

Cabinet – 6th September 2017

Black Country Wyrley and Essington Canal Local Nature Reserve (LNR) Declaration

Portfolio: Councillor Jones – Clean and Green

Service: Clean and Green Services

Wards: Birchills-Leamore, Blakenall, Bloxwich East, Bloxwich West, Brownhills, Pelsall, Short Heath and Willenhall North

Key decision: Yes

Forward plan: Yes

1. Summary

1.1 To declare the Wyrley and Essington Canal and certain identified areas of Council-owned open space adjoining the canal as a new Local Nature Reserve (LNR), by entering into a joint declaration with the City of Wolverhampton Council. Also, to enter into a nature reserve agreement with the Canal and River Trust and City of Wolverhampton Council to ensure the management of the land as a LNR for a period of at least 21 years in accordance with the Management Plan together with a separate Collaboration Agreement.

2. Recommendation

2.1 That Cabinet approve the joint declaration under sections 19 and 21 of the National Parks and Access to the Countryside Act 1949 (as amended) (the “1949 Act”) of the Black Country Wyrley and Essington Canal Local Nature Reserve (LNR) within Walsall Council and the City of Wolverhampton’s administrative areas.

2.2 That Cabinet approve Walsall Council entering into a nature reserve agreement and separate Collaboration Agreement with the Canal and River Trust and City of Wolverhampton Council to manage the proposed LNR for 21 years in accordance with the published Management Plan.

3. Report detail

3.1 Walsall Council, City of Wolverhampton Council and the Canal and River Trust have been working together, in consultation with Natural England, to designate a new Local Nature Reserve (LNR) covering the Wyrley and Essington Canal and certain identified areas of Council-owned open space adjoining the canal in Walsall and Wolverhampton (see Figure 1). This would involve a joint LNR declaration between Walsall Council and City of Wolverhampton Council.

