

## Cabinet – 23 January 2013

### York's Bridge, Pelsall

<b>Portfolio:</b>	Councillor Tom Ansell – Transport & Environment
<b>Related Portfolios:</b>	None
<b>Service:</b>	Neighbourhood Services
<b>Ward:</b>	Pelsall
<b>Key decision:</b>	No
<b>Forward plan:</b>	No

#### 1. Summary

- 1.1 This report outlines the reasons for undertaking the reconstruction of York's Bridge and details the implications for Pelsall North Common. The report seeks approval to undertake local consultation prior to submitting an application to the Planning Inspectorate to deregister common land and to approve the proposal for replacement land to be given in exchange for the common land which is to be deregistered. The report further seeks approval for an application to be made to the Planning Inspectorate for consent to undertake works on Pelsall North Common incidental to the reconstruction of York's Bridge. As part of this process planning consent will be required. Approval is also sought to undertake appropriate tendering arrangements to ensure the timeframe for overall delivery of the bridge replacement scheme is not unduly delayed.

#### 2. Recommendations

- 2.1 That Cabinet approve the start of pre-application consultation and delegate authority to the Head of Legal and Democratic Services to prepare and submit applications under the relevant sections of the Commons Act 2006 to deregister and if required, to undertake restricted works, on those parts of Pelsall North Common as detailed in **Appendices A** and **B**, that will be necessary to facilitate the construction of a new York's Bridge.
- 2.2 That Cabinet approve the proposal to offer the Council-owned land detailed in **Appendix C** and delegate authority to the Executive Director for Neighbourhood Services in consultation with the Portfolio Holder for Transport and Environment to progress this in exchange as replacement land in order to offset the loss of the area of land within Pelsall North Common which is to be deregistered.
- 2.3 That Cabinet approve the preparation and submission of the necessary planning application for the scheme.

- 2.4 That Cabinet delegate authority to the Executive Director for Neighbourhood Services in consultation with the Portfolio Holder for Transport and Environment to undertake a procurement process for the construction element of the bridge replacement scheme and to accept such tenders and to authorise the entering into of any contracts, deed and documents in relation to such works.
- 2.5 That Cabinet delegate authority to the Executive Director for Neighbourhood Services in consultation with the Portfolio Holder for Transport and Environment to negotiate and approve the acquisition of land or structures in private ownership that may be necessary for the progression of the York's bridge scheme.

### **3. Report detail**

- 3.1 There have been proposals by the Highway Authority to improve York's Bridge and its approaches since 1976 when West Midlands County Council, the previous Highway Authority, first imposed highway improvement lines on the approaches to the bridge.
- 3.2 The bridge was first approved for inclusion in Walsall Council's 1992/94 bridge strengthening programme at a meeting of the Highways and Public Works Committee on 12 November 1992.
- 3.3 More recently the bridge was identified in the Council approved Local Transport Plan 2 (LTP2) as part of a programme of bridge strengthening across the West Midlands, with funding provided by the Department for Transport through Local Transport Plan allocations.
- 3.4 The bridge was identified as a priority for action and needs to be addressed to maintain local/regional accessibility, improve road safety, and prevent the possible need to implement even lower weight restrictions or, ultimately, complete closure.
- 3.5 Importantly, the bridge is located on a district distributor road and the Council as Highway Authority is under a duty to ensure it maintains accessibility for local, commuter and commercial traffic to and from the northern edge of the borough's highway network.
- 3.6 As a result of previous structural assessments, the bridge is already subject to a 10 tonne weight restriction. Further deterioration in the bridge is likely to have occurred since its introduction as a result of vehicles in excess of the weight restriction continuing to use the bridge.
- 3.7 Due to poor horizontal and vertical alignment, combined with a narrowing of the carriageway, there have been 10 reported accidents with 16 casualties since 1999. The current lack of footways over the existing bridge means that pedestrians and cyclists are at particular risk.
- 3.8 Funding from the Local Transport 2 allocation has been used to undertake the detailed design of a replacement bridge that will address all of the above issues.

Funding has been accumulated over a 3-year period to a level now sufficient to undertake the construction of a replacement bridge and associated highway alignment.

