

Report



Cabinet Member for Assets and Member Development

Part 1

Date: 11 September 2017

Subject Disposal of Herbert Road Extension Land

Purpose To seek approval from the Cabinet Member for Assets and Member Development the appropriation of the above land from Leisure to Planning (following all necessary consultation) and subsequent disposal of the above Council owned Land.

Author Housing and Assets Manager

Ward St Julians

Summary In 2015 the Council sold a large parcel of land at Herbert Road for residential development to increase the supply in the area in line with the Housing Supply Strategy. The site has changed ownership and is now owned by the Pobl Group and preparatory ground works are underway.

Pobl, one of the partner Housing Associations working with Newport City Council is reviewing the form of the proposed development and is looking to incorporate certain improvements to the layout and design. During the course of this review it has been identified that a much improved layout could be achieved if this piece of land were added to the site currently being developed.

The land is currently appropriated to the leisure service and before the land can be disposed of the action to appropriate the land to Planning for development purpose must take place first. Formal notice must be placed in the press allowing comments / objections to be forwarded to the Council.

The disposal of this land does represent a minimal loss of informal open space used by residents though with a surplus of overall open space remaining it is considered the best long term benefit will be achieved through its disposal and incorporation into the housing development.

- Proposal**
1. Following the formal advertisement of the appropriation from leisure to planning, the consideration of any objections, to appropriate the subject land to planning purposes; and
 2. Declare the land surplus and dispose of same to Pobl, on terms to be agreed by the Head of Law and Regulation.

Action by Head of Regeneration, Investment and Housing

Timetable Immediate

This report was prepared after consultation with:

- Estates Team Leader, Newport Norse
- Estates Portfolio Officer, Newport Norse
- Property Services Manager, Newport Norse
- Director, Place, Newport City Council
- Head of Regeneration, Investment and Housing, Newport City Council
- Housing and Asset Manager
- Head of Finance – Chief Finance Officer
- Head of Law and Regulations – Monitoring Officer
- Head of People and Business Change

Signed

1. Background

- 1.1 The land shown edged and shaded on the attached plan was sold by the Council in August 2015, as a residential development site. This disposal was completed because of the identified need for housing in the area and forms part of the Housing Supply Strategy and the long term supply of affordable housing in the area. This involved consultation with local residents and interested parties at the time of disposal. Planning permission has been granted to develop the land and substantial ground remediation works are underway. The remediation works being necessary because this is not the most straightforward of sites to develop due to the contour of the site.
- 1.2 There is around another 25,000 cubic meters of fill still to be compacted, after which installation of initial infrastructure will commence. This will include primary estate roads, improvements to the re-en system and improvements to the river side walk. Under the present programme, it is anticipated construction of the first new residential units (3 blocks facing the river) will start in February 2018. For information a plan summarising current programme to July 2018 is attached as an appendix.
- 1.3 The present owner of the site is Pobl Group. At a recent meeting, officers from Pobl indicated the scheme is likely to be redesigned and a new planning application submitted, incorporating a different layout. Pobl did not obtain the present permission, under which the remediation works are being undertaken. Since acquiring the site however, it has been decided that the proposals could be improved by reducing the number of units, thereby improving the density of development, whilst increasing the size of certain units. Opportunity will be taken also to amend the layout and thereby improving parking arrangements and orientation with the river.
- 1.4 During the course of this review, it was noted that the layout could be further improved by incorporating the land subject to this report (shown hatched on the plan), into the development site. Pobl therefore has enquired whether the Council is willing to sell this land.
- 1.5 The subject land is approximately 0.4 acres in extent and comprises a level, mown grassed area. It is used, together with other land, as informal open/recreation space by local residents and has been included in the provision of informal open space as part of the ward profile.
- 1.6 It is understood that a major sewer passes under the site.
- 1.7 The site is unlikely to be developable in isolation, due to access constraints should the Council wish to consider appropriation to planning and disposal in the future. Incorporating the land into the adjoining major development offers the best chance of releasing development and therefore it would be appropriate to negotiate a direct sale to Pobl.
- 1.8 The area as stated in report is used as a recreation area by local residents but at the moment no information is available on the views of the local residents. The formal advertisement of the appropriation detailed below will act as the consultation with local residents and any comments and concerns will be considered in line with the formal process shown below.
- 1.9 The FIT (Field in Trust) minimum benchmark standard assessment indicates that St. Julians is in the top 25% of least deficient wards in terms of designated open space provision.
- 1.10 The ward has an overall surplus of 7.59 hectares in terms of provision but there is a shortfall in informal and equipped open space.
- 1.11 This will increase further the deficit in informal open space but with the site only being 0.4 acres(0.16 hectares) it will have minimal impact in the overall level of available open space in the ward.
- 1.12 The subject land currently is held by the Council for Recreation purposes. In order to safeguard land for development and to reduce the potential for a town or village green application, it has

become established practice to appropriate, prior to sale, open space land to be sold for development to planning purposes under Section 122 (2A) of the Local Government Act, 1972.

