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**The Oxfordshire County Council (Didcot Garden Town Highways Infrastructure – A4130 Improvement (Milton Gate to Collett Roundabout), A4197 Didcot to Culham Link Road, and A415 Clifton Hampden Bypass) Compulsory Purchase Order 2022**

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**Thames Water Utilities Limited**

- and -

**Oxfordshire County Council**

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**STATEMENT OF COMMON GROUND**

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**1. Introduction**

- 1.1 This Statement of Common Ground (“the **Statement**”) sets out the matters agreed between Thames Water Utilities Limited (“**TWUL**”) and Oxfordshire County Council (“the **Acquiring Authority**”) (together, known as “the **Parties**”).
- 1.2 TWUL is a statutory objector to the Oxfordshire County Council (Didcot Garden Town Highways Infrastructure – A4130 Improvement (Milton Gate to Collett Roundabout), A4197 Didcot to Culham Link Road, and A415 Clifton Hampden Bypass) Compulsory Purchase Order 2022 (“the **Order**”).
- 1.3 The Order was made by the Acquiring Authority on 21 December 2022 for the purpose of facilitating the construction of the ‘Access to Didcot Garden Town Highway Improvements’ (“the **Scheme**”).
- 1.4 TWUL is a statutory water and sewerage undertaker. TWUL owns and operates the Culham Sewage Treatment Works, Abingdon Road, Culham, Abingdon OX14 3DD (“the **Culham Works/Works**”) as part of its statutory undertaking. A plan of the Works is appended to this Statement at Appendix 1.
- 1.5 TWUL has a freehold interest in ten registered plots of the Order (plots 17/11a, 17/11b, 17/11c, 17/11d, 17/11e, 17/11f, 17/11g, 17/11h, 17/11i, and 9/24), and two unregistered plots (plots 17/14a and 17/14b) (taken together the “**Land**”). The total land area for these plots extends to 3,707 sqm as stated in the Order.
- 1.6 The Land owned by TWUL has been identified for both temporary and permanent acquisition by the Order.

- 1.7 If confirmed, the Order would authorise either the temporary or the compulsory acquisition of the following plots:
- Plots 17/11a, 17/11b, 17/11c, 17/11d, 17/11e, 17/11f, 17/11g, 17/11h, 17/11i and 9/24 "comprise of 3,334 sqm of shrubland north western curtilage of, and length of private access road to, the Culham Sewage Treatment Works, lying to the south east and off Thame Lane private access road, and of a grassland/shrubland area of land lying to the west of the Cherwell Valley Railway Line and east of Level Crossing Cottage (9/24)" (paragraph 10.10.40 of the Acquiring Authority's Statement of Case).*
- 1.8 *Plots 17/14a and 17/14b "comprise of 373 sqm of shrubland and hard standing, lying to the northeast of the access road to Culham Sewage Treatment Works" (paragraph 10.10.43 of the Acquiring Authority's Statement of Case). Plots 9/24 & 17/11h are required for temporary acquisition only.*
- 1.9 TWUL submitted its objection to the permanent acquisition and temporary possession of the Land, pursuant to the Order, to the Acquiring Authority on 17 March 2023. The grounds for objection were that:
- (i) there was other more suitable land available; and
  - (ii) TWUL had not been adequately consulted.
- 1.10 Two Statements of Evidence were submitted on behalf of TWUL by John Paton on Operational Impact (on 30 January 2024) and by Robert Smith on Negotiations & Engagement (on 23 February 2024).
- 1.11 TWUL received a letter from the Department for the Environment, Food & Rural Affairs ("**Defra**") dated 15<sup>th</sup> January 2024.
- 1.12 This Statement has been prepared to submit to the Planning Inspector, appointed by the Secretary of State for Transport, for the Inquiry into the Order which commences on 24 April 2024.
- 1.13 The purpose of this Statement is to set out the current position and progress that has been made by the Parties, to date, in negotiations on a private treaty agreement for the provision of 'Replacement Land' by the Acquiring Authority by way of transfer to TWUL simultaneously, and in return, for the private treaty acquisition of the Land by the Acquiring Authority ("**the Option Agreement**") to facilitate the delivery of the Scheme and to enable TWUL to carry out the future expansion of the sewage treatment works facility on the Replacement Land. Whilst the Parties agree this course of action as a matter of principle, as things stand, nothing has been formally agreed and documented. As such, TWUL's objection to the Order remains.
- 1.14 The Option Agreement and land swap arrangement will be conditional upon planning consent for the change of use of the Replacement Land and the expansion of the Works (to the satisfaction of TWUL) being successfully obtained and to TWUL deeming the Replacement Land to be equivalent in quality and suitability for expansion to the Works.