- 3.9 The original design was to build a new bridge on the same alignment as the present structure; this would have entailed the demolition of the existing bridge. However, local feedback has been clear; there is a strong desire to retain the historic character of the existing bridge. This will now be accommodated through a revised design to build a new bridge alongside the existing bridge, allowing it to be retained and used primarily for pedestrian leisure purposes with vehicular access to nearby premises.
- 3.10 All design options that would address the existing problems associated with the bridge will have implications for Pelsall North Common given the location is within existing common land. However, the revised bridge design will necessitate the use of a slightly larger section of Pelsall North common but the overall area of common land impacted in this way is still less than 0.01% of the total area. There is a need to permanently deregister parts of the common in addition to sections requiring temporary deregistration to facilitate access for construction purposes. Any temporary deregistered land will be restored as suitable common land. Pelsall North Common is registered as common land under the Commons Act 1967 and, therefore, an application to the Planning Inspectorate will be required to formally deregister these sections of common land from common land status.
- 3.11 The deregistration process requires that extensive consultation is undertaken with a range of stakeholders prior to submitting an application to deregister common land.
- 3.12 The process also requires, where possible, the provision of exchange land to be registered as common land to offset the area of land lost through the deregistration process. Moat Farm pool, at the junction of Norton Road and Lichfield Road, has been identified as land in Council ownership suitable to be offered as exchange land. Recently, officers have been contacted by the Friends of Pelsall Commons Group enquiring into the possibility of registering Moat Farm pool as Common land so the proposal seems to be in line with local thinking.
- 3.13 Widespread consultation could start as early as February 2013 and will last for 9 to 10 weeks. Feedback from this exercise will inform the final design and enable an appropriate planning application to be submitted. The submission of the formal deregistration application will be dependent on the outcome of this process and is anticipated to be in summer 2013.
- 3.14 The statutory process for the deregistration and exchange of common land as set out in Section 16 of the Commons Act 2006 allows for objections and representations in respect of the application to be lodged with the Planning Inspectorate who may decide that a Local Public inquiry is required before determining the application. The minimum timescales for determining such an application can be between 6 and 18 months. As a consequence the overall timeframe for delivering the project cannot be accurately assessed. In order to minimise delay, officers propose to carry out a tendering process for the

construction elements of the bridge and highway alignment scheme concurrently with the land consultation and deregistration process.

- 3.15 Tenders will be sought from suitably experienced and qualified contractors in compliance with legal requirements and the Council's contract rules.
- 3.16 During the design process, the impact on the current and future environment of the common and nearby canal has been carefully considered. Specialists have carried out environmental impact assessments as well as reports into the impact of wildlife habitats. The recommendations of these reports will be implemented to ensure the common environment is dealt with appropriately.
- 3.17 Land and structure ownership investigations suggest there may be a need to acquire land and the existing bridge structure currently in the ownership of the Canal and River Trust, formerly British Waterways Board. Initial discussions with British Waterways Board concluded this to be likely. However, no significant financial or practical obstacles are envisaged to the progression of such matters.
- 3.18 The ultimate delivery of a replacement bridge will ensure that strategic and local accessibility is maintained, existing road safety issues are addressed whilst and ensure any replacement bridge would be in keeping with the existing environment.

#### **4. Council priorities**

##### **4.1 Communities and Neighbourhoods**

- 4.1.1 The failure to address current problems associated with the existing bridge will ultimately have a negative impact on the local community's ability to travel. Vehicular use of York's bridge will ultimately need to be curtailed either through the need for additional weight restrictions or complete closure of the bridge.

##### **4.2 Health and well-being**

- 4.2.1 The safety of all road users will be improved and maintained by the introduction of the replacement bridge that will address current road safety concerns.
- 4.2.2 The content of this report will support the delivery of the Marmot objective to create and develop healthy and sustainable places and communities. Deregistration of small sections of Pelsall North Common will allow for the bridge replacement scheme to be progressed, ensuring vital safe and efficient accessibility is maintained for the local community.

##### **4.3 Economy**

- 4.3.1 By maintaining the safe and efficient operation of a district distributor road, the health of the local and wider economy will be maintained. The efficient delivery of goods and services will be supported, helping to reduce operational costs for businesses and ultimately prices to customers.

## **5. Risk management**

- 5.1 The Council is required to comply with the Statutory Provisions set out in Section 16 of the Commons Act and ensure that the consent of the Planning Inspectorate is obtained before the deregistration of common land and exchange of replacement land can take place. In addition, further consents may be required under Section 38 of the Commons Act 2006 for any restricted works undertaken on Pelsall North Common which is incidental to the reconstruction of York's Bridge.
- 5.2 The Statutory procedures set out in Section 38 and 16 of the Commons Act 2006 enable the Planning Inspectorate to cause a Public Inquiry to be heard before determining the application. This may lead to delays in the delivery of the project. This also applies to any Bridging Order under Section 106 of the Highways Act 1980
- 5.3 Failure to adequately maintain the safe and efficient operation of the public highway will place the Council in breach of its statutory Traffic Management Act duties.

