

Record of Officer Decision

Decision title:	To acquire land and associated access rights at Titley in order to develop a phosphorous-reducing wetland site
Date of decision:	25 March 2022
Decision maker:	Service Director Highways, Environment and Waste
Authority for delegated decision:	<p>A cabinet member decision was taken on 10th 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 & 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 10th August 2020</p> <p>https://councillors.herefordshire.gov.uk/ieDecisionDetails.aspx?!D=7049</p>
Ward:	Pembridge and Lyonshall with Titley
Consultation:	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.
Decision made:	<p>1, To proceed with the acquisition of an area of land Land adjacent to Titley Water Treatment Works in the village of Titley, totalling approximately 1.43 acres, for an agreed price of [REDACTED]</p> <p>2, To grant the vendor as part of the consideration the right to purchase phosphate credits when they are made publicly available for a sum of [REDACTED] per credit, for an agreed maximum of two proposed residential units.</p> <ul style="list-style-type: none"> • The phosphate credits will be applicable only to the two proposed dwellings which form the subject of a defined application for planning permission, and will not be transferable to any other development. • The phosphate credits will be for use only by the vendor or their nominated developer, and will not be transferable to any other party. • The vendor's option to purchase the phosphate credits will expire after 36 months of the phosphate credits becoming publicly available. • In the event that any phosphate credits purchased by the vendor are not used within 36 calendar months of the date of their purchase, the vendor will be entitled to return any unused phosphate credits to the council and be reimbursed for them on the basis of their market value at that time. <p>For the avoidance of all possible doubt this does not in any way fetter the Council's Local Planning Authority in how it may choose to determine any request for planning permission, this being a completely separate process.</p> <p>3, To make a contribution to the legal and other fees incurred by the vendor, up to an estimated maximum of [REDACTED].</p>

4, To authorise expenditure of up to £7,500 in fees and disbursements for legal representation to complete the acquisition of the land and the associated agreements for access and easement.

(All sums are exclusive of VAT, where VAT applies)

Financial Summary:

Land Acquisition	
Third Party Fees	
Legal Representation	£7,500
Total:	

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.

Negotiations with the landowner have concluded and the value set out in the 'decision made' section of this report have emerged as the minimum values which will be accepted by the landowner. 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 the agreed land purchase cost and arrangements set out in the 'decision made' section of this report 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 basis of the information generated by the site investigations to

	<p>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"> • The council's legal representatives have, through the conveyancing process, fully assessed the proposed land purchase agreement 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. • A formal pre-planning consultation was undertaken to establish the suitability of the proposal for the granting of planning approval. • The Environment Agency, and Natural England have been consulted.
Highlight any associated risks/finance/legal/equality considerations:	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.
Details of any alternative options considered and rejected:	<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>
Details of any declarations of interest made:	None

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.