- 1.15 The Parties are actively discussing TWUL’s requirements in respect of planning consent on the Replacement Land with a view to moving forward to pre-application discussions with Oxfordshire County Council as planning authority.
- 1.16 The Acquiring Authority, in principle, agrees that it will not implement its compulsory purchase powers over the Land in the event that the Option Agreement is entered into and completed by the Parties.
- 1.17 Furthermore, the Acquiring Authority, in principle, agrees to only take temporary possession of plot 17/11i by private treaty agreement (i.e. by lease granted by TWUL to the Acquiring Authority) as this plot is required to be permanently retained by TWUL as part of their daily operational activity.
- 1.18 The Parties are at advanced stages of negotiating the Heads of Terms in respect of the Option Agreement and have reached in principle agreement on a number of points. As matters stand, the Heads of Terms have not yet been finalised and have not yet been signed by the Parties. Furthermore, there is currently no formal agreement between the Parties, which has any legal effect.
- 1.19 The Parties are committed to reaching an agreement, and resolving TWUL’s objection, however TWUL maintains its objection until such time that the Option Agreement may be completed and has legal effect.
- 1.20 Notwithstanding the above, therefore, TWUL’s objection to the Order remains in place and TWUL intend to appear at Inquiry.

## 2. **Culham Works Land**

- 2.1 The Land within TWUL’s ownership which is subject to the Order (save for plot 9/24) is located at Culham Works. All of the plots (save for plots 9/24 & 17/11h) are subject to compulsory acquisition, with plots 9/24 & 17/11h subject to temporary possession.
- 2.2 The Culham Works, located in South Oxfordshire, treats the sewage flow of an approximate population equivalent (“PE”) of 4,000 in the villages of Berinsfield, Culham, and Clifton Hampden, as well as the Culham Science Centre.
- 2.3 The Process Model, which outlines the treatment capacity of Culham Works, indicates that between 2021 and 2026, the start of the AMP8 Period, there is enough treatment capacity to accommodate the forecast population growth whilst staying compliant with the quality parameters. However, the expansion of the Culham Works will be required in order to meet projected growth within the catchment of the Culham Works.
- 2.4 Culham Works is an important strategic asset for TWUL to carry out its statutory undertaking. Confirmation of the Order would authorise compulsory acquisition of land, which would detrimentally impact TWUL’s ability to expand the Culham Works which, in turn, will significantly restrict TWUL’s ability to provide an adequate sewerage system for future development within the Culham Works catchment area.

- 2.5 In light of this need for expansion, TWUL has been working with the Acquiring Authority to identify and agree (in principle) upon an alternative parcel of land to replace the loss of land at Culham Works (the "Replacement Land"). These efforts have culminated in the drafting of Heads of Terms in relation to the Option Agreement (which have not yet been signed by the Parties).
- 2.6 In place of the Acquiring Authority implementing its compulsory purchase powers over TWUL's land, it is agreed as a matter of principle that a simultaneous exchange of land will take place between the Parties in order to facilitate both the delivery of the Scheme and the provision of the Replacement Land for TWUL to enable a future expansion of its sewage treatment works facility. This is considered further in section 3 below.
- 2.7 The Option Agreement will be entered into in place of the Acquiring Authority implementing its compulsory purchase powers over the Land. As part of the terms of the Option Agreement, the Acquiring Authority will agree not to use nor implement its powers of compulsory purchase in relation to the Scheme over the Land, during the term of the Option Agreement. The Option Agreement seeks to ensure that matters are dealt with by private treaty agreement only.

