of the village clearly extending westwards into the open countryside. This impact must however be weighed against the benefits of removing this anomalous site from the conservation area and the reclamation of this degraded site which has been a long held aspiration of Saved Policy E17. As set out in the previous section of this report, the proposal will preserve the significance of the Sadberge Conservation Area. On balance therefore the proposal is considered to be acceptable in terms of its impact on the character and appearance of the countryside.

A noise impact report has been submitted with the application which considers the impact of road traffic noise from Darlington Road to the north and from the A66 to the south. The noise report recommends that in order to mitigate against the effects of road traffic noise the facades of homes facing directly onto Darlington Road and the A66 should be fitted with suitable glazing. The report has been considered by the Environmental Health Officer who agrees with the conclusions of the report and recommends that an appropriate planning condition be attached to secure these mitigation measures.

Highway and Sustainable Transport Issues

This is an outline application with all matters reserved except access. It is proposed that the site will be accessed directly from Darlington Road via a new access to be created in the north west corner of the site. This road is subject to a 60mph speed limit and visibility splays at the entrance should be appropriate to the speed limit unless it can be demonstrated that actual travelling speeds are lower. Speed surveys have been undertaken along the frontage of the site which demonstrate that a lesser visibility splay, which can be achieved on the site, would be acceptable. Land falling within the visibility splay will need to be secured as adopted highway and included within the Section 38 agreement.

A reduced speed limit has been given consideration in the form of a 40mph buffer zone ahead of the site access. A 40mph can be supported by Durham Police if it is accompanied by gateway entrance features and additional signs/markings to reinforce the limit to drivers. The access arrangements with a 10m radii and footways will help make the junction more visible and an indicative gateway feature has been demonstrated on the plan, however this will require further progression as part of a reserved matters application and Section 278/38 agreement.

The proposed access junction shows a 10m junction radii and a swept path analysis drawing has been provided which shows the junction design can accommodate a 11.2m refuse vehicle. Footways are required on both side of the access junction to provide a crossing point for pedestrians heading out of the existing footway opposite. A dropped crossing and tactile paving are also required. A significant amount of earthworks will be required to ensure that the access road does not exceed a longitudinal gradient of 5%, however this will be considered at the reserved matters stage. The internal road layout will also be considered at the reserved matters stage.

A new footway will be provided along the frontage of the site and a separate pedestrian access will be provided to Darlington Road in the northern corner of the site. A new uncontrolled crossing point, with dropped kerbs and tactile paving, to connect to the existing footway on the northern side of Darlington Road is required to create a short and continuous pedestrian link between the site and Sadberge village. Details are to be secured by an appropriate planning condition

A Transport Statement (TS) has been submitted which considers the highways and transport issues associated with the proposed development. This has been considered by the the Council's Highway Engineer. The TS demonstrates that the maximum two-way traffic flow from the site is predicted to be 36 vehicles during both weekday AM and PM peak hours. On average, the impact of the traffic generated by the proposed

development equates to approximately 1 additional vehicle per two minutes in the AM/PM peak, which is not considered to be significant, such a level of vehicular traffic can be safely accommodated on the highway network without any detriment to existing road users.

There have been no recorded accidents within the last 5 years' data within the near vicinity of the new access junction to be constructed. While traffic flows will increase on the local road network the development will not have a material impact on road safety.

The site has access to a subsidised bus service and more than 80% of the site would be within 400m walking distance of a bus stop, the closest bus stop being on Darlington Road (Village Hall). However, from this stop only service 20 is available, running three journeys on a Monday only. The service is due to cease in 2021 due to lack of funding and a financial contribution of £46,800 would be sought to offer the village/proposed residents a sustainable option past 2021. The current 3 journeys on a Monday provide residents with access to key services and the long term aim will be to increase the number of days/frequencies of Service 20 through other development contributions along the route. Although the size of the development falls below the threshold for pump priming of new or extended local bus services as set out in the Planning Obligations SPD, in view of the unsustainable nature of the site the sustainable transport contribution of £46,800 would be used to contribute towards Service 20.

The site has good links to existing cycle links between the village and Darlington Town Centre. A condition requiring the submission of details for cycle parking for the proposed dwellings is attached.

