

## **LONDON BOROUGH OF RICHMOND UPON THAMES**

**REPORT TO:** Finance, Policy and Resources Committee

**DATE:** 20 September 2021

**REPORT OF:** Director of Environment and Community Services

**TITLE OF  
DECISION** Twickenham Riverside Scheme – Decision to use Compulsory  
Purchase Order Powers

**WARDS:** Twickenham Riverside; South Twickenham; St Margarets and  
North Twickenham; West Twickenham

**KEY DECISION? YES**

**IF YES, IN FORWARD PLAN? YES**

**For general release**

### **1. MATTER FOR CONSIDERATION**

- 1.1 This report provides an update on the CPO decision taken by this Committee at its meeting on 28<sup>th</sup> June 2021.

### **2. RECOMMENDATIONS**

The Committee is asked to:

- 2.1 Note the update given in this report, further to the report and recommendations that were approved by this Committee on the same matter at the meeting on 28<sup>th</sup> June 2021, and resolve in addition to the resolutions made at that meeting:
- a) include the additional interests in the Compulsory Purchase Order as detailed below (land parcel 13 and crane oversailing rights of land parcel 14), and
  - b) authorise the Director of Environment, in consultation with the Managing Director of the South London Legal Partnership, to make minor adjustments to finalise the areas of Category 1, 2 and 3 open space land detailed below in finalising the CPO and Order map, and in applying to the Secretary of State for a certificate pursuant to section 19(1) of the Acquisition of Land Act 1981, and to update the draft Statement of Reasons to reflect the approach to open space set out in this report.

### **3. DETAIL**

- 3.1 On 28 June 2021 the Finance, Policy and Resources Committee approved the below recommendations:
- 3.1.1 Resolve that the Council makes a Compulsory Purchase Order (CPO) under section 226(1) (a) and 226(3) of the Town and Country Planning Act 1990 (in respect of acquiring land), Section 13(1) of the Local

Government (Miscellaneous Provisions) Act 1976 (in respect of acquiring new rights) and the Acquisition of Land Act 1981 for the acquisition of all freehold and leasehold interests (and any other interests and rights as may be required) in the land and buildings required to deliver the Twickenham Riverside redevelopment proposal, as shown on the plan attached to Appendix A for the purpose of securing the comprehensive redevelopment of the Twickenham Riverside site.

- 3.1.2 Authorise the Director of Environment, in consultation with the Managing Director of the South London Legal Partnership, to: -
- a. take all necessary steps to proceed with and secure the making, confirmation and implementation of the CPO including land referencing, serving any requisitions for information on affected parties, preparing all necessary documentation (including the CPO, the Order Map and the Statement of Reasons), submission of the CPO to the Secretary of State for confirmation, the publication and service of all requisite notices, and preparing for and presentation of the Council's case at any Public Inquiry;
  - b. negotiate terms for the acquisition of the interests in the properties to be acquired by agreement or to affect the withdrawal of objections to the CPO; and
  - c. amend and finalise the draft Statement of Reasons annexed at Appendix B to the 28<sup>th</sup> June 2021 report as considered necessary prior to its submission to the Secretary of State.
  - d. make reductions, if necessary, to the extent of the land included in the draft Order Plan (annexed at Appendix A) prior to the CPO being made.
  - e. take all necessary steps to confirm the CPO if granted the power to do so by the Secretary of State.
  - f. to remove from the CPO any plot (or interest therein) no longer required to be acquired compulsorily, to amend the interests scheduled in the CPO (if so advised) and to request that the Secretary of State makes any changes to the CPO prior to confirmation as may be appropriate;
  - g. if the CPO is confirmed, to issue confirmation notices, to proceed with acquisition of the interests by use of a General Vesting Declaration and/or Notice to Treat (and Notice of Entry), and to obtain and enforce vacant possession of the land pursuant to the CPO powers and contractual and other powers which the Council may have;
  - h. settle the compensation payable in acquiring the interests including entering into compensation settlement agreements or undertakings (where such agreements or undertakings are appropriate).

