



GUILDFORD  
BOROUGH

**James Whiteman**  
Managing Director

**[www.guildford.gov.uk](http://www.guildford.gov.uk)**

Dear Councillor

**EXECUTIVE - TUESDAY, 6TH JULY, 2021**

Please find attached the following:

**Agenda No    Item**

5.    **Weyside Urban Village Development Update Amendments to the Transaction with Thames Water and Appropriation of Land for Planning Purposes (Pages 1 - 268)**

Yours sincerely

John Armstrong, Democratic Services Manager  
01483 444102

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Executive Report

Ward(s) affected: Stoke

Report of Director of Strategic Services

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Date: 6 July 2021

## **Weyside Urban Village Development Update Amendments to the Transaction with Thames Water and Appropriation of Land for Planning Purposes**

### **Executive Summary**

Weyside Urban Village ("WUV") is a 41-hectare brownfield regeneration scheme that the Council anticipates could deliver approximately 1,500 homes across a range of tenures as well as 2,000 square metres of community space and 6,500 square metres of employment space.

Housing is of great significance to the Borough and forms a major theme to the Adopted Local Plan. There is an ongoing shortage of affordable housing, particularly for first time buyers which in turn contributes to a skills shortage in the Borough.

The WUV project incorporates the replacement of the existing sewage treatment works which is owned and operated by Thames Water Utilities Limited (TW), with a new sewage treatment works facility being built on the former Slyfield Landfill site. The facility will meet modern day standards, improving the environment for local people, providing ability for additional sewage treatment capacity to meet future demand.

Bringing this brownfield site into beneficial use to provide approximately 1,500 new homes (40% of which are to be affordable), new employment units, community space and a new sewage treatment works to meet future demand, together with other supporting infrastructure, will make a very significant contribution to the economic, social and environmental well-being of the Council's area.

Over 44 per cent of the WUV site is currently in Council ownership, and 100 per cent Council ownership will be achieved on completion of land transfers with TW. A conditional contract with Thames Water was signed on 30 April 2019 (the "TW Agreement").

At its meeting on 7 January 2020, the Executive authorised the Managing Director, in consultation with the Leader of the Council, to sign and complete the Grant Agreement with Homes England (the "GDA") to implement the infrastructure works and draw down the grant expenditure. The GDA was completed on 29 July 2020.

At an Extraordinary meeting on 16 January 2020, the Full Council approved a provisional capital budget of £359.504 million to enable the infrastructure phase of the WUV project to be carried out.

At its meeting on 24 November 2020 the Executive authorised the transfer of £10.2m from the provisional capital programme to the approved capital programme for infrastructure fees and payments which the Council is obliged to make to TW under the TW Agreement.

An application for hybrid planning permission for the WUV was submitted to the Council as local planning authority on 15 December 2020 and validated on 22 December 2020 (ref. no. 20/P/02155).

The Council has now negotiated amendments to the TW Agreement, as summarised in this report, including the amendment of the boundary of the land that the Council is to transfer to TW and the amount that the Council is due to pay to TW pursuant to the TW Agreement.

This report seeks approval from the Leader/Executive to authorise the Managing Director, in consultation with the Leader of the Council to sign and complete the Deed of Variation to the TW Agreement to reflect these and other changes.

This report also seeks a decision from the Leader/Executive to appropriate for planning purposes the Council's land which is to be used for, or in connection with, the WUV development including the land to be transferred to TW under the TW Agreement. In addition, it records the powers under which the TW land is to be acquired by the Council for the purposes of the WUV with a view to ensuring that there is clarity as to the planning purposes for which all the WUV land is held.

### **Recommendations to the Leader/Executive**

- (1) That the Managing Director be authorised, in consultation with the Leader of the Council, to sign and complete the Deed of Variation to the TW Agreement with TW and to proceed with the implementation of the relocation of the Sewage Treatment Works and associated works.
- (2) That pursuant to s122 of the Local Government Act 1972 the Council owned land shown outlined in blue on the plan at Appendix 1 be appropriated for planning purposes in connection with the implementation of the WUV in so far as it is not already held for those purposes.
- (3) That it is noted and recorded that the land to be acquired by the Council from TW pursuant to the TW Agreement (as varied) and any further land to be acquired by the Council for, or in connection with, the WUV development is to be acquired pursuant to s227 of the Town & Country Planning Act 1990 for planning purposes to enable the implementation of the WUV.

Reasons for Recommendation:

To enable the completion of the Deed of Variation at the earliest opportunity and to ensure that there is clarity as to the powers under which, and the purposes for which, land needed for or in connection with the WUV is held or acquired by the Council.

**Is the report (or part of it) exempt from publication?**

Yes, part of the report: Appendix 3

If "Yes" (whether whole or in part):

The content is to be treated as exempt from the Access to Information publication rules because it contains information relating to the financial or business affairs of any person and information which is subject to legal professional privilege and is therefore exempt by virtue of paragraph(s) 3 and 5 of Part 1 of Schedule 12A to the Local Government Act 1972 as follows:

3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).