Surface Water Drainage

The application site is located within Flood Zone 1. A Flood Risk Assessment (FRA) has been submitted which reviews available information to determine the sources of flooding that could affect the site and concludes that the proposed development is generally at low risk of flooding from all sources. A drainage strategy presented based on SuDS elements to ensure there will be no increase in peak surface water discharge rates as a result of the proposed development and that runoff can be sustainably managed and treated in accordance with planning policy and best practice.

Stockton Borough Council, acting as the Council's technical advisors for SuDS as Lead Local Flood Authority (LLFA), has assessed the level of information submitted and considers that the applicant has provided sufficient information to satisfy the LLFA that a surface water runoff solution can be achieved without increasing existing flood risk to the site or the surrounding area. A detailed design for the management of surface water runoff from the proposed development is however to be dealt with by appropriate planning conditions. Northumbrian Water has also been consulted on the application and raise no objection subject to a condition requiring the development to be carried out in accordance with the Flood Risk Assessment. On this basis the proposal is considered to comply with the requirements of Core Strategy Policy CS16 (Protecting Environmental Resources, Human Health and Safety).

Trees and Ecology

Policy CS15 (Protecting and Enhancing Biodiversity and Geodiversity) of the Core Strategy states that the protection, restoration, extension and management of the Borough's biodiversity and geological network will be delivered to help achieve the target level of priority habitats and species set out in the UK and Durham Biodiversity Action Plans by measures including by ensuring that new development would not result in any net loss of existing biodiversity value by protecting and enhancing the priority habitats, biodiversity features and the geological network through the design of new development, including public and private spaces and landscaping.

Saved Policy E12 (Trees and Development) of the Local Plan states that development proposals will be required to take full account of trees and hedgerows adjoining the site.

Paragraph 170 of the NPPF advises that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; minimising impacts on and providing net gains for biodiversity; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land where appropriate.

An Ecological Assessment 'Sadberge Reservoir' has been prepared by Barrett Environmental Ltd and submitted with the application. The earth embankments surrounding the reservoir basin are vegetated with semi-improved neutral grassland and scrub. Habitats at the site are suitable for use by bats, breeding birds, brown hares, invertebrates and hedgehogs. There are no roosting opportunities for bats.

The assessment advises that the impacts on ecological features of interest at the site will primarily arise during the removal of vegetation and levelling of the north and east embankments. The project has however been designed to retain the ecologically most important area to the south and this is presented as the primary mitigation for the development. In order to protect the retained southern embankment from disturbance and interference, this area will be protected in the long term by the installation of fencing and dense planting of hawthorn and blackthorn along the south and west boundaries of the development.

To avoid impacts upon breeding birds it will be necessary to remove all vegetative covered from the working area outside the bird breeding season, which will be preceded by a thorough hand search of the site for hedgehogs. The provision of a SuDS facility in the north east corner of the site is regarded as a habitat enhancement.

An Arboricultural Impact Assessment submitted with the application advises that 24 individual trees, two hedgerows and two groups were surveyed. The majority of these trees require removal for development, mainly along the north and eastern boundaries of the site as a consequence of removing these embankments. The trees are predominantly low value (Category C) with the exception of one moderate value tree (Category B). It is not proposed to plant any trees in mitigation, rather the retention of the south and west embankments and the features within these areas will provide the wider ecological mitigation for the site.

Subject to conditions to secure the ecological mitigation measures, in addition to conditions limiting the removal of vegetation to outside the bird breeding and securing

bird nesting provision within the new development, and to provide protection of those trees and hedgerows to be retained on the site, the proposal is considered to comply with Policy CS15.

Land Contamination

The application has been submitted with a Phase 1 site assessment which has considered historic maps of the site and the surrounding area to determine whether there is any history of industrial land use in the vicinity that would impact upon the proposed use of the site for residential purposes. The report has shown that prior to the construction of the reservoir around 1886 the site was agricultural land. The site remains relatively unchanged until 1985 when the reservoir was drained.

The site investigation has suggested that excavation spoil from the construction of the reservoir was used in the building of the earthen retaining wall of the structure. It is not anticipated that this material will have been contaminated however given that significant reprofiling of the site levels will take place before the homes are built it does not seem prudent to require this material to be tested in its current location when it could be buried at significant depths once the reprofiling of the site has been completed.