- 1.13 There is also a requirement under Section 233(4) of the Town and Country Planning Act, 1990 to advertise the Council's intention to dispose of open space land held for planning purposes. It is proposed therefore to:
- i) Advertise the Council's intention to appropriate the subject land to planning purposes; and
 - ii) Advertise the intention to dispose of the development site.
- 1.14 The advertisements, which will run concurrently, will appear for two consecutive weeks in the South Wales Argus. There will be a period of 28 days for any objections to be made. If there are any objections, these will be reported to the Cabinet Member for consideration. If there are none, the appropriation and disposal will proceed, following expiry of the objection period.
- 1.15 Subject to there being no objections or any that are received being appropriately considered, it is anticipated the land would be transferred around the end of the current calendar year.
- 1.16 It is clear that the use of this parcel of land would improve the layout for the future residents and would provide an overall betterment to the site, it does however come at a cost of loss of open space, even though minimal as shown above.

2. Financial Summary

	Year 1 (Current) £	Year 2 £	Year 3 £	Ongoing £	Notes including budgets heads affected
Costs					Disposal will offer small revenue savings in maintenance and management costs. Disposal will generate a capital receipt.
(Income)					
Net Costs (Savings) Net Impact on Budget					

3. Risks

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
Failure to dispose of the asset will result in no capital receipt to the Council	H	L	Disposal should be actively pursued by all parties	NCC, Newport Norse and Pobl
Significant ground conditions prevent development	M	L	Undertake necessary ground investigations	Pobl

Risk of layout compromising redevelopment proposals	L	L	Undertake early dialogue with Planners	Pobl
Risk of registering Village Green	M	L	Manage the process as set out in the report	NCC
Risk of deterioration in the condition of the land	L	L	Keep the land under review as management action	NCC and Newport Norse

* Taking account of proposed mitigation measures

4. Links to Council Policies and Priorities

- Corporate Asset Management Plan – 2012 to 2017
- Property Rationalisation Programme
- Medium Term Revenue Plan (MTRP)
- Housing supply strategy

5. Options Available and considered

- 5.1 Decline the request to purchase and continue to manage the subject land as informal open space.
- 5.2 To undertake the necessary consultation through the press notices, appropriate the land from leisure to Planning and dispose of the land on terms to be agreed by the Head of Law and Regulations.

6. Preferred Option and Why

- 6.1 Appropriate the subject land to planning purposes; and
- 6.2 Declare the land surplus and dispose of same to Pobl, on terms to be agreed by the Head of Law and Regulation.
- 6.3 This option will allow a better long term layout of the site to be achieved and support development of a major housing development whilst losing only a minimal level of informal open space. This option will also generate a capital receipt, reduce revenue costs nominally in terms of grounds maintenance

7. Comments of Chief Financial Officer

- 7.1 The land is of no strategic or economic value to the Authority, so a disposal would be beneficial by generating a capital receipt to be reinvested in the capital programme. In addition, the potential revenue maintenance and management costs associated with the site would be eliminated. There is also the wider benefit of supporting a significant housing development in the area.
- 7.2 Capital receipts are a corporate resource and are therefore not hypothecated outside Cabinet. They are regularly reported to Cabinet in the Capital Programme monitoring reports. Decisions on their use is a Cabinet decision, taking into account the wider funding issues around the Council's capital programme. Receipts earmarked to 21C School's programme (which attracts WG match funding) have reached the minimum required levels for Band A and are now being used in forecasting the funding envelope for the new medium term capital programme being developed.

8. Comments of Monitoring Officer

- 8.1 The proposed action is in accordance with the Council's statutory powers under Section 122 (2A) and 123 (2A) of the Local Government Act 1972. This area of land adjacent to the sold residential development site has been used as informal public open space for a number of years and is currently appropriated for recreational use. However, the sale of this site to Pobl will facilitate an improved layout and housing density for the development and generate a capital receipt for land that, otherwise, would have no development potential. Therefore, it is open to the Council to re-appropriate the land for planning purposes and to dispose of the land for redevelopment. The advantage of appropriating the land for planning purposes prior to disposal is that this would override any existing rights in relation to the public open space under section 241 of the Town and Country Planning Act 1990. However, before re-appropriating and disposing of the land, the Council is required to give public notice in two consecutive weeks in the local newspaper under sections 122 (2A) and also section 233(4) of the Town and Country Planning Act 1990. The Cabinet Member must consider any objections received before deciding whether to proceed with the proposed re-appropriation and disposal. Any disposal would have to be at the best price reasonably obtainable but a direct negotiated sale to Pobl, in conjunction with the development of the adjoining site, is likely to release far more value than its current recreational use.