5. Information in respect of which a claim to legal professional privilege can be maintained in legal proceedings.

and the public interest in maintaining the exemptions outweighs the public interest in disclosing the information.

The content is restricted to all councillors.

The exempt information is not expected to be made public

The decision to maintain the exemption may be challenged by any person at the point at which the Leader/Executive is invited to pass a resolution to exclude the public from the meeting to consider the exempt information.

This matter is a key decision that, for the reasons stated below, was not included in the Forward Plan at least 28 days prior to the date on which the key decision is scheduled to be taken. This decision cannot reasonably be deferred.

Reasons for urgency

The terms of the TW transaction amendments/update have only recently been agreed and Homes England due diligence completed.

Under Access to Information Procedure Rule 16 – Special Urgency, the Chairman of the Overview and Scrutiny Committee has agreed that the taking of the decision is urgent and cannot reasonably be deferred.

## **1. Purpose of Report**

- 1.1 This report seeks delegated authority from the Executive for the Managing Director, in consultation with the Leader of the Council, to enter into the Deed of Variation to the TW Agreement and to proceed with implementation of the relocation of the Sewage Treatment Works and associated works.
- 1.2 This report also seeks to confirm that the Council land currently owned and that to be acquired, for or in connection with the WUV, is held or acquired for planning purposes to implement that scheme. This is important in the context of this complex redevelopment proposal to ensure that the provisions of s203 and s204 of the Housing and Planning Act 2016 can be engaged once development commences following the grant of planning permission. Those provisions should ensure that the development is not delayed or prevented by private law claims for infringement of any third party rights, which will instead be subject to statutory compensation.

## **2. Strategic Priorities**

- 2.1 The recommendations support the delivery of the following strategic objectives from the WUV Business Case.
- 2.2 Delivery of the WUV Programme will have a positive impact on the supply of housing and employment land in the Borough and regenerate the Slyfield Landfill Site.
- 2.3 The recommendations support the delivery of the following priority from the Corporate Plan 2018-2023 (page 7); delivering the local plan and providing the range of housing that people need, particularly affordable homes
- 2.4 As a specific action, to start delivery of the Slyfield Area Regeneration Plan during 2021 (see page 15 of the Corporate Plan).
- 2.5 The Council declared a Climate Emergency on 23 July 2019 and the project will minimise environmental impact as far as reasonably practicable throughout the process.

## **3. Background - Deed of Variation to the TW Agreement**

- 3.1 In order to deliver the WUV project various agreements are required with TW to allow the delivery of key items of infrastructure and the development of housing.
- 3.2 The TW Agreement was entered into on 30 April 2019 and provides for the Council to transfer some of its existing land to TW to allow TW to construct a new sewage treatment facility (the "NSTW"). Once the new facility is operational TW will decommission the old sewage treatment works and transfer the land on which it is located to the Council (the "NSTW") which the Council will then use for the wider SARP project.
- 3.3 The TW Agreement requires TW to apply for planning permission for the NSTW and (subject to certain pre-conditions) once planning permission has been

obtained to construct the new facility and, in due course, decommission the existing site to an agreed standard.

- 3.4 The outstanding pre-conditions referred to above are (subject to the proposed Deed of Variation): TW obtaining planning permission for the NSTW and the Council procuring vacant possession of the NSTW site.
- 3.5 The Council will meet the costs that TW incurs under the TW Agreement up to an agreed sum. To the extent that there are cost overruns these are to be met by TW save in limited circumstances. The Council has sought professional advice from AECOM (who are water engineering specialists) to review the design and build costs provided by TW and they have concluded that the agreed sum is within acceptable limits.
- 3.6 As mentioned above, there are a limited number of situations, where the Council can be called on to meet additional costs under the TW Agreement. These broadly relate to:
  - a. circumstances where the Council elects to meet further costs so that the project continues;
  - b. costs that arise from TW exercising its statutory powers to acquire rights needed for the construction of the new facility and associated infrastructure;
  - c. costs which arise because of an increase in the cost of delivering specified infrastructure works

These circumstances are considered acceptable as the Council either has control over whether it elects to meet the costs, or the costs are set by a statutory undertaker or via a statutory calculation.

- 3.7 The Council has entered into negotiations with TW to vary the terms of the TW Agreement. Those variations which are material are summarised below. A full report from the Council's legal advisers detailing the obligations on the part of the Council and the risks associated with the TW Agreement including the proposed variations is included in the exempt Appendix 3 to this report, to which members are referred. The revisions to the report which reflect the changes made in consequence of the Deed of Variation appear in blue in Appendix 3.
- 3.8 The Deed of Variation will amend the boundary of the NSTW site. This is to ensure that the Council can deliver vacant possession of the NSTW to TW to satisfy the vacant possession condition and allow the project to proceed. The original plan included small areas of land which had been sold to third parties on long leases which would have prevented the Council from satisfying the vacant possession condition. The Council has reviewed the occupational interests on the revised NSTW site and is comfortable that it is only subject to tenancies which can be terminated on notice. Once the agreement has been varied the Council is comfortable that this condition can be satisfied.
- 3.9 The Deed of Variation will revise the price to include an allowance for additional construction costs as a consequence of the boundary change and to include a further condition around the environmental condition of the NSTW. These

amendments are required by TW in return for the change to the NSTW boundary line. The Council has received advice from AECOM regarding the additional costs and is advised that these are within acceptable parameters.

