

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO CABINET

18 OCTOBER 2022

REPORT OF THE CORPORATE DIRECTOR - COMMUNITIES

PORTHCAWL WATERFRONT REGENERATION: APPROPRIATION OF LAND AT GRIFFIN PARK AND SANDY BAY

1. Purpose of report

1.1 The purpose of this report is to:-

- Inform Cabinet of the representations received in response to the advertisement of the proposed appropriation of land at Griffin Park and Sandy Bay to support the Porthcawl Waterfront Regeneration Scheme.
- Ask Cabinet to consider the representations received as a result of the public notices and the officers' responses to those representations, and to seek Cabinet approval to proceed with the appropriation for planning purposes of the land at Griffin Park and Sandy Bay as outlined in red on the Appropriation Plan (Appendix 1) in order to facilitate the delivery of the Porthcawl Waterfront Regeneration Scheme.

2. Connection to corporate well-being objectives / other corporate priorities

2.1 This report assists in the achievement of the following corporate well-being objectives under the **Well-being of Future Generations (Wales) Act 2015**:-

1. **Supporting a successful sustainable economy** – taking steps to make the county borough a great place to do business, for people to live, work, study and visit, and to ensure that our schools are focussed on raising the skills, qualifications and ambitions for all people in the county borough.
2. **Helping people and communities to be more healthy and resilient** – Taking steps to reduce or prevent people from becoming vulnerable or dependent on the Council and its services. Supporting individuals and communities to build resilience, and enable them to develop solutions to have active, healthy and independent lives.
3. **Smarter use of resources** – ensure that all resources (financial, physical, ecological, human and technological) are used as effectively and efficiently as possible and support the creation of resources throughout the community that can help to deliver the Council's well-being objectives.

3. Background

- 3.1 On 20 July 2021 Cabinet authorised the Corporate Director – Communities and the Chief Officer Legal, HR and Regulatory Services to advertise the Council’s intention to appropriate the open space land at Griffin Park and Sandy Bay that is identified on the appropriation plan provided as Appendix 1 (Minute 692) to support the Porthcawl Waterfront Regeneration Scheme. As detailed within the 20 July 2021 Cabinet Report, the process of appropriation allows for the Council to transfer the land from its current use to a use for planning purposes. Before appropriating open space to planning purposes the Council must advertise its intention to appropriate for two consecutive weeks in a newspaper circulating in the local area before considering whether the land is no longer required as open space and any objections received to the appropriation. Minute 692 of the Cabinet meeting on 20 July 2021 requires the officers to report back to Cabinet to consider any objections received to the appropriation.
- 3.2 In addition to authorising the advertisement of the appropriation on 20 July 2021 Cabinet also gave approval to make, advertise, notify and progress confirmation of a Compulsory Purchase Order (CPO) in order to acquire land to deliver the Porthcawl Waterfront Regeneration Scheme. The CPO was subsequently published on the 8th of October 2021 and formally submitted to Planning and Environment Decisions Wales (PEDW). The publication of the CPO was followed by a statutory objection period between 21 October 2021 and 26 November 2021, during which a wide range of representations were submitted to PEDW. PEDW have now confirmed that the CPO is to be subject to a Public Inquiry which will take place in due course.
- 3.3 The land parcels subject to the CPO and appropriation are intrinsically linked as, together with land in respect of which an agreement has been entered into with the owners of land at Coney Beach Amusement Park, they form the Coney Beach and Sandy Bay development site which has been identified for mixed use regeneration as a part of the Porthcawl Waterfront Regeneration Scheme, as reflected through the current Local Development Plan (LDP) allocation, proposed Replacement Local Development Plan (RLDP) allocation and adopted Porthcawl Placemaking Strategy. For reference a plan has been provided as Appendix 2 which shows the appropriation land in red and the CPO land in blue.
- 3.4 Whilst the CPO and appropriation land parcels together form the Coney Beach and Sandy Bay development site, they remain subject to their own distinct legal processes. The current proposed planning purposes for the appropriation land is mixed use development in accord with the existing LDP allocation, proposed RLDP allocation and Porthcawl Placemaking Strategy. The decision to appropriate the land does not however prejudice the form of any planning application that is to made and

determined in due course, the details of which would be considered in accordance with the policy documents applying at the time the application is considered.