- 3.1.3 Note the overall cost estimates, including the estimated acquisition costs of those interests which are still to be acquired and fees for making the Order which will be met from existing budgets.
- 3.2 There are two matters on which updates are required, as follows.
- 3.3 PLA land
- 3.4 At the meeting it was reported that the Port of London Authority (PLA) land (the Embankment) was to be excluded from the application of freehold compulsory acquisition powers under the Order, by reason of the PLA being in the process of registering their title and having already agreed to transfer their land interest to the Council once the Land Registry has completed the registration process. It was deemed a small risk not to include the PLA land in the CPO and there were additional complications if it were to be included – these complications relate to the fact that part of the PLA land is considered to be open space which (due to the statutory requirements) upon compulsory acquisition of the freehold would need to be vested in the PLA, or alternatively an area of replacement open space land vested in it. Neither of those options is workable. Whilst compulsory acquisition of the PLA's freehold interest was intended to be excluded from the CPO, the land may remain within the CPO to allow the compulsory acquisition of rights to oversail the land with cranes to allow construction of the Scheme to take place.
- 3.5 At the time these comments were made it was the Council's understanding that the PLA had claim to the whole Embankment within the Twickenham Riverside development site boundary, including all of the area of car parking adjacent to the Embankment Promenade and the subsoil of the adjoining Embankment road; both of which lie within adopted highway maintainable by the Council. It has since been brought to the Council's attention that the PLA does not believe it owns all of the land that was proposed to be excluded from compulsory freehold acquisition under the CPO and are only seeking to register part of the land in respect of which they hold the deeds. The area of land which is now understood to fall outside of the PLA's ownership is all of plot 13 as shown on the draft CPO plan at Appendix A to this report.
- 3.6 Plot 14 as shown on the CPO plan identifies all of the land owned by the PLA and which will be included in the agreement to transfer the PLA's freehold interest to the Council. Plot 14 includes part of the Embankment Promenade and part of the adjacent car parking area and adopted highway. As detailed in paragraph 3.2 above, the Council is not seeking compulsory powers to acquire the freehold of the Promenade, (considered open space), as to do so would engage statutory requirements which would automatically vest the Promenade back in the PLA, or alternatively require the Council to transfer exchange open space land to the PLA. However, the Council is seeking powers to acquire rights to oversail all of plot 14 to facilitate the use of cranes in the construction of the Scheme.
- 3.7 Where a CPO proposes to include the acquisition of rights over open space land – in the present circumstances, over the Embankment Promenade – the CPO would be subject to Special Parliamentary Procedures unless a certificate is obtained from the Secretary of State, (paragraph 6(1)(a) of schedule 3 to the Acquisition of Land Act 1981). The Secretary of State may give a certificate

where land burdened with a new right (pursuant to the CPO) will be no less advantageous than before to those persons in whom it is vested and other persons, if any, entitled to use the open space. Your officers believe that there is no impediment to obtaining a certificate in these terms from the Secretary of State as the burdening of the Embankment Promenade with the oversail rights in question will not render it any less advantageous to those in whom it is vested nor those entitled to use it.

- 3.8 To ensure that the Council holds all necessary interests in the whole of the site to be redeveloped, it is now proposed to include the compulsory acquisition of all of plot 13 in the CPO (previously thought to belong to the PLA). It is also intended that the CPO includes powers to acquire oversailing rights over all of Plot 14, although the need for this will be reviewed by officers and it may be removed (as permitted under the resolution proposed above). CPO documents will be updated to reflect this change as they are finalised.
- 3.9 The proposed amendment to the CPO plan and the powers sought under it have no material impact on the compelling need for the CPO and the justification for its use as set out in the 28 June Committee Report and associated appendices. For the avoidance of doubt, all of the implications of this proposed amendment remain as detailed in the report presented to this Committee on 28<sup>th</sup> June 2021.
- 3.10 Compulsory acquisition of open space
- 3.11 The report presented to this Committee on 28<sup>th</sup> June 2021 set out the statutory provisions which apply when a CPO includes an area of open space, here the Gardens. That section outlined that the Council would be providing 'exchange land' for the open space to be compulsorily acquired, relying on the exception in section 19(1)(a) of the Acquisition of Land Act 1981. An exception must be made out if the CPO is to avoid being subject to special parliamentary procedure, as noted in the previous report.
- 3.12 The Council is still to rely on that exception in respect of open space which is included in the CPO and which (post-scheme) will no longer be open space. However, in relation to open space which will remain as such as part of the scheme (albeit significantly improved), an alternative exception is appropriate – that in section 19(1)(aa).
- 3.13 It should be noted that these matters do not represent any change to the Scheme nor the open space to be delivered. The overall open space remains unchanged and the position set out below reflects how the Scheme best fits within the applicable legislation.
- 3.14 So far as relevant, section 19(1) provides as follows:

**19 Commons, open spaces etc.**

(1) In so far as a compulsory purchase order authorises the purchase of any land forming part of a common, open space or fuel or field garden allotment, the order shall be subject to special parliamentary procedure unless the Secretary of State is satisfied-

- (a) that there has been or will be given in exchange for such land, other land, not being less in area and being equally advantageous

to the persons, if any, entitled to rights of common or other rights, and to the public, and that the land given in exchange has been or will be vested in the persons in whom the land purchased was vested, and subject to the like rights, trusts and incidents as attach to the land purchased, or

(aa) that the land is being purchased in order to secure its preservation or improve its management.