- 3.10 The environmental condition will allow TW a short amount of time to undertake environmental surveys of the additional land. If this (together with earlier surveys) indicates that the costs of remediating the NSTW site and associated infrastructure land will exceed £16,500,000 TW will have the ability to terminate the TW Agreement. The Council has taken advice from AECOM on the likely remediation costs who consider that it is unlikely that the remediation costs will exceed this amount and so this is considered to be an acceptable risk.
- 3.11 Finally, the Deed of Variation will add obligations regarding the provision of net bio-diversity gain units if this is a requirement of the planning permission for the NSTW. These provisions set out how many units TW and the Council are to provide and the associated cost contributions. Officers have sought legal advice from Pinsent Masons and technical advice from Stantec regarding the likely net bio-diversity requirements and costs and consider the provision and costs to be reasonable.
- 3.12 The cost implications of the above revisions to the TW Agreement are referred to in the financial implications section of this report.
- 3.13 The extent of the land now proposed to be transferred by the Council to TW under the TW Agreement as varied by the Deed of Variation (NSTW) is shown outlined in light brown on the plan at Appendix 2. The land which is to be transferred to the Council by TW (NSTW) is shown outlined in pink on that plan (and has been slightly extended, to include a small area of land acquired by TW since the time of the original agreement).

#### **4. Background - appropriation and acquisition of land for planning purposes**

- 4.1 Land which is owned by or acquired by a local authority for a major redevelopment project would typically be held by the authority "for planning purposes". The definition of that expression is described in the legal implications below.
- 4.2 One of the implications of land having been acquired or appropriated by a local authority for planning purposes is that (subject to satisfaction of three other conditions), when development is carried out, certain third party rights and interests which might otherwise inhibit development can be overridden. Any third party with the benefit of those rights or interests who is adversely affected is then entitled to claim statutory compensation. The relevant statutory provisions, which are contained in ss203 - 205 of the Housing and Planning Act 2016 ("H&PA 2016"), are further described in the legal implications section of this report. It is anticipated that, subject to approval of the recommendations in this report, the land currently owned or acquired by the Council for the WUV would benefit from those provisions



## Proposed appropriation

- 4.3 In respect of the land within the WUV site which is already in Council ownership, its redevelopment has been contemplated by the Council and its predecessor authority for a number of years, going back at least to 1972. Historically, there have been two previous decisions to appropriate parts of the Council owned land within or around the present WUV site for planning purposes. Under the first decision, in 1972, a large part of the Council's landholding was appropriated for planning purposes and a smaller area was appropriated for other uses (depots and workshops). The second appropriation decision, taken on 21 June 2007, cast doubt on the continuing effectiveness of the 1972 decision and a fresh decision was taken to appropriate a smaller area of Council land for planning purposes. However, neither the 1972 decision nor the 2007 decision covers the entirety of the land currently owned by the Council which is now required for or in connection with the WUV. Nor is it clear that those past decisions relate to the development now proposed.
- 4.4 In order to put the position beyond doubt in relation to the entirety of the relevant Council owned land it is therefore recommended that the Executive resolves to appropriate for planning purposes all of the land shown outlined in blue on the plan at Appendix 1 to assist with the implementation of the WUV scheme, in so far as it is not already held for those purposes. The majority of the land proposed for appropriation forms part of a larger area of land of which the Council is the registered freehold proprietor under title no SY612973, but also includes smaller parts of the Council's freehold title nos. SY861991 and SY608216.
- 4.5 It should be noted that an area of Council land held for the purposes of allotments has been excluded from the plan at Appendix 1 (and it is therefore excluded from the proposed appropriation).
- 4.6 The Council land which is proposed for appropriation is currently in a number of uses including, to the South of the site, a Council depot which provides storage for a fleet of council vehicles and associated MOT and service bays; a vehicle workshop; on-site diesel and oil storage; salt and sand store; staff office and car park; abandoned cars compound; bin storage and street cleaning stores. This area is predominantly industrial buildings and hardstanding with hedgerows and trees bordering the southern and eastern boundaries on the banks of the River Wey. The northern area of the land proposed for appropriation includes part of a former landfill site, which was first operated as an uncontrolled tip in the 1960s for approximately 15 to 20 years. This has now been capped and has a gas barrier along the southern and western ends to protect the users of Slyfield Industrial Estate.
- 4.7 One of the statutory requirements for appropriation of land under s122 of the Local Government Act 1972 ("LGA 1972") is that the land is "no longer required for the purpose for which it is held immediately before the appropriation". This does not mean that the land must have fallen into disuse. However, a local authority must consider the comparative local public interest need for the present use and the proposed new use before deciding whether to appropriate land. The benefits to the local community of the proposed planning use for implementation of the WUV are considerable and summarised at the outset of this report and in

previous reports in relation the WUV. The statutory requirements of s122 are further described in the legal implications section of this report.