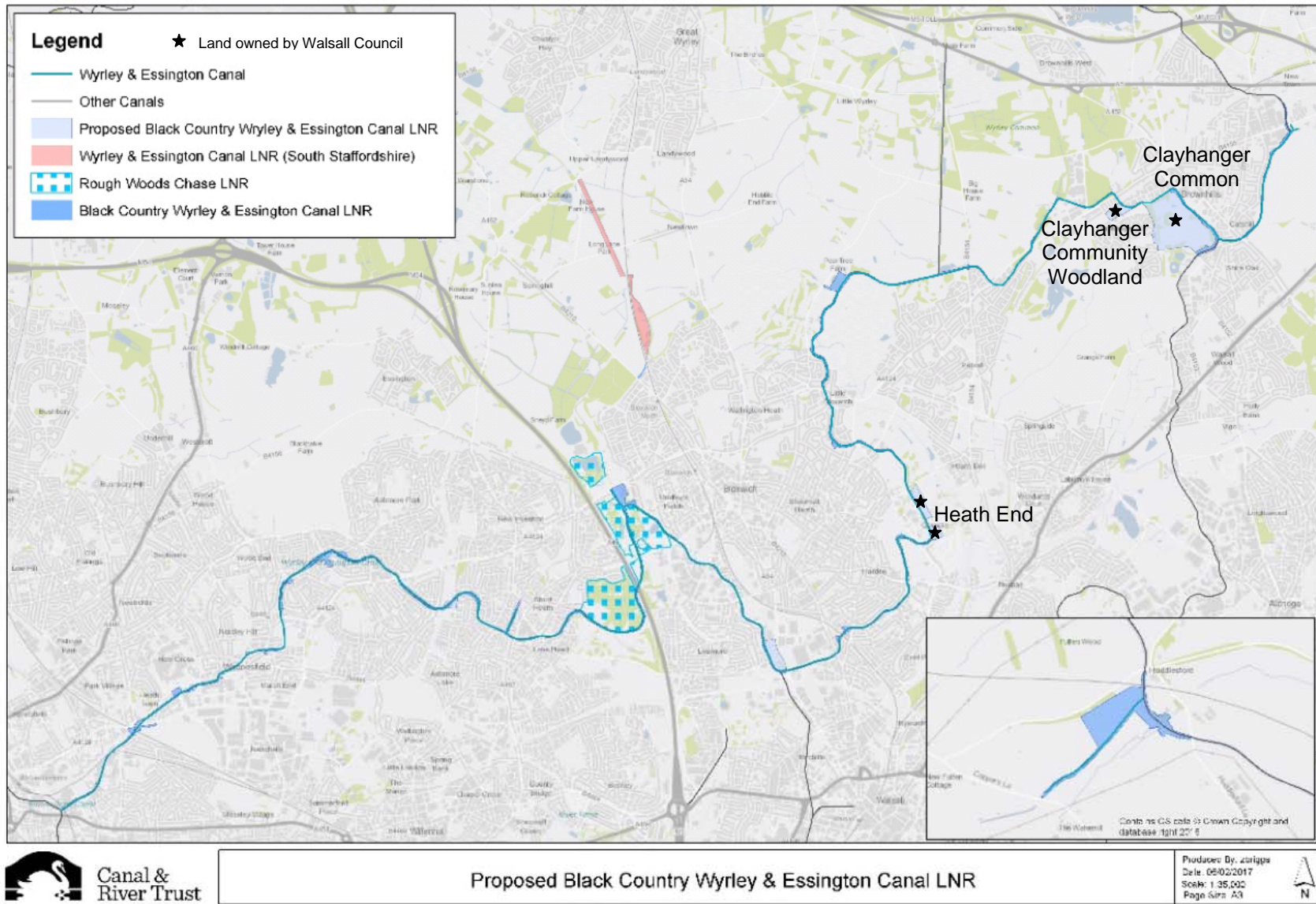


Figure 1. Proposed Black Country Wyrley and Essington Local Nature Reserve

- 3.2 The City of Wolverhampton Council Cabinet has approved the declaration of that part of the proposed Black Country Wyrley and Essington Canal Local Nature Reserve within the City of Wolverhampton administrative area and entering into a Collaboration Agreement with the Canal and River Trust and Walsall Council to manage the LNR for 21 years in accordance with the published Management Plan.
- 3.3 The proposed LNR will be locally important for wildlife and for public education, enjoyment. Guidance produced by Natural England states that where possible LNRs should be publicly accessible where visitors would not damage or disturb the wildlife. A local authority can restrict access to some areas if visitors would cause damage to the natural environment, unless the public have a statutory right of access. However, it is the intention that members of the public will be able to access all parts of the proposed LNR.
- 3.4 LNRs are typically owned and managed by the local Council. The proposed LNR will be unique, as the majority of the land is owned and managed by the Canal and River Trust, with only some areas of adjoining land owned and managed by Walsall Council and City of Wolverhampton Council. In Walsall Borough, these are Clayhanger Common, Clayhanger Community Woodland and two parcels of land at Heath End (see Appendix 1 plans 1 to 3).
- 3.5 An ecological survey of the Wyrley and Essington Canal corridor in Walsall was completed in 2014. This section of the canal is designated as a Site of Local Importance for Nature Conservation (SLINC). SLINCs are protected from development under Policies in the adopted Local Plan.
- 3.6 The Wyrley Branch of the Wyrley and Essington Canal was declared as a LNR by South Staffordshire Council in 2008. It extends for almost four kilometres from the borough boundary near Broad Lane, through southern Staffordshire to Cheslyn Hay. The Walsall section of the Wyrley Branch from Broad Lane to the borough boundary would be included in this proposed LNR declaration (see Appendix 1 plan 4). South Staffordshire Council has consented to any of its here land being designated as part of the proposed LNR, but a separate collaboration agreement would need to be entered into.
- 3.7 A draft LNR Management Plan has been prepared in consultation with Natural England, which was also issued for public consultation. Six comments have been received, but all were supportive of the proposal. The Management Plan will be amended in light of comments received and a final version produced. The vision, aims and objectives are in Appendix 2.
- 3.8 The vision for the Wyrley and Essington Canal is to improve the awareness and use of the canal as a site for both recreation and education within the local community whilst protecting, and wherever possible enhancing, its natural beauty and rich biodiversity. The overall aim is to ensure that the canal is maintained as a LNR, benefitting both biodiversity and the community in a manner that compliments the management goals of other conservation sites within the landscape. A series of objectives relate to nature conservation, ensuring easy access for the community, and improving and enhancing opportunities for walking, cycling and boating.

- 3.9 Upon approval of the proposed LNR, a formal declaration statement (see Appendix 3) and local nature reserve agreement and any other supporting information will be sent to Natural England. A notice will also be published in the local press.
- 3.10 The partners will enter into a Collaboration Agreement (see Appendix 4), which, although not legally binding, includes a commitment to jointly manage the proposed LNR for wildlife, education and enjoyment purposes for at least 21 years. Most actions / projects would be on CRT land, but those affecting Walsall Council land include:
- Carry out access survey to identify issues and improve general access and access for disabled and pushchairs at particular locations
 - Ensure information is presented in a suitable format on signage around the canal, by installing LNR signs at key points
 - Create walking and cycle routes within the LNR that benefit health and recreation
 - Install motorcycle barriers along towpath to protect Great Crested Newt habitat in Rough Wood Chase

Appropriate consents would be sought before implementing any actions / projects. Once any works are completed, the Council's only commitment would be limited to maintaining the works where they cross or are wholly located within our land.