While it will be necessary for an intrusive site investigation to be undertaken to demonstrate that the site is suitable for the proposed use, as the Phase 1 report proposes, conditions are attached requiring this work to be done at an appropriate time in the construction period, to be first agreed in writing with the Local Planning Authority. This will enable the applicants to carry out the necessary works to reprofile the site and finalise the site levels before the site investigation and any necessary subsequent remediation is conducted.

Subject to these planning conditions proposal is considered to comply with the requirements of Core Strategy Policy CS16 (Protecting Environmental Resources, Human Health and Safety).

Developer Contributions

The application is eligible for a number of developer contributions in line with the requirements of Policy CS4 (Developer Contributions) and the Planning Obligations SPD. Where a relevant determination is made which results in planning permission being granted for a development, a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

A sustainable transport contribution of approximately £46,800 would be secured by Section 106 Agreement to contribute towards the continued running of bus service (No. 20) which is due to cease in 2021. This figure is calculated on the basis of the indicative mix of housing as set out in the outline application but would be subject to change depending on the final housing mix approved at the reserved matters stage (calculated using a calculation set out in the Planning Obligations SPD). A financial contribution of £15,000 is also sought for the improvement of the existing play area in

Sadberge., or the provision of an alternative one. In accordance with Policy CS4 and the SPD an affordable housing provision of 20% (10 dwellings based on the indicative layout) is also required.

Statement of Community Involvement

A Statement of Community Involvement has been submitted with the application following a consultation exercise with residents in Sadberge Village Hall prior to the submission of the application. The event was attended by between 70 – 80 people and a total of 71 questionnaires were completed. The analysis outlined that respondents were mostly concerned about the lack of services available in Sadberge to accommodate additional housing and the additional volume of traffic entering the site. In response, the statement considers that existing services and facilities are available in Darlington and Middleton St George, as well as a number of services located within Sadberge Village which residential development on the site will help to sustain. The Transport Assessment submitted with the application confirms that the additional traffic generated through the development can be safely accommodated on the highway network.

THE PUBLIC SECTOR EQUALITY DUTY

In considering this application the Local Planning Authority has complied with Section 149 of the Equality Act 2010 which places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. It is not considered that the contents of this report have any such effect.

CONCLUSION

The site lies beyond the limits to development for Sadberge village and the residential redevelopment of the site would therefore be contrary to Saved Local Plan Policy E2 and Core Strategy Policy CS1. The proposal would also be contrary to Saved Policy H7 and paragraph 79 of the NPPF. The Council can also demonstrate a supply of housing land well in excess of 5 years. The development of a greenfield site outside of limits to development for residential purposes would therefore be unacceptable for these reasons.

In this instance, the application site is however previously developed or 'brownfield land' being a disused former reservoir site. The NPPF is overall very supportive of brownfield development, development which makes efficient use of land and the remediation of degraded land. The proposal would also comply with Saved Local Plan Policy E17 and Core Strategy Policy CS2.

Officers are of the view that the benefits of making more efficient use of this redundant site outweigh the conflict with the spatial strategy in the adopted plan. There is limited harm arising from the proposed development including heritage and ecology issues, and various technical matters can be dealt with by appropriate planning conditions. As such, this can be afforded significant weight in the planning balance and would allow this application to be set apart from a 'standard' application for a greenfield site outside the settlement boundary.

Officers have sought Counsel opinion which confirms that it would be legitimate for the policy presumption to be set aside in this instance in favour of the weightier factors relating to the considerable support for the application within the NPPF and within Saved Local Plan E17 and Core Strategy Policy CS2, with particular regard for the potential of development of Brownfield land.

RECOMMENDATION

THE DIRECTOR OF ECONOMIC GROWTH BE AUTHORISED TO NEGOTIATE AN AGREEMENT UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 WITHIN SIX MONTHS TO SECURE PLANNING OBLIGATIONS THAT ARE APPROPRIATE TO THE DEVELOPMENT COVERING:

- (a) Sustainable Transport Contribution of £46,800 towards the Service 20 bus service
- (b) A contribution of £15,000 towards the improvement/provision of play equipment within Sadberge village.