- 3.15 The CPO which is to be made will include three categories of open space land:
- Category 1 - existing open space land which is being compulsorily acquired, and which will no longer be open space once the scheme has been developed (for instance as it will be built on). Section 19(1)(a) will apply to this land, which measures 1,359sqm and is shown red on the plan at Appendix 3;
  - Category 2 – land which is not currently open space and which will be open space as part of the scheme, and which will be designated in the CPO as ‘exchange land’ for the Category 1 land. This measures 1,919sqm (which is noted to be larger than the Category 1 land, as required) and is shown green on the plan at Appendix 3;
  - Category 3 – existing open space which is being compulsory acquired, and which will remain as open space once the scheme has been developed. Section 19(1)(aa) will apply to this land. This measures 2010sqm and is shown orange/beige on the plan at Appendix 3.
- 3.16 There is also an additional area consisting of open space and highway, which is being acquired outside the CPO (from the PLA, as noted above) and which will remain as open space and/or highway.
- 3.17 The report to Committee for 28<sup>th</sup> June included the explanation of how the tests in section 19(1)(a) are met in respect of the scheme and CPO. That explanation remains applicable, other than the areas involved (which are as per the bullet points above). In all other respects the previous report remains relevant – the area and design of the overall open space in the scheme remains the same, and it is noted that there is an increase between Category 1 (open space land which will be lost) and Category 2 (formal exchange land) of 560sqm, within the overall amount of designated open space of 3,929sq as shown at Appendix 3.
- 3.18 In relation to the Category 3 land, as noted above this would be acquired “in order to secure its preservation or improve its management”. The CPO Guidance published by the Government notes in relation to this exception that “In some cases, the acquiring authority may wish to acquire land to which section 19 applies, eg open space, but do not propose to provide exchange land because, after it is vested in them, the land will continue to be used as open space”.
- 3.19 That is exactly what the Council proposes for the Category 3 land, as part of its overall vision for the site which involves the assembly of all of the land included within the CPO, in order to comprehensively re-design the area and

re-provide much improved open space as part of the scheme. The Category 3 land is required to implement the improvements, and thus improve its management as part of the overall scheme, and the SoS will be invited to certify accordingly. It is therefore necessary that the Category 3 land is included in the CPO, to improve its management as part of the wider Scheme.

#### **4. COMMENTS OF THE DIRECTOR OF RESOURCES ON THE FINANCIAL IMPLICATIONS**

- 4.1 The current approved available capital resources for this scheme as revised elsewhere on this agenda is £2.834 million over the two year period 2021/22 – 2022/23. The cost of the acquisition of leaseholder and freehold interests and future design and planning fees are expected to be met from within these approved sums.
- 4.2 Where available, and where application is considered reasonable, Strategic Community Infrastructure Levy (SCIL) and/or S106 receipt funded Richmond Affordable Housing Grant will be used to finance the scheme and reduce the need for external borrowing as far as possible.

#### **5. PROCUREMENT IMPLICATIONS**

- 5.1 The Head of Procurement can confirm that the procurement process to date has been in accordance with UK and internal procurement regulations. The Head of Procurement will continue to offer advice and guidance as this project progresses.

#### **6. COMMENTS OF THE COUNCIL'S EXTERNAL LEGAL ADVISERS**

- 6.1 The Council has already resolved to make a CPO at its meeting of 28<sup>th</sup> June 2021 and the legal tests applicable to the promotion of a CPO pursuant to section 226(1) of the Town and Country Planning Act 1990 and section 13 of the Local Government (Miscellaneous Provisions) Act 1976 were covered in that report. The legal tests applicable to the seeking of a certificate from the Secretary of State in relation to open space (section 19 of the Acquisition of Land Act 1981) are set out above.