9. Comments of Head of People and Business Change

- 9.1 The report explains the consideration between beneficial development opportunities and the conservation of open space at this site. The proposed appropriation and disposal for development would contribute to an improved layout and more spacious social housing units. Access to high quality affordable housing is a major contributor to wellbeing however this would come with the loss of open space at this site. The community profile indicates the St Julian's ward has a deficit of informal open space. The site is however relatively small and an improved riverside walk would be developed as a form of mitigation. The planned consultation will provide additional evidence to inform decision making.

10. Comments of Cabinet Member

- 10.1 Cabinet Member has approved the report.

11. Local issues – Ward Member Comments

- 11.1 Cllr Phil Hourahine - I am content with the Cabinet Member's proposal for the disposal of the extension land at Herbert Road.
- 11.2 Cllr Carmel Townsend –
- (1) As the report states, St. Julians currently is deficient in open space and this proposal would make the situation worse.
 - (2) No informal consultation has been undertaken to date, so there is no data/information about the views of residents and the local school about the loss of this space. Cabinet approval effectively kick-starts the disposal of the land and there is no guarantee that objections/ formal consultation could stop the process.
 - (3) While the report refers to discussions between Council officers and the Housing Association, about the possibility of a new planning application for the existing Herbert Road site, there is no guarantee that a new application would be submitted.
- 11.3 Cllr Holly Townsend - I endorse the points made by (other) Cllr Townsend. Although the report states there will be minimal loss of open space, there are limited areas like this in St Julians apart from the Glebelands.

12. Scrutiny Committees

12.1 N/A

13. Equalities Impact Assessment and the Equalities Act 2010

13.1 The Equality Act 2010 contains a Public Sector Equality Duty which came into force on 06 April 2011. The Act identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership. The new single duty aims to integrate consideration of equality and good relations into the regular business of public authorities. Compliance with the duty is a legal obligation and is intended to result in better informed decision-making and policy development and services that are more effective for users. In exercising its functions, the Council must have due regard to the need to: eliminate unlawful discrimination, harassment, victimisation and other conduct that is prohibited by the Act; advance equality of opportunity between persons who share a protected characteristic and those who do not; and foster good relations between persons who share a protected characteristic and those who do not. The Act is not overly prescriptive about the approach a public authority should take to ensure due regard, although it does set out that due regard to advancing equality involves: removing or minimising disadvantages suffered by people due to their protected characteristics; taking steps to meet the needs of people from protected groups where these differ from the need of other people; and encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

14. Children and Families (Wales) Measure

14.1 Although no targeted consultation takes place specifically aimed at children and young people, consultation on planning applications and appeals is open to all of our citizens regardless of their age. Depending on the scale of the proposed development, applications are publicised via letters to neighbouring occupiers, site notices, press notices and/or social media. People replying to consultations are not required to provide their age or any other personal data, and therefore this data is not held or recorded in any way, and responses are not separated out by age.

15. Wellbeing of Future Generations (Wales) Act 2015

15.1 The background and proposal demonstrate how the Act has been applied in arriving at the proposal given the competing demands of maintaining open space whilst at the same time having the opportunity to create a much improved site layout and overall housing layout for this major affordable housing site.

Long-term – this report explains that the site is currently used for recreation purposes and following any appropriation would be developed resulting in a loss of informal open space. However the site is relatively small and the potential to develop new affordable housing units is a key consideration. The proposed development will include a riverside walk which will maintain public access to the remaining open space.

Integration – the proposed development of the site should help secure improved wellbeing for future tenants and will improve affordable housing supply.

Collaboration – the development involves a key local partner in the Pobl Group who are a well-established social landlord involved in area regeneration.

Involvement – Statutory consultation will be undertaken ahead of the appropriation with the results reported to the Cabinet Member.

Prevention – affordable high quality housing plays a part in improving key determinants of wellbeing and community cohesion including health, education and economic inclusion. Flood protection measures should reduce vulnerabilities for the surrounding riverside locality.

16. Crime and Disorder Act 1998

- 16.1 Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various 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.