### **Land to be acquired by the Council for the purpose of the WUV**

- 4.8 It is proposed that the NSTW site and all other land acquired by the Council for or in connection with the WUV should be acquired for planning purposes under s227 of the Town and Country Planning Act 1990 (“T&CPA 1990”). Again, the legal implications section of this report provides further details of the application of this land acquisition power to the WUV.

## **5. Consultations**

- 5.1 The Leader and the Lead Councillor for Regeneration are fully briefed on the project. Presentations at key points in the project have been made to Executive Councillors, Governance Board and Corporate Management Team.
- 5.2 Members of the public, statutory consultees and other interested parties have been consulted in connection with the Council’s application for hybrid planning permission for the WUV.

## **6. Key Risks**

- 6.1 Section 3 of this report refers to the certain risks in relation to TW Agreement as varied by the proposed Deed of Variation and how these have been assessed. Further detail is contained in Appendix 3.
- 6.2 Key risks include:
- a. failure by TW to obtain planning permission for the new sewage treatment works, though this is considered unlikely given the planning policy support for the WUV;
  - b. failure by the Council to provide vacant possession of the NSTW – though with the revised boundary of the NSTW provided for in the Deed of Variation this is considered to be a low risk;
  - c. cost overruns for the replacement sewage treatment works which exceed the cap on TW’s liability to meet such costs – though given the advice from AECOM this is considered to be a low risk;
  - d. cost of remediation and associated infrastructure works on the NSTW exceeding £16,500,000, giving TW a right to terminate the TW Agreement (as varied) – though based on advice from AECOM this is considered to be a low risk;

## **7. Financial Implications**

- 7.1 Full Council approved a total capital budget for WUV of £359.504m at its meeting on 16 January 2020.

- 7.2 The increased costs arising from the Deed of Variation are incorporated within the existing capital budget and are allocated to the contamination remediation and Thames Water contingency elements of the cost plan.
- 7.3 There are no adverse financial implications from the recommendation to appropriate land for planning purposes.

## **8. Legal Implications**

### **The TW Agreement and the Deed of Variation**

- 8.1 Legal advice in relation to the TW Agreement and its proposed variation by the Deed of Variation is incorporated in section 3 above and in Appendix 3.
- 8.2 With regard to the statutory powers for land acquisition pursuant to that agreement (as varied), as explained below, the Council has power to acquire the NSTW from TW for the purposes of the WUV redevelopment pursuant to s227 of the T&CPA 1990.
- 8.3 The Council also has power to dispose of land (the NSTW) to TW under the TW Agreement as varied. If the Executive approves recommendation (2) in this report which includes the appropriation of that land for planning purposes, the relevant statutory power to dispose of the land would be s233 of the T&CPA 1990. Section 233 empowers the Council to dispose of land held for planning purposes in such manner and subject to such conditions as appear to the authority to be "expedient" to secure specified planning objectives namely:
- a. the best use of that or other land and any buildings or works which have been, or are to be, erected, constructed, or carried out on it (whether by themselves or by any other person), or
  - b. the erection, construction or carrying out on it of any buildings or works appearing to them to be needed for the proper planning of the area of the authority.
- 8.4 Thus the terms of a disposal of land held for planning purposes should be such as to secure that the planning objectives of s233 and the public benefits of the intended development are achieved. The terms of the TW Agreement (as varied) are designed to achieve those objectives.
- 8.5 The authority must also obtain "best consideration reasonably obtainable" for the disposal of planning land (unless the consent of the Secretary of State is obtained or a short lease granted). In assessing what constitutes "best consideration" for the purpose of s233 it is generally acknowledged that the valuer is entitled to take account of the manner and terms of the disposal aimed at securing the planning objectives referred to above. The Council has obtained advice from suitably experienced and qualified valuers which confirms that this requirement of s233 is satisfied.

- 8.6 The valuers have also considered the alternative scenario, namely if the land is not held for planning purposes at the time of disposal, such that s123 LGA 1972 would apply. In that event a somewhat different approach to valuation may be required, based on the “unrestricted value” which disregards any “voluntary condition” imposed by the authority. Assessed on that basis, the valuers consider that the Council would be entitled to rely on the General Disposal Consent (England) 2003 contained in Circular 06/03, as the purpose of the disposal will contribute to the achievement of economic, social and/or environmental well-being objectives in respect of the Council’s area and the difference between the unrestricted value of the land and the consideration for the disposal does not exceed £2,000,000.