- 3.11 A report will be taken to Cabinet during 2020 to summarise progress made on delivering key actions in the LNR Management Plan and to consider any appropriate updates or changes needed.
- 3.12 Natural England guidance includes that LNRs should form part of a network of sites and other green spaces, with a minimum of 1 ha of LNR per 1000 head of population – Walsall Council currently has a ratio of just over 0.9 ha. This proposed LNR connects Pelsall North Common LNR, Rough Wood Chase LNR and other green spaces across Walsall Borough and into the City of Wolverhampton. Declaring the LNR would result in Walsall Council achieving the target of 1 ha of LNR per 1000 head of population.

4. Council priorities

- 4.1 The proposed LNR supports the following Service Delivery Priorities of the Corporate Plan 2017-2020:
- Enable access and use of green spaces to improve health and wellbeing and reduce social isolation
 - Provide and support sustainable environments and services, which make Walsall an attractive and healthy and safe place to live and work

5. Risk management

- 5.1 Declaring the LNR would result in Walsall Council achieving Natural England's target of 1 ha of LNR per 1,000 head of population. The proposed LNR and management plan would also help the Council to fulfil its Biodiversity Duty.
- 5.2 Funding for actions / projects in the Action Plan will be sought and work undertaken in accordance with the Council's policies and procedures.

6. Financial implications

- 6.1 The Action Plan includes cost estimates for a total of 62 actions / projects, as follows:

- 27 low cost projects (at £100-£5,000) total cost up to £135k
- 11 mid cost projects (at £15,000) total cost up to £165k
- 24 high cost projects (at >£15,000) total cost at least £360k

Of these, Walsall Council is a partner with CRT and or CWC, in the following proposals:

- 10 low cost projects (at £100-£5,000) total cost up to £50k
- 7 mid cost projects (at £15,000) total cost up to £105k
- 14 high cost projects (at >£15,000) total cost at least £210k

- 6.2 Bids for internal / external funding will be submitted to implement the actions / projects, which the LNR designation and finalised Management Plan will help support.
- 6.3 Parks and Green Spaces currently maintain Council-owned land at Clayhanger Common, Clayhanger Community Woodland and Heath End. Any maintenance implications arising from the actions / projects identified in the Management Plan will continue to be met within available resources.

7. Legal implications

- 7.1 Section 21 of the National Parks and Access to the Countryside Act (1949) gives the Council the power to acquire, declare and manage nature reserves. Declaration of land as an LNR is a statutory designation. Section 15(1) of the 1949 Act states:

- (1) that a "nature reserve" means
- (a) land managed solely for a conservation purpose, or
 - (b) land managed not only for a conservation purpose but also for a recreational purpose, if the management of the land for the recreational purpose does not compromise its management for the conservation purpose.

(2) Land is managed for a conservation purpose if it is managed for the purpose of:

- (a) providing, under suitable conditions and control, special opportunities for the study of, and research into, matters relating to the fauna and flora of Great Britain and the physical conditions in which they live, and for the study of geological and physiographical features of special interest in the area, or
- (b) preserving flora, fauna or geological or physiographical features of special interest in the area,

or for both those purposes.

7.2 Under Section 19 of the 1949 Act in order to establish a LNR the local authority must make a declaration. The local authority makes the declaration that:

- (a) the land is subject to an agreement entered into with them or or has been agreed and is held by the authority;
- (b) the land is being managed as a nature reserve.

7.3 Before an LNR is formally declared, the local authority must consult with Natural England. Notice of the LNR declaration will need to be published.

7.4 If the agreement should end or the land to which the declaration relates ceases to be held by the Local Authority, it would need to make a declaration to this effect.

7.5 Section 40 of the Natural Environment and Rural Communities (NERC) Act (2006) requires all public bodies to have regard to biodiversity conservation when carrying out their functions – commonly referred to as the ‘Biodiversity duty’.

8. Procurement Implications/Social Value

8.1 There are no direct procurement implications with this report.

9. Property implications

9.1 Parts of the proposed LNR are in Council ownership and are managed as public open space. Designation of the proposed LNR may affect the maintenance regimes for these sites, but this will be within the limitations of existing resources. Consultation has taken place with Regeneration and Development, who supported the principle of the LNR designation along the canal and who had no objections to the inclusion of the adjoining Council-owned sites identified in this report.