#### **7. CONSULTATION AND ENGAGEMENT**

- 7.1 This was covered in detail within the body of the report for this committee dated 28<sup>th</sup> June 2021, and within the appended Statement of Reasons.

#### **8. WIDER CORPORATE IMPLICATIONS**

<b>POLICY IMPLICATIONS / CONSIDERATIONS</b>
All relevant policies are being considered and advice sought where required.
<b>RISK CONSIDERATIONS</b>
A full project risk register is kept by the project management team.
<b>EQUALITY IMPACT CONSIDERATIONS</b>

An EINA was completed and appended to report for this committee dated 28<sup>th</sup> June 2021.

## **ENVIRONMENTAL CONSIDERATIONS**

An EIA screening letter for the Twickenham project has been submitted and the Planning Authority have confirmed that an Environmental Impact Assessment is not required for this site. Other Environmental considerations have been included within the body of this report.

## **9. BACKGROUND PAPERS**

[June 2021 Committee Report](#)

## **10. APPENDICES**

Appendix A – CPO Plan

Appendix B – Plan of existing public open space

Appendix C – Plan of proposed public open space

## **11. CONTACTS**

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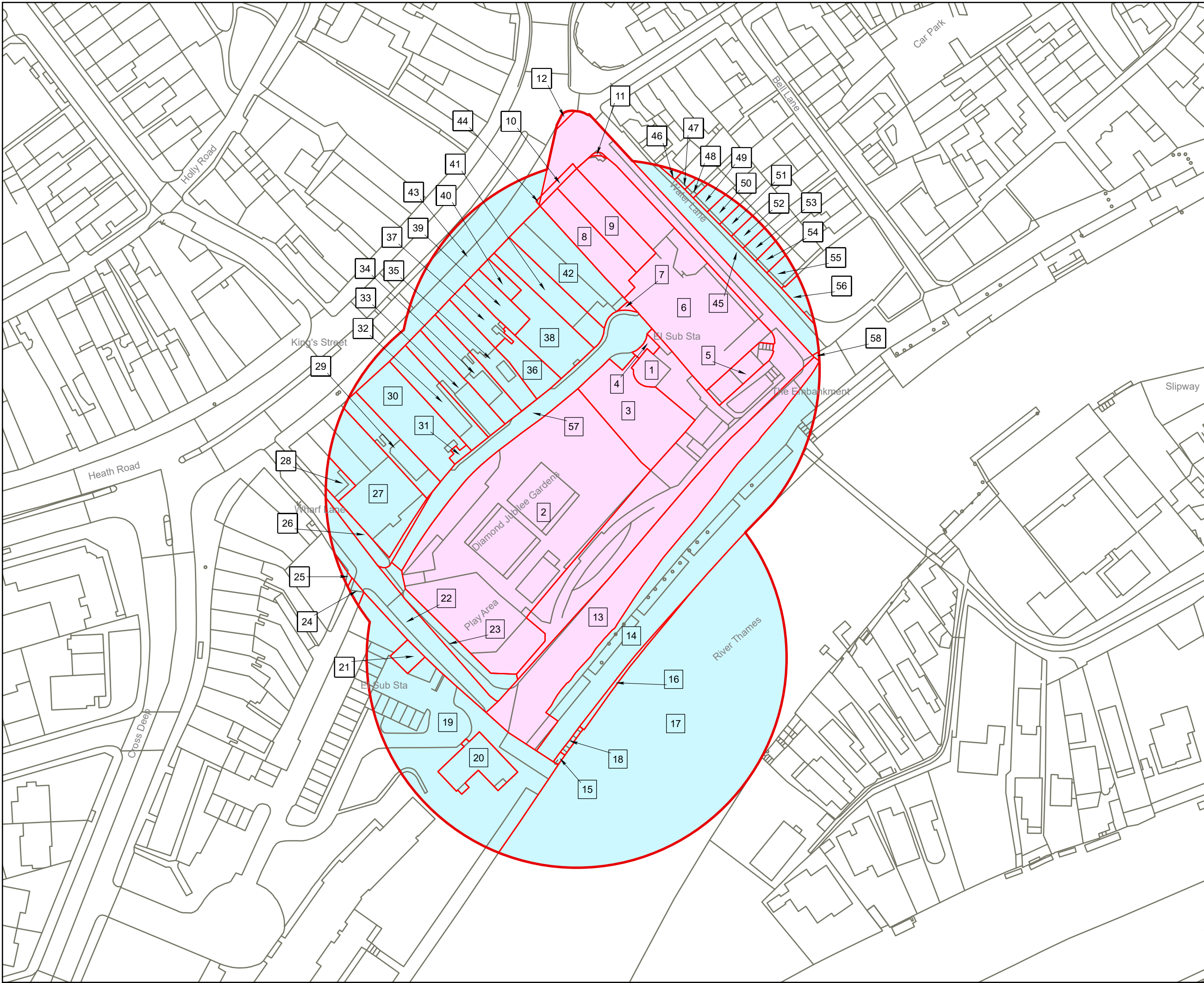