## **6. Financial implications**

The funding for this scheme has been identified from Local Transport Plan funding specifically provided for the purposes of bridge construction and maintenance. No additional Council funding is required

## **7. Legal implications**

- 7.1 Pelsall North Common is registered as common land under the Commons Act 1967. Section 16 of the Commons Act 2006 enables the owner of land registered as common land to apply to the Planning Inspectorate for the land or part of the land to be released or deregistered as common land. If the release land is more than 200 square metres in area, the application must include for replacement land in place of the release land or land to be deregistered. The replacement land cannot be land which is already registered as common land or a town or village green.
- 7.2 In deciding any application to deregister common land the Planning Inspectorate will give consideration to:
- 7.3 The interests of persons having rights in relation to, or occupying the release land (and in particular, persons exercising rights of common over it).
- 7.4 The interests of the neighbourhood.
- 7.5 The public interest which may include:
  - a) The nature of conservation
  - b) The conservation of the landscape
  - c) The protection of the public rights of access to any area of land and

- d) The protection of archaeological remains and features of historic interest
- 7.6 Any other matter that the Planning Inspectorate considers relevant.
- 7.7 Extensive Informal consultation must be undertaken prior to submitting any application to the Planning Inspectorate which should include:
  - a) All active commoners
  - b) Persons with an interest in the land
  - c) Local residents and amenity groups
  - d) The Open Space Society
- 7.8 The above list is not exhaustive but merely gives an indication of who needs to be consulted.
- 7.9 Under Section 38 of the Commons Act 2006 the consent of the Planning Inspectorate will be required to carry out any restricted works on common land. Restricted works are any that prevent or impede access over common land and consideration will need to be given as to whether any works which are to be undertaken in connection with the reconstruction of York's Bridge fall within this category.
- 7.10 Section 106 of the Highways Act 1980 allow for the construction of a bridge over navigable waters by Order. Early consultation must take place before the making of such an Order.
- 7.11 Section 106 of the Highways Act 1980 requires that a Bridging Order be progressed for the replacement bridge.
- 7.12 Legal requirements and the Council's Contract Rules must be followed in relation to any procurement of and subsequent contract for the construction of the new bridge.

## **8. Property implications**

None directly associated with this report.

## **9. Staffing implications**

None directly associated with this report.

## **10. Equality implications**

None directly associated with this report.

## 11. Consultation

Widespread statutory consultation is a prerequisite of any application under Section 16 of the Commons Act 2006 and in connection with any Bridging Order under Section 106 of the Highways Act 1980.