- 3.5 In order to avoid any confusion that could arise from multiple consultations taking place at the same time, the advertisement of the intention to appropriate land at Sandy Bay and Griffin Park was not progressed whilst the CPO and subsequent Placemaking Strategy consultations were ongoing. Following the completion of these two consultations and subsequent approval of the Porthcawl Placemaking Strategy by Cabinet (Minute 813) on 8 March 2022, advertisement of the proposed appropriation commenced on 6 June 2022.
- 3.6 The proposed appropriation was readvertised over a period of 21 days commencing on 30 June 2022 as during the first consultation period it was brought to the attention of officers that there was only a reference to Griffin Park and not Sandy Bay in the body of the notice of the proposed appropriation. The second consultation period used a revised notice to avoid any doubt as to the land which is proposed to be subject to appropriation.

4. Current situation/proposal

Land to be Appropriated

- 4.1 The land subject to the proposed appropriation consists of 0.743 hectares of land at Griffin Park and 19.098 hectares of land at Sandy Bay with the combined area of the 2 parcels equating to 19.841 hectares.
- 4.2 The former Sandy Bay Caravan Park which forms the majority of the land owned by the Council in the area intended for development was acquired by the Council for the purposes of public walks, being purposes set out in section 164 of the Public Health Act 1875, and section 4 of the Physical Training and Recreation Act 1937. The acquisition took place following the confirmation of the Porthcawl Urban (Newton) Recreation Ground Confirmation Order 1948 which authorised compulsory purchase acquisition of the land for those purposes. The land is accordingly held pursuant to a statutory trust imposed by section 10 of the Open Spaces Act 1906 to allow, and with a view to, the enjoyment thereof by the public as an open space within the meaning of the 1906 Act.
- 4.3 It is unclear what powers were used to acquire Griffin Park, a part of which is also to be appropriated so that it can be used to access the wider Scheme, but this land was acquired from the Great Western Railway Company in 1928 and it seems highly likely that it was either acquired utilising the powers contained in section 164 of the Public Health Act 1875 or section 9 of the Open Spaces Act 1906, and that this land is similarly held by the Council pursuant to a statutory trust imposed by section 10 of the 1906 Act.

- 4.4 The area of land to be appropriated from open space use within Griffin Park includes 2 tennis courts and a bowling green which are currently in use. Additionally, there is an existing single storey building that has remained vacant since December 2021. Prior to the building being vacated it most recently functioned as a community building via two twelve month leases granted by BCBC to Porthcawl Town Council with the predominate use being a veterans hub. Prior to this temporary occupation, which ceased on December 2021, the building was declared surplus to BCBC requirements. As it stands the building is in poor condition with the floor having failed. Due to this and the limited lifespan of the building it has been identified that repairs to the building are not cost effective and it has been earmarked for demolition accordingly.
- 4.5 With respect to the tennis courts, the Council is committed to providing replacement provision with a new modern facility to be installed at an alternative location within the extended Griffin Park that will be delivered within the Porthcawl Waterfront Regeneration Scheme with the exact location and design of this facility to be developed in due course. In terms of bowling green provision there are 3 bowling greens in Griffin Park, one of which (located outside of the appropriation land) is disused. The current proposal is to bring that disused bowling green back into use prior to development taking place so as to mitigate the loss of the bowling green. That may depend on the extent of utilisation of the current bowling green. It is conceivable that the extent of bowling green provision within Griffin Park would be reduced to a single green and that the new tennis court provision would be located at the site of the existing disused bowling green to the north of Griffin Park. With respect to the vacant building which previously accommodated the Veterans Hub the Council will work with this group to identify an appropriate alternative premises within the Town. It is recognised that there is potential for a short time between the removal of facilities within Griffin Park and their potential replacement/alternative facilities being available for use but any such delays would be kept to the minimum necessary.
- 4.6 The area of land to be appropriated within Sandy Bay is unoccupied with the exception of a temporary caravan park area on the western edge of the site that is operated by the Hi Tide Inn on a seasonal basis. This operation represents a temporary use that has been taking place via a short-term licence agreement prior to the planned redevelopment taking place. Additionally, the Town Council have been granted short term licences to use part of Sandy Bay as a temporary events space. The remainder of the land has been publicly accessible since the closure of the Sandy Bay caravan site in 2000.