10. Health and wellbeing implications

- 10.1 Approval of the management plan will result in a better managed site with improved access and increased wildlife value, both of which will contribute towards people's physical and mental wellbeing.

11. Staffing implications

- 11.1 The proposals have no staffing implications. The Council already maintains its land which is to be included in the LNR and would continue to do so.

12. Equality implications

- 12.1 There are no direct equality implications arising from the recommendations of this report.
- 12.2 Equal opportunities will be taken into account in any access and interpretation improvements undertaken within the proposed LNR.

13. Consultation

- 13.1 Public consultation has taken place on the draft LNR Management Plan and the proposed boundary of the proposed LNR. Information was posted on both Councils' website, a press release was issued and stakeholders and other interested parties were directly consulted.
- 3.5 All responses supported the proposed LNR designation and the draft Management Plan.

Background papers

Black Country Wyrley and Essington Canal Local Nature Reserve Draft Management Plan

Author

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✉ kevin.clements@walsall.gov.uk



Simon Neilson
Executive Director
August 2017

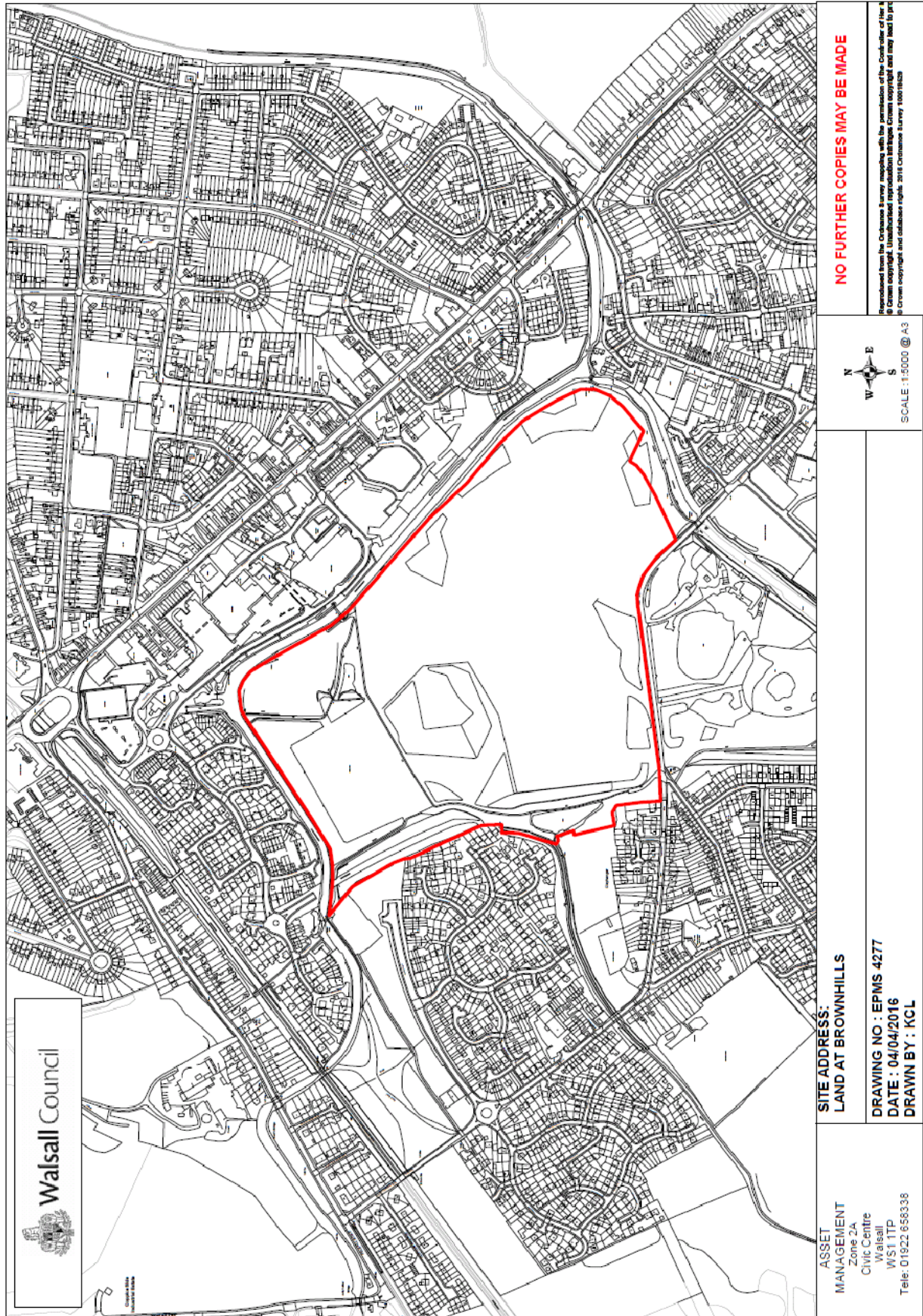


Councillor Jones
Portfolio Holder
August 2017

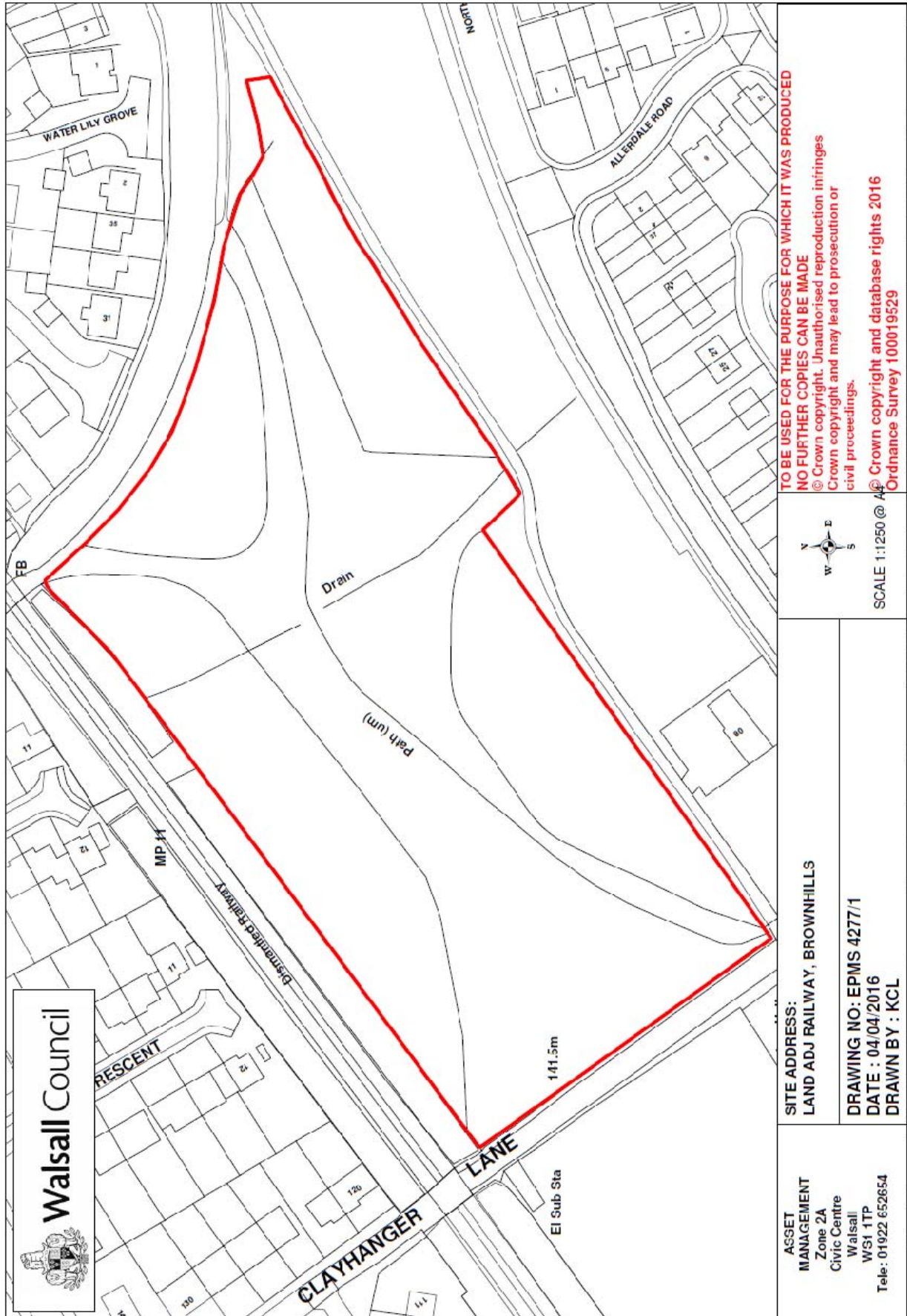
Appendix 1

Location Plans of Walsall Council Land

1. Clayhanger Common



2. Clayhanger Community Woodland



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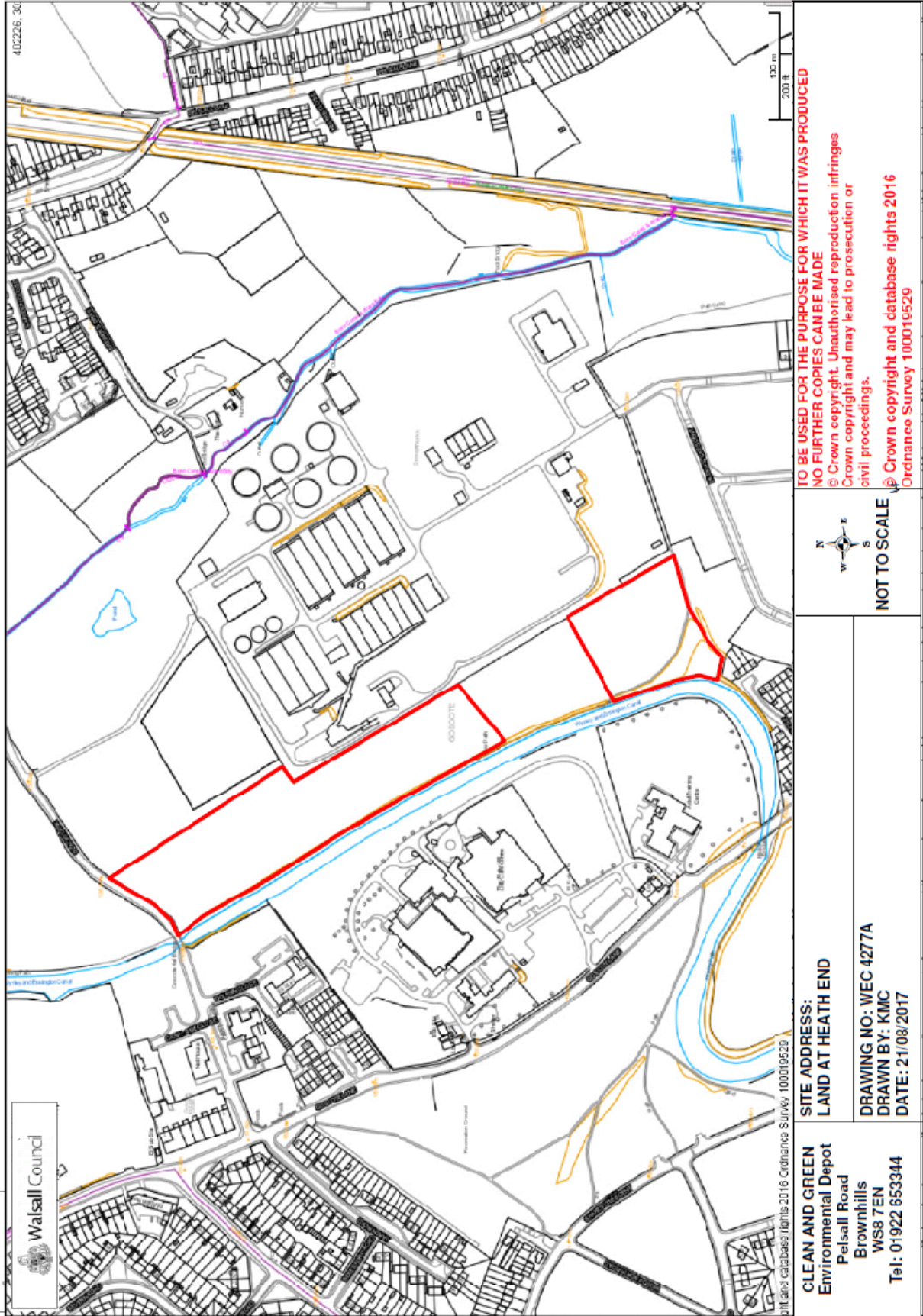
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SITE ADDRESS:
LAND ADJ RAILWAY, BROWNHILLS

DRAWING NO: EPMS 4277/1
DATE : 04/04/2016
DRAWN BY : KCL

**ASSET
MANAGEMENT**
Zone 2A
Civic Centre
Walsall
WS1 1TP
Tele: 01922 652654

3. Heath End



Walsall Council

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CLEAN AND GREEN
Environmental Depot
 Pelsall Road
 Brownhills
 WS8 7EN
 Tel: 01922 653344

SITE ADDRESS:
LAND AT HEATH END
DRAWING NO: WEC 4277A
DRAWN BY: KMC
DATE: 21/08/2017



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Appendix 2

BLACK COUNTRY WYRLEY and ESSINGTON CANAL (WALSALL) DRAFT MANAGEMENT PLAN

Vision Statement

The vision for the Wyrley and Essington Canal is to improve the awareness and use of the canal as a site for both recreation and education within the local community whilst protecting, and wherever possible enhancing, its natural beauty and rich biodiversity.