SHOULD THE SECTION 106 AGREEMENT NOT BE COMPLETED WITHIN THIS PRESCRIBED PERIOD WITHOUT THE WRITTEN CONSENT OF THE COUNCIL TO EXTEND THIS TIME, THE MINDED TO APPROVED STATUS OF THE PERMISSION SHALL BE CONSIDERED TO BE A REFUSAL ON THE GROUNDS THAT THE APPLIATION HAS FAILED TO PROVIDE ADEQUATE MITIGATION MEASURES TO PROVIDE A SATISFACTORY FORM OF DEVELOPMENT IN ACCORDANCE WITH THE REQUIREMENTS OF CORE STRATEGY POLICY CS4 (DEVELOPER CONTRIBUTIONS), WITHOUT ANY FURTHER REFERENCE TO THE PLANNING COMMITTEE.

THAT UPON SATISFACTORY COMPLETION AND SIGNING OF THAT AGREEMENT, PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS AND REASONS:

1. Approval of the following details (the reserved matters) in respect of the development shall be obtained from the Local Planning Authority in writing before the development is commenced:
 - a) Layout
 - b) Scale
 - c) Appearance
 - d) Landscaping

The development shall not be carried out other than in accordance with the approved plans. Application(s) for the reserved matters for any building/s or phase of development shall be made to the Local Planning Authority before the expiration of eighteen months from the date of this permission.

REASON – To accord with the provisions of Section 92(1) of the Town and Country Planning Act 1990 and to ensure the speedy provision of this site for the approved development.

2. The development hereby permitted shall be begun either before the expiration of:
 - a) Three years from the date of this permission, or
 - b) One year from the date of approval of the last of the reserved matters to be approved, whichever is the later.

REASON - To accord with the provisions of Section 92(1) of the Town and Country Planning Act 1990.

3. PL00 (Approved Plans)
 - (a) Proposed Parameters Plan, drawing number 200-04, Revision 03
4. The development shall not begin until a scheme for the provision of affordable housing on the site as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:
 - a) the numbers, type, tenure and location on the site of the affordable housing provision to be made, which shall consist of not less than 20% of housing units;
 - b) The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - c) The arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing] (if no RSL involved);
 - d) The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - e) The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

REASON – To comply with Council Housing Policy

5. No development hereby approved shall be erected above damp proof course level until samples and details of the external materials to be used in the construction of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

REASON – In the interest of visual amenity.

6. Prior to the commencement of development hereby permitted, details of the following shall be submitted to and approved in writing by the Local Planning Authority:
 - a) Internal highways layout and site access junction;
 - b) Provision of a new footway along the frontage of the site and associated crossings on Darlington Road;
 - c) In-curtilage car parking, to include the number, location and dimensions of all driveways and garages;
 - d) Secure cycle parking and storage, to include the number, location and design of cycle stands;
 - e) Swept path analysis to support the movement framework for emergency vehicles, refuse and service vehicles for the internal network and, where appropriate, in respect of the off-site highway proposals.

Thereafter the development shall be carried out in accordance with the details as approved and shall be maintained for the lifetime of the development.

REASON – In the interest of highway safety

7. Prior to the commencement of the development, a Demolition and Construction Management Plan shall be submitted and approved in writing by the Local Planning Authority. The plan shall include the following:
 - a) Dust Assessment Report which assess the dust emission magnitude, the sensitivity of the area, risk of impacts and details of the dust control measures to be put in place during the demolition and construction phases of the development. The Dust Assessment Report shall take account of the guidance contained within the Air Quality Management 'Guidance on the assessment of dust from demolition and construction' February 2014.
 - b) Methods for controlling noise and vibration during the demolition and construction phase and shall take account of the guidance contained within BS5228 'Code of Practice for noise and vibration control on construction and open sites' 2009.
 - c) Construction Traffic Routes, including contractors' compound location and parking areas for staff and visitors;
 - d) Details of wheel washing
 - e) Road Maintenance
 - f) Warning signage

The development shall not be carried out otherwise than in complete accordance with the approved plan.

REASON – In the interests of highway safety and residential amenity.