### Background papers

Appendices A, B and C to this report

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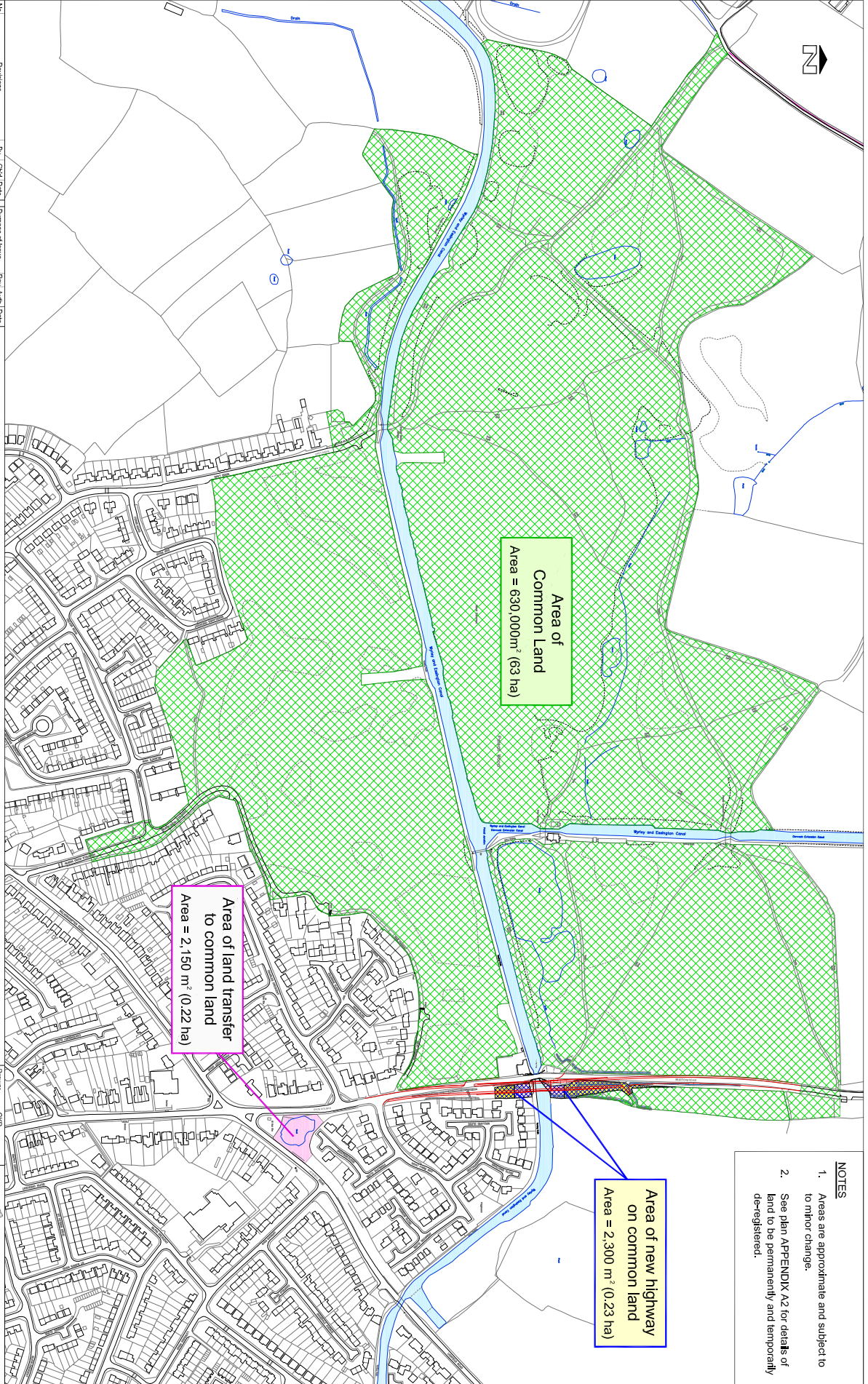


14 January 2013

Councillor Tom Ansell  
Portfolio Holder



14 January 2013



Area of  
Common Land  
Area = 630,000m<sup>2</sup> (63 ha)

Area of land transfer  
to common land  
Area = 2,150 m<sup>2</sup> (0.22 ha)


Area of new highway  
on common land  
Area = 2,300 m<sup>2</sup> (0.23 ha)

- NOTES**
1. Areas are approximate and subject to minor change.
  2. See plan APPENDIX A2 for details of land to be permanently and temporarily de-registered.