Aim

To ensure that the Wyrley and Essington Canal is maintained as a Local Nature Reserve, benefitting both biodiversity and the community in a manner that compliments the management goals of other conservation sites within the landscape.

Objective 1: Nature Conservation

- To improve and conserve the ecology of the canal channel and the surrounding landscape.
- Provide effective management of the Local Nature Reserve, across local authority and land-owner boundaries, enabling improved interaction between the local community and their environment whilst protecting and improving ecology.
- To conserve, extend and enhance the quality of heath habitat along the canal.
- To conserve and where possible enhance the landscape and heritage features of the canal where such activity does not conflict with important biological interest.

Objective 2: Ensuring Easy Access for the Community

- To provide suitable facilities and opportunities for public enjoyment of the canal, including both the local community and visitors to the site, providing these do not conflict with ecological concerns.
- To generate a sense of community ownership of the site and encourage active involvement in the care and management of the canal.
- To enhance and where possible extend access for local people and visitors to the canal.
- To ensure that antisocial behaviour is controlled and its effects reduced.

Objective 3: Improving and Enhancing Opportunities for Walking, Cycling and Boating

- To inform and educate the local community about their canal, with a particular focus on ecology, health and public interaction.
- To ensure that the canal is managed to balance the needs of its many different users in a manner that also safeguards its ecology and heritage.
- To increase the number of visitors across all the different user groups

Appendix 3

**BLACK COUNTRY WYRLEY and ESSINGTON CANAL (WALSALL)
DRAFT LOCAL NATURE RESERVE DECLARATION**

No.... Declaration 2017

In pursuance of Sections 19 and 21 of the National Parks and Access to the Countryside Act 1949 (as amended), and all other powers enabling them in that behalf, Walsall Metropolitan Borough Council hereby declares that the land shown edged red on Plan 1 and situated in the administrative area of the Borough of Walsall is the subject of a Collaboration Agreement entered into with the Canal and River Trust and the City of Wolverhampton Council AND in pursuance of Section 19 (2) of the above-mentioned Act and all other powers aforesaid the Council hereby declare that the said land is being managed as a Nature Reserve.

This declaration may be referred to as the Black Country Wyrley and Essington Canal Local Nature Reserve (Walsall) No....

Confirmed under the Common Seal of Walsall Metropolitan Borough Council
this xx day of xxxx 2017

The Common Seal of the Council was affixed to this Direction in the presence of

.....

Authorised Officer

Appendix 4

**BLACK COUNTRY WYRLEY and ESSINGTON CANAL (WALSALL)
DRAFT COLLABORATION AGREEMENT**

THIS COLLABORATION AGREEMENT is dated xx xxxxx 2017

BETWEEN:

- (1) The Canal and River Trust (“the Trust”)
[Address]
- (2) City of Wolverhampton Council (“the City Council”)
Civic Centre, St Peter’s Square, Wolverhampton, WV1 1RP
And
- (3) Walsall Borough Council (“the Borough Council”)
[Address]

Whereas:

- (A) The Partners have agreed to the Project being carried out on Land belonging to the Partners, with the use of funding to be secured from various sources.
- (B) The Partners will be jointly responsible for managing and operating the Project pursuant to the terms of this Collaboration Agreement.
- (C) The Partners will allow the Partners and their authorised contractors to enter onto the Land to carry out the Project Works subject to the Partners complying with their obligations under this Collaboration Agreement.
- (D) The Partners have consulted Natural England which has given its consent to the establishment of the Land as a Local Nature Reserve.