### **Power to acquire land for planning purposes**

- 8.7 This report recommends the appropriation of land and acquisition of land “for planning purposes”. The expression “planning purposes” is defined in s246(1) of the T&CPA 1990 as including land which has either been acquired under s226 or s227 of the T&CPA 1990, or has been appropriated for purposes for which land could be acquired under those sections.
- 8.8 The Council has power to acquire land under s226 (compulsorily) or s227 (by agreement):
- a. if the authority think that the acquisition will facilitate the carrying out of development, re-development, or improvement on or in relation to the land, or
  - b. which is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated.
- 8.9 Where land is proposed to be acquired to facilitate development, redevelopment, or improvement under a. above, the authority must also think that the development etc. is likely to contribute to the promotion or improvement of the economic, social and/or environmental well-being of its area. The considerable well-being benefits of the WUV proceeding, including the provision of substantial new housing and infrastructure, are widely recognised. It is clear that the Council has power to acquire land by agreement for the WUV under s227 of the T&CPA 1990.

### **Power to appropriate land for planning purposes**

- 8.10 In relation to the power to appropriate land under s122 of the LGA 1972 there are two basic requirements:
- a. the land is no longer required for the purpose for which it is held immediately before the appropriation; and
  - b. the Council would (in principle) have power to acquire land by agreement for the "new" purpose.
- 8.11 In respect of the first of the above requirements, the Executive must give specific consideration to the question of whether the land proposed for appropriation (as shown in Appendix 1) continues to be required for its existing purposes and in

doing so, it must consider the comparative needs in the public interest for the existing use and the proposed new use. If Members are satisfied that there is a greater need in the local public interest for the WUV as opposed to the current uses of the land, that condition would be satisfied. In respect of the second requirement, as explained in paragraph 8.9 above, it is clear that the Council would (if it did not already own the land) have power to acquire the land shown in Appendix 1 for planning purposes.

- 8.12 As noted in section 4 of this report there have been previous steps taken to appropriate for planning purposes at least some of the land shown on the plan at Appendix 1 which is intended to be the subject of recommendation (2). In so far as any of the land shown on the plan is already held by the Council for planning purposes, the effect of the appropriation decision recommended in this report will simply be to re-affirm the appropriation in the light of the current redevelopment proposal. In addition, practice and case law indicate that there is nothing to prevent a local authority “re-appropriating” its land for a different planning purpose.
- 8.13 Land held for the purpose of statutory allotments cannot be appropriated for another purpose without the consent of the Secretary of State and consequently allotment land has been excluded from the plan at Appendix 1.

#### **Power to override easements and other rights**

- 8.14 Section 203 of the H&PA 2016 authorises development even if it involves infringing certain third party rights, subject to payment of compensation. The kinds of rights that can be overridden under s203 comprise:
- a. a “relevant right or interest” i.e. “any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land (including any natural right to support)”; and
  - b. a restriction as to the user of land arising by virtue of a contract.
- 8.15 The first category above would include easements and other rights which burden the development site and benefit other land. The second category would include restrictive covenants.
- 8.16 In the case of a site of the size and complexity of that needed for the WUV which has been in various ownerships and developed over a number of years it is possible that such third party rights may exist, albeit that there may be doubts as to the enforceability of certain ancient rights and covenants.
- 8.17 Certain third party rights cannot be overridden under s203, in particular “protected rights” of statutory undertakers and electronic communication code operators and certain rights, interests and restrictions which benefit the National Trust. In addition, rights and interests which benefit the Crown and its land, or rights enjoyed by the public, could not be overridden under s203.
- 8.18 The application of section 203 is dependent on satisfaction of certain conditions. Those conditions are proposed to be varied under the Environment Bill currently

before Parliament, but the proposed amendments are not relevant for present purposes and are not referred to further below.

- 8.19 The four conditions for the application of s203 as they apply to a local authority are, in summary:
- a. **Planning permission:** there must be planning permission for the building or maintenance works and/or the use that causes the interference with or breach of the third party rights.
  - b. **Subject land:** the building or maintenance works and/or the use that causes the infringement/breach must be undertaken on land that at any time:
    - i. Before 13 July 2016 was acquired or has been appropriated by the Council for planning purposes (as defined in s246 T&CPA 1990)
    - ii. On or after 13 July 2016 has been:
      - appropriated by the Council for planning purposes or
      - acquired by the Council for a purpose for which a power to acquire land compulsorily exists.
  - c. **Compulsory acquisition:** the Council could (in theory) have acquired the land compulsorily for the purposes of the building or maintenance work and/or use. The explanatory notes to the H&PA 2016 refer to this requirement as involving the need for the authority to have an appropriate compulsory purchase enabling power.
  - d. **Purpose of acquisition or appropriation:** the purpose of the building or maintenance work and/or use must be related to the purpose for which the land was acquired or appropriated.
- 8.20 Provided the four criteria for the application of s203 are met it is irrelevant who carries out the development.
- 8.21 Consequently if land needed for the WUV is acquired under planning powers and the Council resolves to appropriate the land already in its ownership for planning purposes all the conditions for the application of s203 could be satisfied:
- a. **planning permission** – planning permission for the WUV will be available before development is carried out;
  - b. **subject land** – the development would be undertaken on land acquired by the Council after 13 July 2016 or appropriated by it for planning purposes;
  - c. **compulsory purchase enabling power** – the Council would, at least in theory, have power to acquire land compulsorily for the WUV (under s226 T&CPA 1990); and