8. Prior to the commencement of development hereby permitted a road condition survey of the adopted highway shall be undertaken, the requirements of which shall first be agreed in writing by the Local Planning Authority. The survey shall ensure that no further damage is caused to the adopted highway as a result of the construction phase of the development.

REASON – In the interest of highway safety

9. A Road Safety Audit shall be carried out for all works within the public highway and the scope of the Audit shall be agreed in writing with the Local Planning Authority. The development shall not be carried out unless otherwise in complete accordance with the approved Audit.

REASON – In the interest of highway safety

10. Habitable rooms in the facades of properties fronting onto Darlington Road and along the southern boundary of the site backing onto the A66 shall be fitted with suitable acoustic ventilation systems and glazing which meets or exceeds the requirements set out in the Wardell Armstrong noise report (ref. NT13535001) submitted with the application. The exact specification of the acoustic mitigation measures shall be agreed in writing with the Local Planning Authority prior to any of the dwellings hereby approved being erected about the damp proof course level. The agreed measures shall be implemented in full prior to first occupation of the dwellings hereby approved and shall be maintained thereafter for the lifetime of the development.

REASON – To protect occupants of the proposed dwellings from excessive road traffic noise.

11. At a time agreed in writing by the Local Planning Authority, a Phase 2 Site Investigation (Sampling and Analysis Plan) shall be designed and documented by a suitably competent person(s) in accordance with the published technical guidance (e.g. BS10175 and Land Contamination: Risk Management LCRM)) and be submitted to and agreed in writing with the Local Planning Authority, unless the Local Planning Authority dispenses with the requirement specifically and in writing. The Phase 2 Site Investigation Strategy (Sampling and Analysis Plan) shall be sufficient to fully and effectively characterise and evaluate the nature and extent of any potential contamination and assess pollutant linkages. No alterations to the agreed Phase 2 Site Investigation Strategy or associated works shall be carried out without the prior written agreement of the Local Planning Authority.

REASON – The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled. To ensure that risks from land contamination to the future uses of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.

12. At a time agreed in writing by the Local Planning Authority, a Phase 2 Site Investigation works shall be conducted, supervised and documented by a suitably competent person(s) and carried out in accordance with the approved Phase 2 Site Investigation Strategy (Sampling and Analysis Plan). A Phase 2 Site Investigation and Risk Assessment Report prepared by a suitably competent person(s) in accordance with published technical guidance (e.g. BS10175 and CLR11) and shall be submitted to and agreed in writing by the Local Planning Authority unless the Local Planning Authority dispenses with the requirement specifically and in writing.

REASON – The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled. To ensure that risks from land contamination to the future uses of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.

13. At a time agreed in writing by the Local Planning Authority, a Phase 3 Remediation and Verification Strategy shall be prepared by a suitably competent person(s) to address all human health and environmental risks associated with contamination identified in the Phase 2 Site Investigation and Risk Assessment. The Remediation and Verification Strategy which shall include an options appraisal and ensure that the site is suitable for its new use and no unacceptable risks remain, shall be submitted to and agreed in writing with the Local Planning Authority, unless the Local Planning Authority dispenses with the requirement specifically and in writing.

REASON – The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled. To ensure that risks from land contamination to the future uses of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.

14. CL5 (Unexpected contamination)

15. CL6 (Phase 4 Verification and Completion Report)

16. The development hereby approved shall not be commenced on site until a scheme for the implementation, maintenance and management of a Sustainable Surface Water Drainage Scheme has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details, the scheme shall include but not be restricted to providing the following details:

- i. Detailed design of the surface water management system;

- ii. A build programme and timetable for the provision of a critical surface water drainage infrastructure;
- iii. A management plan detailing how surface water runoff from the site will be managed during the construction phase;
- iv. Details of adoption responsibilities

REASON – To ensure the site is developed in a manner that will not increase the risk of surface water flooding to the site or surrounding area, in accordance with the guidance within Core Strategy Development Plan Policy CS16 and the National Planning Policy Framework.