### 3. **Culham Works Expansion**

#### Expansion required due to population growth

- 3.1 There are two large development locations within the catchment that Culham Works serves, Culham Science Centre and Berinsfield Garden Village. Both of these development sites have been allocated within the Local Plan for housing development. The land surrounding the Culham Science Centre has been released from the Green Belt to enable the land to deliver approximately 3,500 new homes with occupation starting in 2029. The land around Berinsfield has also been released from the Green Belt and was awarded Garden Village status in 2019. The land will be developed to provide around 1,700 new homes with occupation starting in 2030. The delivery of development at these locations will be facilitated by and relies on the Scheme and as such is anticipated to come forward after completion of the Scheme. The relevant allocation policies in the Local Plan identify the Scheme as necessary infrastructure for the proposed developments (Policies STRAT9 and STRAT10 in the South Oxfordshire Local Plan 2011-2035). The delivery of the development will result in a population increase within the Culham Works catchment area to 46% by 2031, with the PE increasing from 4,000 to over 5,800, and to be 10,500 by 2036.
- 3.2 The population growth means that major upgrades are required to be implemented at Culham Works to deal with the increase in demand in sewage flow that will be placed on the Works. The upgrades will ensure that TWUL maintains its ability to treat flows to the required quality parameters as set out in the Permit and ensure the storm tank capacity is maintained so that in the event of rainfall or snow melt, premature discharges to the environment do not occur.

#### **3.3** Expansion required to fulfil TWUL Statutory Undertaking

- 3.4 The Order provides for the land at the front, and the land at the rear, (plot 17/11i), to be either compulsorily or temporarily acquired. Plot 17/11i is required to be retained by TWUL in order for TWUL to carry out final effluent flow monitoring and quality sampling.
- 3.5 The Acquiring Authority has agreed, in principle, to take temporary possession of plot 17/11i only, by way of private treaty agreement (i.e. by lease granted by TWUL to the Acquiring Authority) and this is, in principle, acceptable to TWUL but has yet to be formally documented and have any legal effect.
- 3.6 If the Order were confirmed and powers implemented, TWUL would no longer own the land at the front of the Works such that it could not be used to carry out the upgrades. This is why it is important that the Replacement Land is to be transferred to TWUL pursuant to the Option Agreement.

#### 4. **Heads of Terms to the Option Agreement – Main Principles**

- 4.1 The main principles of the Option Agreement are set out in the draft Heads of Terms and are summarised below. To date, the Heads of Terms have not yet been completed and signed by the Parties. Furthermore, the principles agreed between the Parties have yet to be formally documented and do not yet have any legal effect.
- 4.2 If the Option Agreement becomes unconditional and is exercised, TWUL will transfer approximately 0.893 acres of land which is required permanently for the Scheme to the Acquiring Authority and grant the necessary rights to the Acquiring Authority to allow it to occupy all or part of TWUL's 'Temporary Land' (plot 17/11i, plot 17/11h and 9/24) for the specified period in order to enable the construction of the Scheme. Simultaneously, and in return, the Acquiring Authority will transfer the "Replacement Land" to TWUL to facilitate a future expansion of its sewage treatment works and pay any additional costs and compensation agreed between the parties in accordance with the terms of the Option Agreement below.
- 4.3 The proposed Option Agreement is subject to, and conditional on, the Acquiring Authority securing and acquiring the freehold title to the Replacement Land from Caudwell and Sons Limited, the current owner of the freehold title to the Replacement Land. The location and extent of the Replacement Land is shown on the plan reference GH-132861001-LO LP-TWU-3 appended to this Statement at Appendix 2.
- 4.4 The Option Agreement will also be conditional upon the successful and satisfactory grant of planning permission (to TWUL's satisfaction) being secured on the Replacement Land for the change of use of the land and expansion of the Works, to enable TWUL to bring forward the expansion of its sewage treatment works and the Judicial Review period of any such planning permission having expired.
- 4.5 The Parties have agreed, in principle, (subject to the Option Agreement becoming unconditional) for compensation for disturbance and statutory loss payments to be paid to TWUL to reflect TWUL's reflecting entitlement to compensation had the TWUL land been compulsorily acquired.