No	Revisions	By / CHD Date	Purpose of Issue	Rev / Auth Date

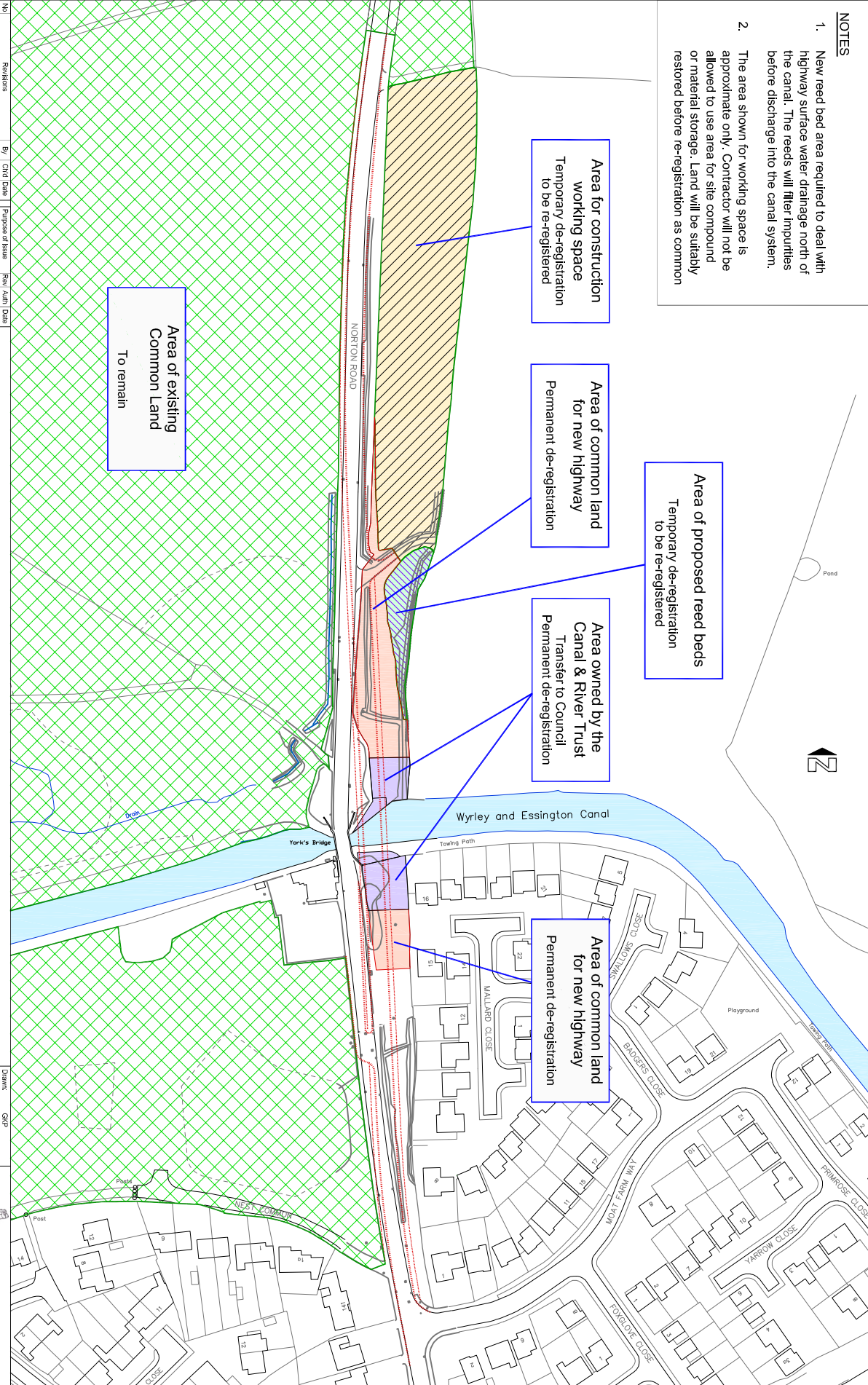
**YORKS BRIDGE, NORTON ROAD, PELSALL**  
**PLAN SHOWING PELSALL NORTH COMMON AND**  
**PROPOSED PERMANENT DE-REGISTRATION LAND**

Drawn: GPK  
 Checked: PS  
 Date: DEC 2012  
 Scale: N.T.S.  
 This drawing is for use on other sites, then scale shown does not apply.

 **Walsall Council**  
 ENGINEERING DESIGN & CONSTRUCTION SERVICES  
 WALSALL INDUSTRY & BUSINESS PARK, WALSALL  
 Drawing No. **Appendix A**



- NOTES**
1. New reed bed area required to deal with highway surface water drainage north of the canal. The reeds will filter impurities before discharge into the canal system.
  2. The area shown for working space is approximate only. Contractor will not be allowed to use area for site compound or material storage. Land will be suitably restored before re-registration as common