17. The building hereby approved shall not be brought into use until:

- i. Requisite elements of the approved surface water management scheme for the development, or any phase of the development are in place and fully operational to serve said building
- ii. The drawings of all SuDS features have been submitted and approved in writing by the Local Planning Authority, the drawings should highlight all site levels, including the 30 year and 100 year+cc flood levels and confirmation of storage capacity
- iii. A management and maintenance plan of the approved Surface Water Drainage scheme has been submitted and approved in writing by the Local Planning Authority, this should include the funding arrangements and cover the lifetime of the development.

REASON – To reduce flood risk and ensure satisfactory long term maintenance area in place for the lifetime of the development

18. Development shall be implemented in line with the drainage scheme contained within the submitted document entitled 'Flood Risk Assessment' dated March 2019. The drainage scheme shall ensure that foul flows discharge to the foul sewer at manhole 9801 and ensure that surface water discharges to the 225mm surface water sewer downstream of manhole 3705. The surface water discharge rate shall not exceed the available capacity of 10.0 l/sec that has been identified in this sewer. The final surface water discharge rate shall be agreed by the Lead Local Flood Authority.

REASON – To prevent the increased risk of flooding from any sources in accordance with the NPPF.

19. The ecological enhancement and mitigation measures set out in the Barrett Environmental Ltd 'Sadberge Reservoir Ecological Appraisal' dated April 2019 shall be implemented in full. In addition, no development shall take place until precise details of a scheme for the provision of bird and bat nesting opportunities on the site, has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved scheme shall be implemented in full prior to first occupation of any of the dwellings on the site.

REASON – To comply with Core Strategy Policy CS15 (Protecting and Enhancing Biodiversity and Geodiversity).

20. No vegetation removal shall take place within the bird breeding season (March to September inclusive) unless a bird nesting survey has first been undertaken and submitted to and approved in writing by the Local Planning Authority.

REASON – In the interest of nesting birds.

21. E11 (Tree Protection)

22. Prior to the commencement of the development hereby permitted, details of the finished floor levels of the dwellings and gardens hereby approved in relation to existing ground levels shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be undertaken in accordance with the details as approved.

REASON – In the interest of visual and residential amenity.

INFORMATIVES

Highways

The developer is required to submit detailed drawings of the proposed internal highway and off site highway works to be approved in writing by the Local Planning Authority and enter into a Section 278/38 Agreement before commencement of the works on site. Contact must be made with the Assistant Director – Highways, Design and Projects (contact Mr S Pryke 01325 406663 to discuss this matter).

The applicant is advised that contact be made with the Assistant Director – Highways, Design and Projects (contact Mrs P McGuckin 01325 406651) to discuss naming and numbering of the development.

An appropriate street lighting scheme and design to cover the new highways and any proposed amendments to the existing lighting should be submitted and approved in writing by the Local Planning Authority. Contact must be made with the Assistant Director – Highways, Design and Projects (contact Mr M Clarkson 01325 406652) to discuss this matter.

The applicant is advised that contact be made with the Assistant Director – Highways, Design and Engineering (contact Mr C Easby 01325 406707) to discuss the amended speed limits and introduction of Traffic Regulation Orders in connection with a 20mph zone within the development.

Contaminated Land

Conducting the site investigation once the site has been reprofiled may create delays in the building process and this is something which a developer will need to be aware of and factor into any construction plans. It is necessary to conduct the site investigation after the reprofiling of the site because of the extensive nature of the works required to get the site to desired level. Conducting soil sampling of the earthen bund walls prior to

the reprofiling of the site would not be representative of the ground conditions of the finished site.

Surface Water Drainage

Surface water discharges from this site shall be flow regulated to ensure that flooding problems elsewhere in the catchment area are not exacerbated. The area of the site to be developed in 1.71ha not 2.8ha therefore the discharge rates from the site will be restricted to 7l/sec with sufficient storage within the system to accommodate a 1 in 30 year storm. The design shall also ensure that storm water resulting from a 1 in 100 year event plus climate change surcharging the drainage system can be stored on site without risk to people or property and without overflowing into drains or watercourse. Full Micro Drainage design files (mdx files) including the catchment plan and 3D topographical survey must be submitted for approval. The flow path of flood waters exiting the site as a result of a rainfall event exceeding the 1 in 100 year event plus climate change should also be provided.