- d. **purpose of acquisition or appropriation** – it is clear that the WUV development is related to the purposes for which land for that scheme is proposed to be acquired or appropriated as recommended in this report.
- 8.22 Where s203 applies, when development is carried out, any person who suffers loss in terms of a reduction in the value of their land on account of an infringement of their rights would be entitled to claim statutory compensation under s204 of the H&PA 2016 from the person who carries out the development.
- 8.23 Compensation under s204 is calculated on the same basis as compensation payable under s7 and s10 of the Compulsory Purchase Act 1965. Such compensation is generally based on the reduction in the value of their land (rather than any “ransom value”) and is sometimes calculated on a “before and after” assessment of what their land was worth before and after the infringement.
- 8.24 At this stage it is not possible to assess whether any valid claims under s204 will be made or the extent of any liability for compensation, but a reasonable allowance has been included within the contingency budget to cover this potential liability.

## **9. Human Resource Implications**

- 9.1 The WUV is being led by the Regeneration Lead and the workstreams are being managed by the Weyside Development Surveyor. A Weyside Project Manager will be required on an interim basis to coordinate the infrastructure delivery phase. The related human resources expenditure is within the approved budget provision. There are no HR implications that apply other than being dealt with under Future Guildford.

## **10. Equality and Diversity Implications**

- 10.1 Section 149 of the Equality Act 2010 places a local authority under a legal duty (“the public sector equality duty”) to have due regard to the following matters in the exercise of all its functions, namely the need to:
  - a. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act;
  - b. advance equality of opportunity between persons who share a “relevant protected characteristic” (i.e. age, disability, sex, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation) and persons who do not share it; and
  - c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 10.2 The public sector equality duty is a continuing duty which decision-makers must consider and review at all stages of scheme. An Equality Impact Assessment has been prepared for the WUV (see background papers) and will be reviewed as the proposals progress.

## **11. Climate Change/Sustainability Implications**

- 11.1 The Council declared a Climate Emergency on 23 July 2019. The Council is committed to reducing emissions, particularly from vehicles, energy use and construction processes. These objectives have been, and will be, fully taken into account at all stages of the design and implementation of the WUV.

## **12. Summary of Options**

- 12.1 In relation to the authorisation sought in respect of the Deed of Variation the main options are:

- a. to authorise officers to complete the Deed and enable this element of the WUV to proceed;
- b. to seek to negotiate further variations of the TW Agreement. Extending the negotiations would serve no obvious purpose. It would delay or quite possibly frustrate the arrangements with TW and hence of the WUV proposals;
- c. not to authorise completion of the Deed, in which event the arrangements for relocation of the sewage treatment works cannot proceed and the WUV proposals would need to be fundamentally reviewed or abandoned as they are dependent on the relocation.

- 12.2 In relation to the recommendation regarding appropriation of Council land for planning purposes for or in connection with the WUV:

- a. to decide to appropriate the land and put the position beyond doubt as to the purposes for which the land is currently held and the precise planning purposes for which it has been appropriated and thereby ensure that ss203 and 204 would apply to enable any third party rights which are adversely affected by the WUV development to be overridden, subject to payment of statutory compensation;
- b. not to appropriate the land for planning purposes, with the risk of possible private law claims for damages or an injunction in the event of any such interference with third party rights, which could then delay or prevent the development.

- 12.3 In relation to acquisition of land for the WUV under planning powers (s227 T&CPA 1990) there are no obvious alternatives. Section 227 is the most appropriate land acquisition power available to the Council.

## **13. Conclusion**

- 13.1 Implementation of the WUV proposal will bring a substantial brownfield site into beneficial use for the people of Guildford. The development will include some 1,500 new homes (40% of which are to be affordable), new employment units and community facilities and a modern sewage treatment works to meet future demand.



- 13.2 The Executive is asked to approve the recommendations to enable the transaction with TW to proceed and to appropriate the Council land to assist with the implementation of the WUV.