5. **Outstanding issues/ items in dispute between the parties**

- 5.1 TWUL anticipates that the completion of the Option Agreement will enable TWUL to withdraw its objection, but until such time as it is completed and has legal effect, TWUL maintains its objection for the reasons set out in this Statement.
- 5.2 On 24 April 2024, TWUL provided a Technical Note that seeks for the first time to explain and substantiate why TWUL considers that the Land is Operational Land. The Acquiring Authority is in the process of **that** considering that Technical Note and will update the Inquiry in due course, once it has had sufficient time to consider. TWUL considers that the Works (including the Land subject of the Order) is Operational Land pursuant to the provisions in s263 of the Town and Country Planning Act 1990, such that permitted development rights can be relied on to facilitate the expansion of the sewage treatment works on this land.
- 5.3 TWUL is concerned that the Order could cause serious detriment to the carrying on of TWUL's statutory undertaking and to its customers if TWUL is unable to expand the Culham Works. If the Order is granted without the protection of the safeguards envisaged by the Option Agreement which will secure the Replacement Land, this has the potential to impact TWUL's ability to adequately treat the sewage in an expanding catchment area, affect its ability to maintain compliance with the Environmental Permit and pose significant risk to TWUL's ability to meet its statutory obligations under the Water Industry Act 1991 as a sewage undertaker and 16 and 17 of the Acquisition of Land Act 1981 as a statutory undertaker.
- 5.4 Unless and until the Option Agreement has been completed (and has legal effect) on satisfactory terms and satisfactory planning permission obtained, TWUL does not consider that it can be satisfied that the Order can be implemented without serious detriment to the carrying on of its undertaking.
- 5.5 The Parties will continue to work together to agree and sign the Heads of Terms and move forward to achieve the completion of the Option Agreement at the earliest opportunity.

Eversheds Sutherland (International) LLP

TLT LLP

Signed by Eversheds Sutherland

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Signed by TLT LLP

on behalf of  
Thames Water Utilities Limited

on behalf of the Acquiring Authority

Dated this 25<sup>th</sup> day of April 2024

## **Appendix 1**

### Plan of Culham Works

# TWUL – Land ownership plan



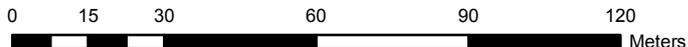
**Thames Water**  
Map



Printed By : twalsh  
Print Date : 26/01/2024  
Map Centre On: 453942, 195600  
Centre Tile No. : SU5395NE

Comments:

Please enter comments here:



Current Scale : 1:1,500

**Disclaimer:** Based on the Ordnance Survey Map with the Sanction of the Controller of H.M Stationery Office License Number:- 100019345

The position of any boundary or apparatus shown on this plan is given without obligation and warranty, and the accuracy cannot be guaranteed.

Service pipes are not shown but their presence should be anticipated. No liability of any kind whatsoever is accepted by Thames Water for any error or omission. The actual position of mains and services must be verified on site before any works are undertaken.

