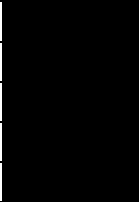


## Record of Officer Decision

<b>Decision title:</b>	To acquire land and associated access/easement rights in Luston in order to develop a phosphorous-reducing wetland site
<b>Date of decision:</b>	31 <sup>st</sup> January 2022
<b>Decision maker:</b>	Service Director Highways, Environment and Waste
<b>Authority for delegated decision:</b>	<p>A cabinet member decision was taken on 10<sup>th</sup> August 2020 authorising land purchasing and lease negotiations with landowners to progress acquisition of up to 8 suitable sites:</p> <p>The Assistant Director for Regulation, Environment &amp; Waste be authorised to take all operational decisions necessary to implement the scheme including the required land acquisitions and leases. In accordance with the cabinet member decision dated 10<sup>th</sup> August 2020</p> <p><a href="https://councillors.herefordshire.gov.uk/ieDecisionDetails.aspx?ID=7049">https://councillors.herefordshire.gov.uk/ieDecisionDetails.aspx?ID=7049</a></p>
<b>Ward:</b>	Bircher
<b>Consultation:</b>	Consultation has been carried out with the Cabinet Member for Infrastructure and Transport, the Council's Section 151 Officer, the Strategic Capital Finance Manager and the Council's Legal Team.
<b>Decision made:</b>	<p>To proceed with the acquisition of an area of land forming part of Hill Farm, near Luston, totalling 8.439 acres at an agreed price of [REDACTED]</p> <p>To enter into an agreement with a second landowner securing rights of vehicle and pedestrian access for Herefordshire Council and it's agents/representatives over an area of land forming part of the access route to the proposed wetland site. The agreement also to include the right to lay and maintain a drainage pipeline on the same land from the boundary of the waste water treatment works to the boundary of the proposed wetland. The agreement subject to a consideration of [REDACTED]</p> <p>To enter into an agreement with Welsh Water/Dwr Cymru securing rights of vehicle and pedestrian access for Herefordshire Council and it's agents/representatives over a private roadway forming part of the access route to the proposed wetland site. The agreement subject to a consideration of £1.</p> <p>To make a contribution to the legal and other fees incurred by the respective landowners in entering into the agreements above, up to an estimated total of [REDACTED] across all three agreements.</p> <p>To authorise expenditure of up to £10,000 in fees and disbursements for legal representation to complete the acquisition of the land and the associated agreements for access and easement.</p> <p>(All sums are exclusive of VAT, where VAT applies)</p>

**Financial Summary:**

Land Acquisition		
Access/Easements		
Third Party Fees		
Legal Representation		
<b>Total:</b>		

**Reasons for decision:**

As set out in the cabinet member decision, the creation of wetland areas will, in addition to improving the water quality of the River Lugg, positively contribute toward the delivery of the environmental and economic priorities within the County Plan 2020-2024; enhancing local biodiversity, enabling sustainable housing growth in the north of the county and reducing carbon emissions through carbon sequestration.

The benefits of wetlands in releasing prospective housing development currently unable to complete the planning process because of phosphate load will be of particular value in terms of the local construction economy and the delivery of established housing targets.

Acquisition of suitable land is essential if wetland schemes are to be progressed so that their benefits can be realised.

The area of land in question is well positioned in relation to the wastewater treatment works and the watercourse, and has been identified as having the physical properties necessary to form a well-functioning integrated wetland.

The wetland site will be surrounded on all sides by land in third party ownership, and so the acquisition of rights enabling access to the wetland is essential in order to facilitate future monitoring and maintenance activity. The right to lay pipework from the waste water treatment works to the wetland is also an essential functional requirement.

Negotiations with the landowner have concluded and the values set out in the decision made section of this report have emerged as the minimum values which will be accepted by the landowners. All negotiations have been carried out by agents with appropriate expertise and experience in this area, appointed to represent the council's interests.

The council has undertaken the required due diligence in considering the acquisition, in particular:

- A commercial valuation of the land in question has been commissioned previously. At the close of negotiations, both the agreed land purchase cost and the cost for the associated access/easements are recommended by the council's appointed agents as being appropriate to the circumstances.
- A range of site investigations have been undertaken to verify the suitability of the land, including soil sampling, ground water risk assessment, preliminary ecological survey and phosphate load monitoring from the waste water treatment works. A preliminary wetland design was also undertaken by a specialist consultant on the

	<p>basis of the information generated by the site investigations to confirm that the area of land proposed for acquisition would be suitable and adequate for the wetland proposed.</p> <ul style="list-style-type: none"> <li>• The council’s legal representatives have, through the conveyancing process, fully assessed the proposed land purchase agreement and the associated access /easement agreements to ensure that the acquisition is appropriate and suitably robust in terms of risk. No unacceptable liabilities or obligations have been identified which would impact on the proposed use of the land as a wetland or otherwise result in unacceptable levels of risk to the council.</li> <li>• A formal pre-planning consultation was undertaken to establish the suitability of the proposal for the granting of planning approval.</li> <li>• The Environment Agency, the Internal Drainage Board and Natural England have been consulted</li> </ul>
<p><b>Highlight any associated risks/finance/legal/equality considerations:</b></p>	<p>There is a risk that the land may have constraints not yet identified limiting its potential or future performance as a wetland. The due diligence consisting of specialist consultancy advice/assessment, site investigations, preliminary design and planning pre-application advice minimises this risk as far as is practicable.</p> <p>The risk of acquiring the land but failing to agree the necessary access is mitigated by the inclusion of an interdependency clause in the contracts requiring all three agreements to be signed simultaneously.</p>
<p><b>Details of any alternative options considered and rejected:</b></p>	<p>Not to proceed with the acquisition. This is not recommended as the land acquisition costs are assessed as being appropriate. Should the acquisition not proceed then the proposal to develop an integrated wetland site at this location would not be able to progress and the identified benefits would not be realised.</p> <p>This would result in the continuing shortfall of water quality in the River Lugg in relation to its conservation target.</p> <p>It would also result in a continuing inability on the part of the council to grant planning permission for development proposals within the Lugg catchment area where such developments have the potential to increase the phosphate load within the watercourse.</p> <p>As a further consequence, the Council will be at risk of failure to deliver its required housing supply for the projected plan period and the local construction economy would continue to suffer detrimental effect.</p>
<p><b>Details of any declarations of interest made:</b></p>	<p>None</p>

I am an officer delegated to make the decision

**Signed:**

**Print Name:** Phil Crossland

**Job Title:** Interim Service Director – Highways, Environment & Waste

Certain parts of this document have been redacted in line with the provisions of section 43 sub-section (2) of the Freedom of Information Act 2000. These provisions exempt information where disclosure would, or would be likely to prejudice the commercial interests of any person, including those of the public authority holding the information. The purchase of land referred to herein is part of a wider scheme and negotiations remain ongoing. The redacted information if disclosed may have the effect of prejudicing ongoing negotiations.