Plot Date: 05 August 2021 15:32  
File Name: C:\Users\NICH\Arden Management Ltd\Arden Management Ltd\Projects - P16 - GIS & CAD Files (15)\P7.1.0 - GISData\ArcPro\060\_ARDG\_TW\_K\_CPO\_r4.aprx



KEY PLAN

Key

Order Boundary

Land to be acquired Permanently

Land required for New Rights

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Client

LONDON BOROUGH  
OF RICHMOND UPON THAMES

N

Designer

Project

TWICKENHAM RIVERSIDE

Drawing Title

MAP REFERRED TO IN THE LONDON  
BOROUGH OF RICHMOND UPON THAMES  
(TWICKENHAM RIVERSIDE) COMPULSORY  
PURCHASE ORDER 2021

Status

FOR INFORMATION

Revision

004

Scale

1:1,000 @ A3

Spatial Reference System

British National Grid

Metres

Drawn By

N.HENRYS

Checked By

S.KARA

Approved By

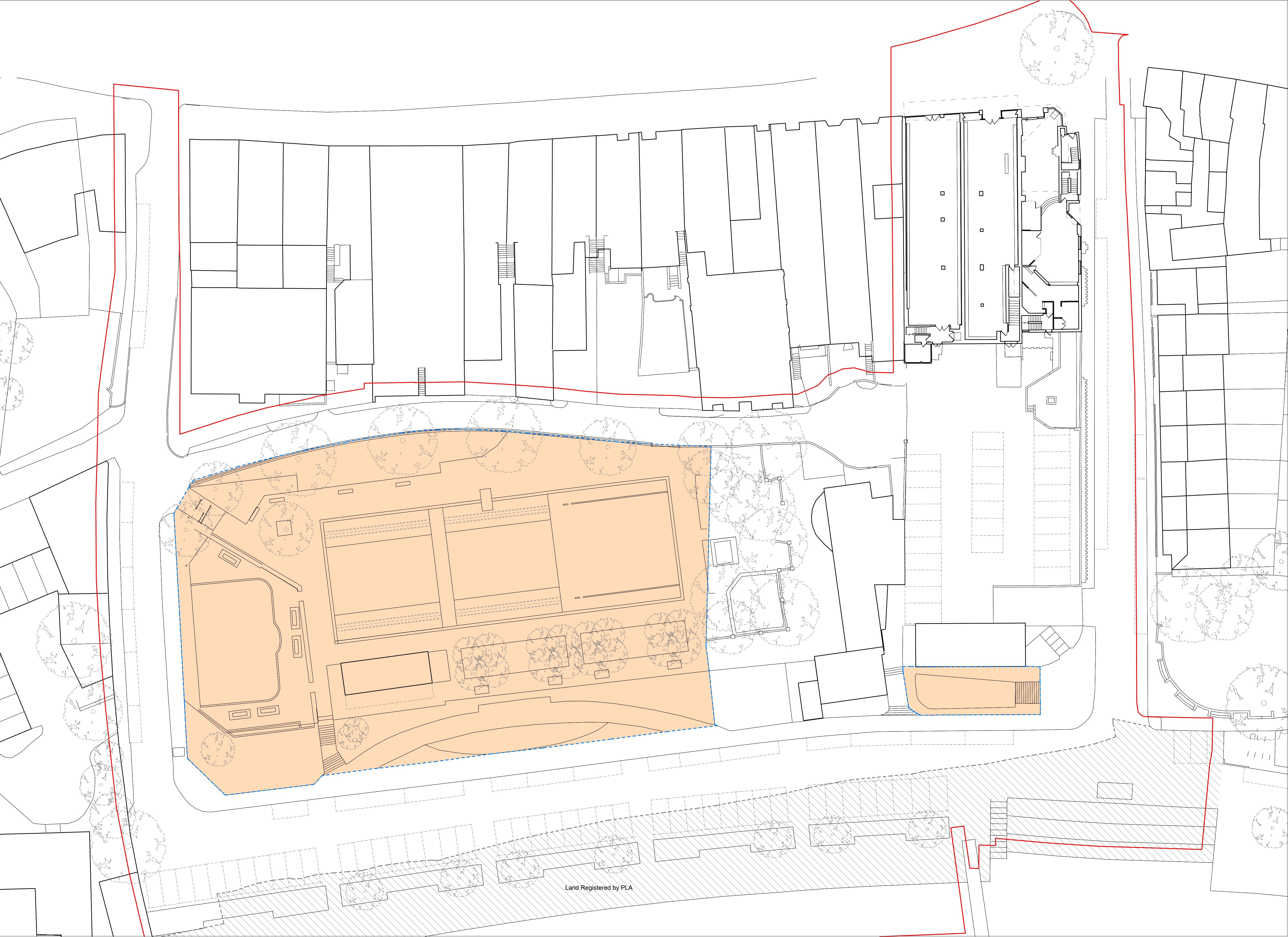
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Drawing reference