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## **Appendix 2**

### Plan of Replacement Land



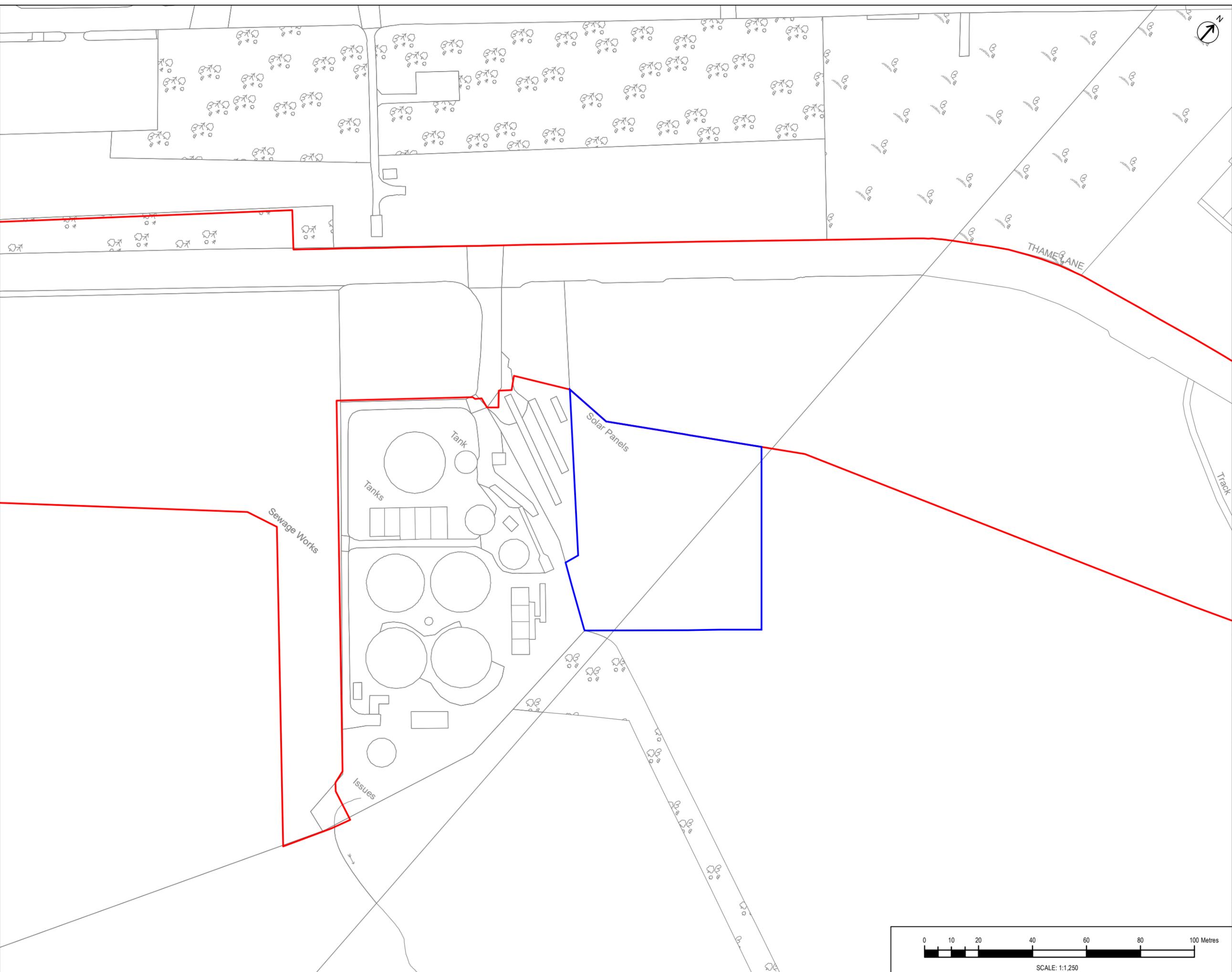
KEY:



Red Line Boundary



Additional Land (5160 sqm)



PD3	Updates to Additional Land Area	13/02/24	MC	RS
PD2	Updates to Additional Land Area	09/01/24	AH	RS
PD1	First issue	01/11/23	AP	RS
Rev	Description	Date	By	Approved
			Check	

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THE OXFORDSHIRE COUNTY COUNCIL  
(DIDCOT GARDEN TOWN HIGHWAYS  
INFRASTRUCTURE – A4130  
IMPROVEMENT (MILTON GATE TO  
COLLETT ROUNDABOUT), 4197 DIDCOT  
TO CULHAM LINK ROAD, AND A415  
CLIFTON HAMPDEN BYPASS)  
COMPULSORY PURCHASE ORDER 2022

THAMES WATER UTILITIES LIMITED -  
ADDITIONAL LAND - OPTION 1

SHEET 1 OF 1

Drawn	Checked	Approved	Date
MC	AH	RS	13/02/24

GH Project Number	Scale at A3
132861.001	1:1,250

Drawing Number	Revision
GH-132861001-LOLP-TWU-3	P03