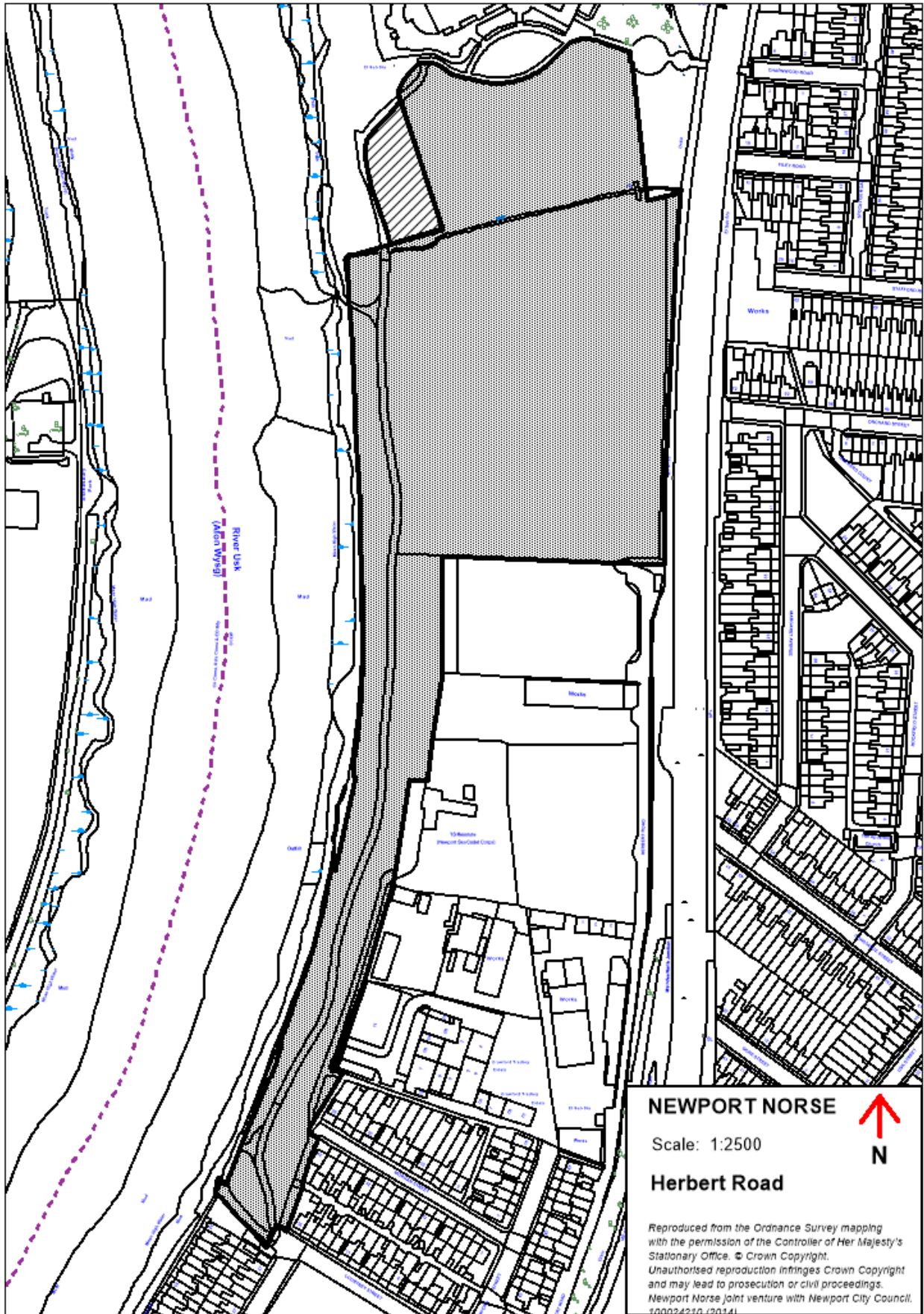
17. Consultation

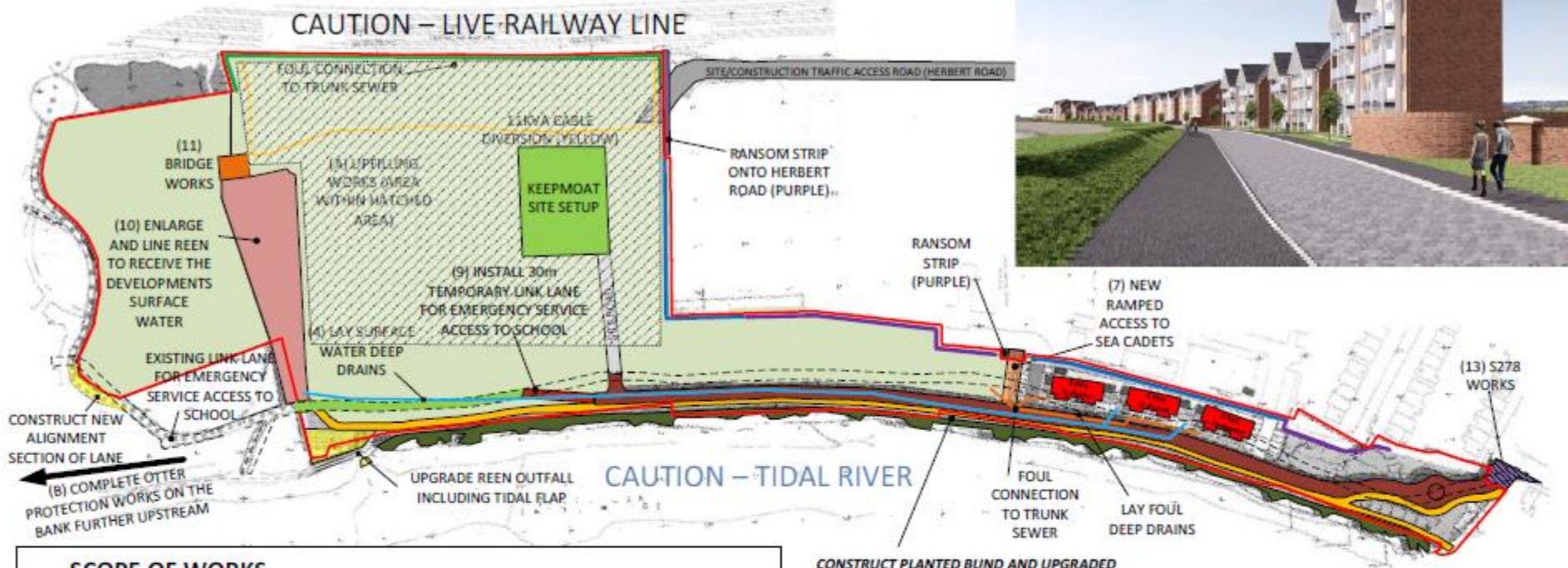
- 17.1 Comments received from wider consultation, including comments from elected members, are detailed in each application report in the attached schedule.

18. Background Papers

- 18.1 Site Plan.

Dated: 11 September 2017





SCOPE OF WORKS

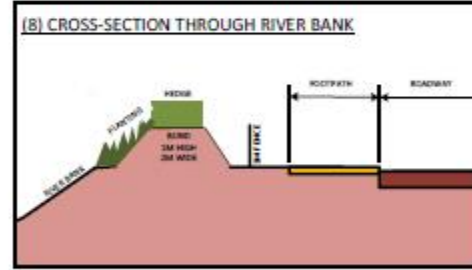
ENABLING WORKS

- (A) Filling to make up levels to 8.8m AOD (Cut and fill including land north of reën) with geotextile and 400mm stone piling mat finishing at 9.2m AOD.
- (B) Offsite otter works.

PHASE 1 SCOPE OF WORK

- (1) 20 apartments in three blocks (shown red).
- (2) Road to first proposed new planning turning on new residential planning proposal with turning head (shown brown).
- (3) Foul drainage to extent of S38 road to discharge into existing foul outlet.
- (4) Surface water drain discharging to reën (shown as light blue line).
- (5) Retaining structures to perimeter of whole site where required (reinforced earth banks shown green; gabions shown dark blue; concrete shown purple).
- (6) Main infrastructure services from Courtney Street to service first three blocks.
- (7) Vehicular and pedestrian access to the Sea Cadets TS Resolute land.
- (8) Works to river bank including form bund, planting & fence; extinguish and create new public right of way.
- (9) Maintain emergency access lane to adjacent school.
- (10) Form reën including concrete lining, outfall, flap & planting.
- (11) Form eastern bridge crossing reën.
- (12) Adjust existing manholes to suit new levels.
- (13) Section 278 works (shown hatched purple).
- (14) Reën and site perimeter fencing including acoustic fence.
- (15) Procure services and diversions for Phase 1 and 11kV diversion towards eastern boundary.

CONSTRUCT PLANTED BUND AND UPGRADED PUBLIC FOOTPATH AND ROAD





**HERBERT ROAD
NEWPORT**

PHASE 1

REVISION: J (01/12/2016)