060-ARDG\_TW\_K\_CPO\_r4

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Existing locations of buildings, roads, waterways and parkland based on Ordnance Survey data (Stanfords OS MasterMap 28/05/2021) © Crown copyright and database rights 2021 OS Licence 100035409

Existing site levels based on Stanfords Portal LIDAR Height Data DTM Survey Information (13/06/2019) © Crown copyright and database rights 2019 OS Licence 100035409.

Site boundary based on mark-up provided by LBRuT as part of Twickenham Riverside Invitation to Tender document, June 2019. Requires legal verification.

Proposed buildings and landscaping subject to design development, which may affect boundary conditions and areas. Wharf Lane podium edge subject to change.

Landscape design and levels subject to change following further design development.

Boundary of land registered by the PLA on embankment based on Ardent drawing 'Map referred to in the London Borough of Richmond upon Thames (Twickenham Riverside) Compulsary Purchase Order 2021' (drawing reference: 060-ARDG\_TWK\_CPO\_r4)

This drawing is only to be used for the purpose it was provided

Embankment event space shown as Public Open Space as limited traffic through this space will be controlled and managed.

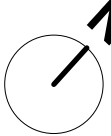
The bounds of Public Open Space to be checked and confirmed by LBRuT before wider distribution

- Key:
- Land Registered by PLA
  - Existing Public Open Space = 3369 sqm

Date	Rev.	Description	Approved By
08/09/2021	P01	M171 - Issue to LBRuT	MB
09/09/2021	P02	M173 - Issue to LBRuT	MB

Date	Rev.	Description	Approved By

DRAFT



Scale at 1:250

0

2

5

10m

Project	Twickenham Riverside	Code	TRS	File Name	Number	Rev.
Subject	Site Plan - Existing Public Open Space			TRS-HAL-00-00-DR-A-	SK-157	P02
Architects	Hopkins Architects Limited 27 Broadley Terrace, London, NW1 6LG T: 020 7724 1751 E: mail@hopkins.co.uk			Date 09/07/21	Scale 1 : 250	at A1





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Site boundary based on mark-up provided by LBRuT as part of Twickenham Riverside Invitation to Tender document, June 2019. Requires legal verification.

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This drawing is only to be used for the purpose it was provided

Embankment event space shown as Public Open Space as limited traffic through this space will be controlled and managed.

The bounds of Public Open Space to be checked and confirmed by LBRuT before wider distribution

- Key:
- Land Registered by PLA
  - Public Open Space Remaining = 2010 sqm
  - Public Open Space to be Added = 1919 sqm
  - Public Open Space to be Removed = 1359 sqm
- Total Proposed Public Open Space = 3929 sqm**

Date	Rev.	Description	Approved By
08/09/2021	P01	M171 - Issue to LBRuT	MB
09/09/2021	P02	M173 - Issue to LBRuT	MB

Date	Rev.	Description	Approved By

DRAFT

Scale at 1:250

Project	Twickenham Riverside	Code	TRS	File Name	Number	Rev.
Subject	Site Plan - Proposed Public Open Space			TRS-HAL-00-00-DR-A-	SK-158	P02
Architects	Hopkins Architects Limited 27 Broadley Terrace, London, NW1 6LG T: 020 7724 1751 E: mail@hopkins.co.uk			Date 09/07/21	Scale 1 : 250	at A1