1. DEFINITIONS (the terms on the left shall have the meaning on the right)

Funding	Any money secured by the Partners, singly or jointly, for the purpose of delivering the Project Outcomes as identified in the Management Plan.
Land	means the land shown defined as the Black Country Wyrley and Essington Canal Local Nature Reserve in the Management Plan and edged and shaded red on the Plans.
Plans	means the plans attached hereto entitled: Plan 1, etc.
Management Plan	means The Black Country Wyrley and Essington Canal Local Nature Reserve Management Plan June 2017 and any subsequent updates agreed jointly by the Partners
Partners	The Canal and River Trust, the City of Wolverhampton Council and Walsall Metropolitan Borough Council
Project	The Black Country Wyrley and Essington Canal Local Nature Reserve
Project Documents	The Collaboration Agreement and the Management Plan
Project Outcomes	The outcomes set out in Appendix 4 of the Management Plan
Project Works	Such works identified in the Management Plan to be carried out on the Land to deliver the Project Outcomes

- 1.1. Word importing persons shall include corporations.
- 1.2. Reference to statute shall include the same statute as amended, varied, supplemented, consolidated or re-enacted at any time or any delegated legislation made under it.
- 1.3. Reference to clauses are to clauses of this Collaboration Agreement
- 1.4. Headings in this Collaboration Agreement have been inserted for convenience only and shall not affect its construction.

2. OBJECTIVES AND SCOPE OF THE COLLABORATION AGREEMENT

- 2.1. The Partners agree to jointly manage the Land as a Local Nature Reserve under the National Parks and Access to the Countryside Act 1949 (as amended) for a period of at least 21 years from the Date of this agreement and thereafter until determined by any Partner hereto giving to the other Partners twelve months notice in writing expiring at any time. The Partners agree to cooperate with each other and to use reasonable endeavours to ensure the success of the Project.
- 2.2. The Partners agree that they will (as the case may be) each perform and observe their respective obligations and commitments contained in the Management Plan with a view to ensuring the Project Outcomes are achieved and ensuring the long term success of the Project.
- 2.3. The Partners have agreed the Management Plan and will ensure that their activities in connection with the Project comply with the requirements as set out in the Management Plan. If and when the Management Plan is updated by the Partners, the primary aim of the Management Plan will continue to be to maintain and preserve the nature conservation features of the Land and public enjoyment of these features.
- 2.4. The objectives set out in this Collaboration Agreement are intended to be the understanding between them which outlines:
 - 2.4.1. the obligations between the Partners
 - 2.4.2. the process by which the Project Outcomes can be achieved;
 - 2.4.3. the process by which Funding will be allocated by the Partners;
- 2.5. This Collaboration Agreement must be read in conjunction with the Management Plan.

3. DURATION OF THE COLLABORATION AGREEMENT

- 3.1. This Collaboration Agreement will come into force on the date of this agreement and will continue in force until that date which falls 21 years from the Date of this agreement or, if later, the date the Partners discharge their obligations under this Collaboration Agreement.
- 3.2. Nothing in this document shall create any legally binding relationship among the Partners nor a partnership in law. The role of the partnership is advisory

and its decisions will be applied by Collaboration Agreement and will not be enforceable on any party. This Collaboration Agreement sets out the manner in which the Partners intend to co-operate to ensure the delivery and subsequent maintenance of the Project.

4. OBLIGATIONS

- 4.1. The Partners shall not be required to give any assistance whether financial or otherwise in the management of the Project. However, the Partners will endeavour to allocate resources and Funding as available and appropriate to deliver Project Works throughout the duration of the agreement, in accordance with the terms of the Project Documents.
- 4.2. The Partners shall jointly monitor the Project and achievement of the Project Outcomes, pursuant to the obligations contained in the Project Documents.
- 4.3. Following the completion of the Project Works the obligations of each Partner shall be limited to maintaining the completed Project Works where they cross that Partner's land or are wholly located within it.

5. AMENDMENT

- 5.1 Notwithstanding any other of the Clauses in this Collaboration Agreement no deletion from, addition to, or variation of the Clauses shall be valid or have any effect unless agreed in writing and signed by the Parties.

6. CONTRACTS OF RIGHTS OF THIRD PARTIES ACT

- 6.1. This Collaboration Agreement does not create any rights enforceable by any person not a Party to it except that a person who is the permitted successor to or assignee of the rights of a Party is deemed to be a Party of this Collaboration Agreement.

7. LAW

- 7.1 This Collaboration Agreement shall be construed in all respects in accordance with English Law and shall fall within the jurisdiction of the English Courts. Nothing in these conditions shall prejudice any condition or warranty (expressed or implied) or right of remedy to which the Board are entitled in relation to the Project by virtue of statute or common law.

SIGNED BY THE PARTIES:

Signed for on behalf of Canal and River Trust :-

.....
(Name)

.....
(Position)

.....
Date

Signed for on behalf of City of Wolverhampton Council :-

.....
(Name)

.....
(Position)

.....
Date

Signed for on behalf of Walsall Metropolitan Borough Council :-

.....
(Name)

.....
(Position)

.....
Date