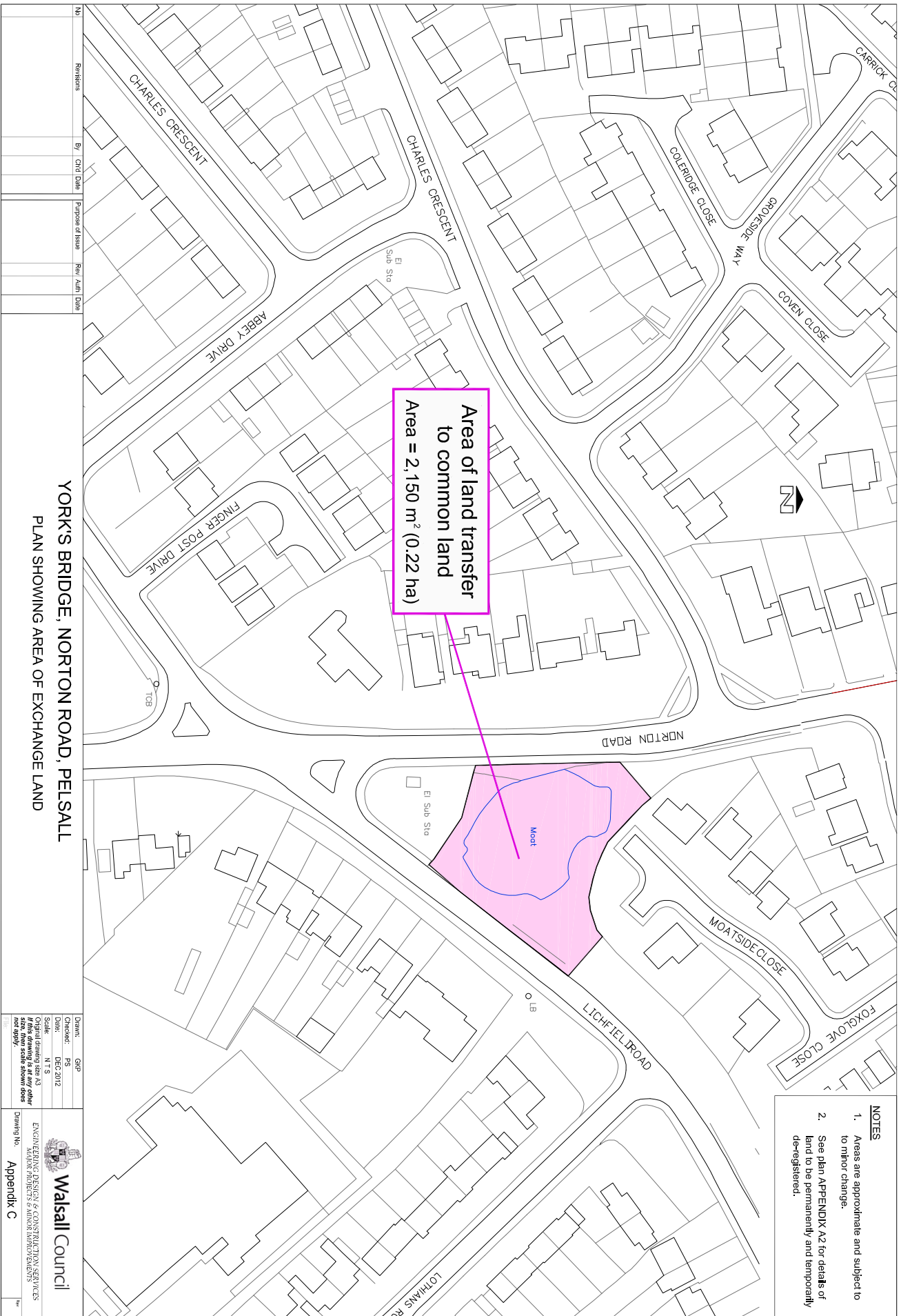


No	Revisions	By	Child Date	Purpose of Issue	Rev. Auth. Date

**YORK'S BRIDGE, NORTON ROAD, PELSALL**  
**PLAN SHOWING AREA OF LAND FOR PERMANENT AND TEMPORARY DE-REGISTRATION**

Drawn:	GKE
Checked:	FS
Date:	DEC 2012
Scale:	N.T.S.
Note: All dimensions are in millimetres unless otherwise stated. Dimensions are to the centre of lines unless otherwise stated. Dimensions are to the centre of lines unless otherwise stated. Dimensions are to the centre of lines unless otherwise stated.	

**Walsall Council**  
 ENGINEERING DESIGN & CONSTRUCTION SERVICES  
 WALSALL OFFICE: 100, WALSALL ROAD, WALSALL, WEST MIDLANDS, B71 3AA  
 Drawing No. **Appendix B**



Area of land transfer  
to common land  
Area = 2,150 m<sup>2</sup> (0.22 ha)

- NOTES**
1. Areas are approximate and subject to minor change.
  2. See plan APPENDIX A2 for details of land to be permanently and temporarily de-registered.

**YORK'S BRIDGE, NORTON ROAD, PELSALL**  
PLAN SHOWING AREA OF EXCHANGE LAND

No	Revisions	By / Ch'd Date	Purpose of Issue	Rev. Auth. Date

Drawn:	GKP
Checked:	FS
Date:	DEC 2012
Scale:	N.T.S.
<small>Note: Scale of drawing shall not be used for any other purpose than that for which it was prepared. If the drawing is used for any other purpose, the user shall be responsible for any errors and omissions.</small>	
Drawing No.	Appendix C

**Walsall Council**  
ENGINEERING DESIGN & CONSTRUCTION SERVICES  
WALSALL BRIDGE & NORTON ROAD, PELSALL