#### **14. Background Papers**

[Corporate Plan 2018-2023](#)

[Slyfield Area Regeneration Project \(SARP\) Report to Executive 27 September 2016](#)

[Slyfield Area Regeneration Project \(SARP\) Report to Executive 25 September 2018](#)

[Slyfield Area Regeneration Project \(SARP\) Report to Executive 7 March 2019](#)

[Weyside Urban Village Development Report to Executive 7 January 2020](#)

[Report to Extraordinary Full Council Meeting 16 January 2020](#)

[Weyside Urban Village Development Report to Executive 24 November 2020](#)

Equality Impact Assessment in respect of the WUV dated 31 May 2021

Montagu Evans report on best consideration dated 28 June 2021

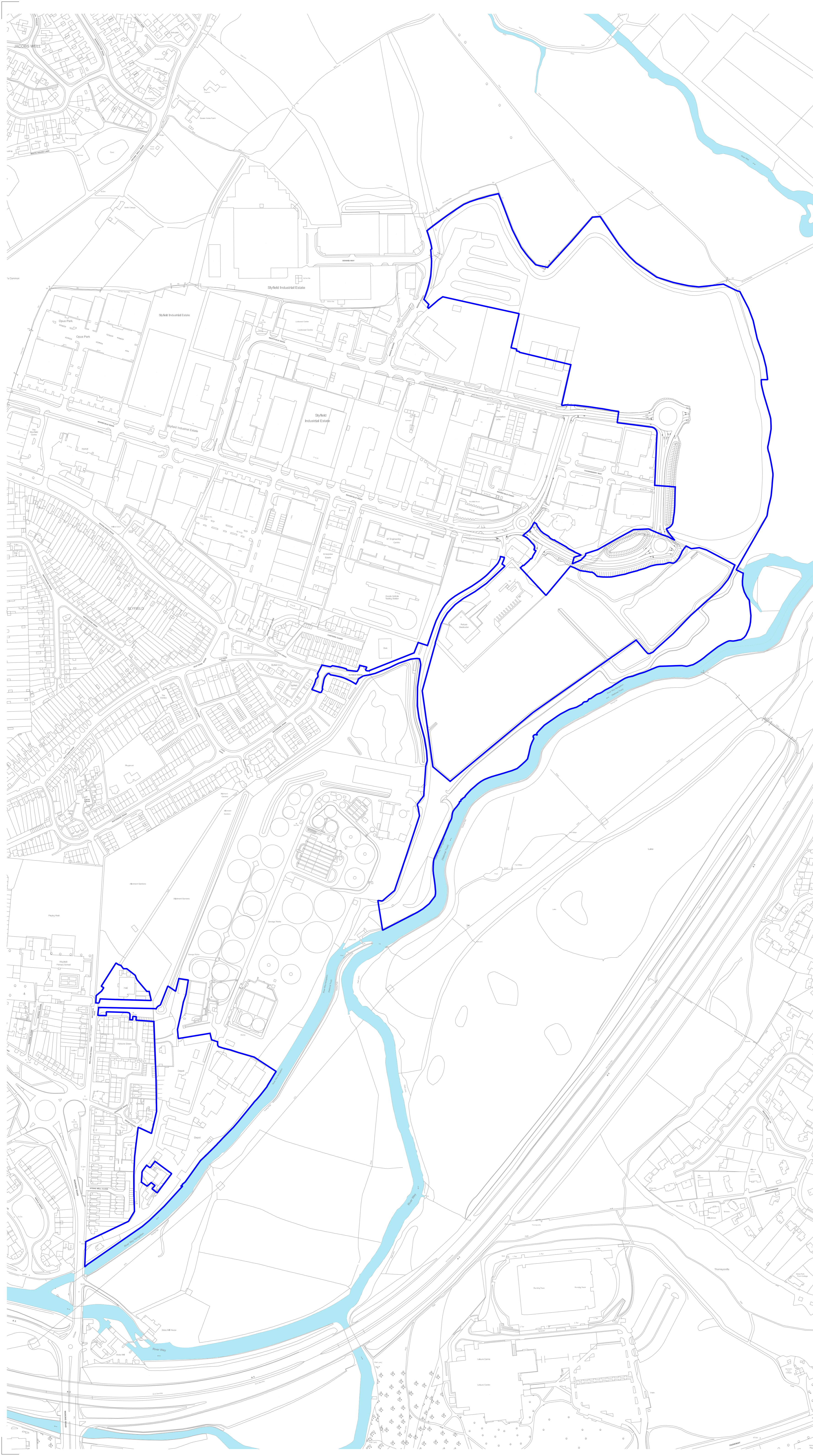
#### **15. Appendices**

**Appendix 1** – Plan showing Council owned land proposed for appropriation for planning purposes

**Appendix 2** – Plan showing land proposed to be transferred to TW and land to be acquired by the Council from TW, together with the boundary of the Council's application of planning permission (ref no: 20/P/02155)

**Appendix 3 – EXEMPT** – Report on an agreement with Thames Water Utilities Limited – Updated to reflect the 2021 Deed of Variation – Pinsent Masons LLP dated 28 June 2021.

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Notes:  
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**Key**

- Existing GBC ownership boundary within WUV site

Rev	Date	Description	Drawn	Chkd
A	28.06.21	Second Issue	DZ	-
-	25.06.21	First Issue	DZ	-

Drawing Status  
**FINAL ISSUE**

Client  
**Guildford Borough Council**

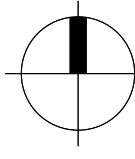


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Project  
**Weyside Urban Village**

Drawing Title  
**Guildford Borough Council land  
 Proposed for Appropriation for Planning Purposes**

Scale @ A1 1:2500 Job Ref. 01715  
 Drawing No. 01715 \_ SK\_054 Revision A  
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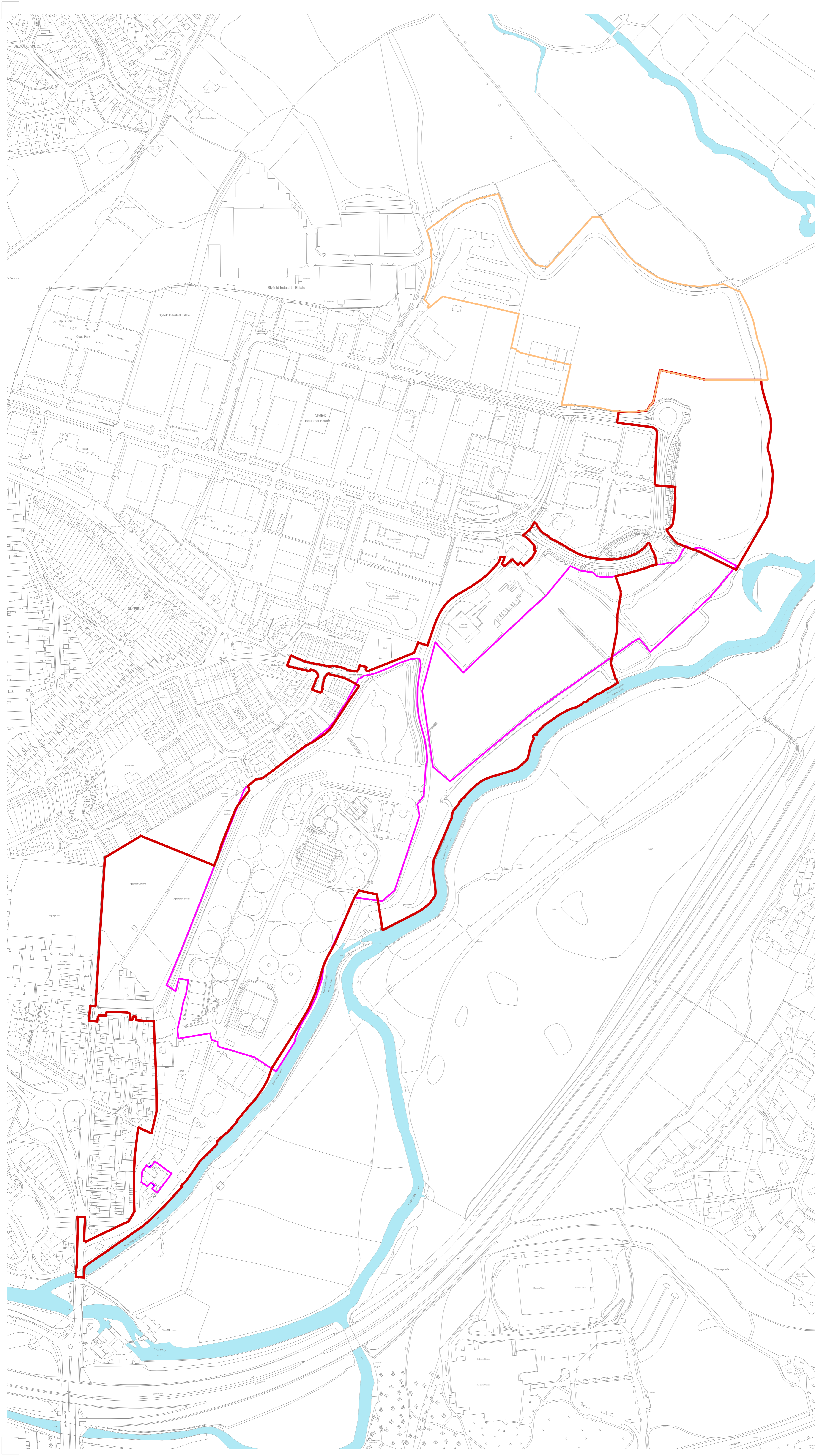


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- Key
- WUV site boundary
  - Existing sewage treatment works boundary
  - Replacement sewage treatment works site boundary



Rev	Date	Description	Drawn	Chkd
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-	24.06.21	First Issue	DZ	-

Drawing Status  
**FINAL ISSUE**

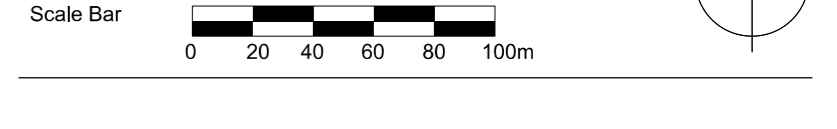
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Project  
**Weyside Urban Village**

Drawing Title  
**Existing and proposed land ownership boundaries**

Scale @ A1 1:2500 Job Ref. 01715  
 Drawing No. 01715\_SK\_053 Revision A



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By virtue of paragraph(s) 3, 5 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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