Process of Appropriation

- 4.7 Appropriation is the formal legal process that allows the Council to transfer land from its current use to another use, such as a use for planning purposes as in this case.
- 4.8 The Council has a general power to appropriate land under the provisions of Section 122 of the Local Government Act 1972. Under this section a Council may appropriate land owned by the Council which is no longer required for the purpose for which it is held for any other purpose for which the Council is authorised by statute to acquire

land. The Council is authorised to acquire land under Sections 226 (using compulsory powers of acquisition) and 227 (by agreement) of the Town and Country Planning Act 1990. Under Section 226 of the Town and Country Planning Act 1990 land can be acquired for planning purposes if the Council think that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land and the Council think that the development, re-development or improvement is likely to contribute to the achievement of any one or more of the following objects—

- (a) the promotion or improvement of the economic well-being of their area;
- (b) the promotion or improvement of the social well-being of their area;
- (c) the promotion or improvement of the environmental well-being of their area.

- 4.9 Given the Council's proposals for the land to be used as a part of the Porthcawl Waterfront Regeneration Scheme, for which it has an LDP allocation, the proposal to include it within the RLDP and the inclusion of the land within the adopted Placemaking Strategy, appropriation of the land to planning purposes is possible. Whilst appropriation allows for land to be transferred to planning purposes it does not fetter any future decision that may be made by the Council acting in its capacity as the Local Planning Authority. As such, any future applications for planning permission will be subject to due consideration and determined based on material planning considerations, in accordance with the relevant planning policies that apply at the time any planning application is made. It is expected that any planning applications will be made by developers in due course.
- 4.10 The appropriation will however enable the Council to give certainty to both the Welsh Ministers (who will consider whether the CPO ought to be confirmed) and developers alike that the land is available for development and that the statutory trusts that apply in respect of the land are released. It will also enable the Council to show that there are no impediments to the Porthcawl Waterfront Regeneration Scheme proceeding at the public inquiry into the CPO, as required by Welsh Government circular guidance.
- 4.11 In reaching a decision to appropriate land the Council must decide that the land is no longer required for the purpose for which it is currently held and in making that decision the Council should consider the public need within the area for the existing use. Additionally, the Council must consider the responses to the advertisement of the appropriation prior to making a decision. The need for the existing use of the land and responses to advertisement of the intended appropriation are considered under the relevant headings below.

Public Need for Existing Use

- 4.12 It is recognised that Griffin Park is a valued and well used area of formal open space within Porthcawl that accommodates various facilities including bowling greens, a now vacant single storey community building, public toilets and tennis courts with recreational paths and grassed areas. As such, and whilst the appropriation land includes a 0.743 hectare area of Griffin Park in order to accommodate a road that would provide access to planned development to the east, the Council does not

intend to reduce the size of Griffin Park following the proposed appropriation as it intends to include an extension to Griffin Park within the associated redevelopment of the Porthcawl Waterfront Regeneration Scheme. In contrast to any reduction in space, the plans outlined within the Porthcawl Placemaking Strategy show how Griffin Park would be extended by in excess of 4 acres which would essentially double its existing size. A plan showing the extent of the proposals to extend Griffin Park is provided as Appendix 3. As part of the extension to the park, any existing facilities located within the appropriation land would be able to be relocated as may be required, with this providing an opportunity to provide improved facilities such as new all-weather tennis courts as part of any redevelopment. It is recognised that there is a potential for a short term impact on facilities, but delays in the provision of new facilities would be kept to the minimum necessary. The Council can control such delays through its disposal strategy for the land and in its role as local planning authority, through which it can condition requirements for replacement/extended open space.

- 4.13 Whilst it is proposed to extend Griffin Park it is important to recognise that the development will also generate its own open space requirements and to that extent, the extension of Griffin Park is required to meet the needs of the new development as well as representing additional formal open space provision that will be available for existing residents within Porthcawl. The proposed retained and extended Griffin Park, which will remain in public ownership, also provides an opportunity to deliver qualitative improvements to open space provision within the area.
- 4.14 With respect to land at Sandy Bay the proposed appropriation includes 19.098 hectares of land that forms the former Sandy Bay Caravan Park. Whilst this land was acquired as open space and has remained accessible to the public since the closure of the caravan park in 2000, it has not been used or maintained as formal open space and its planning status has been long regarded as suitable for redevelopment as reflected by the allocation of the site under allocation ref. H1 (58) in the now superseded Unitary Development Plan (UDP) adopted in 2004, the current LDP adopted in 2013 (Policy PLA3(8)) and proposed reallocation in the RLDP (Deposit Plan Public Consultation Document (PLA1)). Both the 2004 UDP and adopted LDP were subject to approval by full Council prior to their adoption, whereby in approving the Development Plan allocation the redevelopment of the site was considered acceptable.
- 4.15 The longstanding proposals to redevelop this area of land were further detailed within the 2004 and 2007 Supplementary Planning Guidance (SPG) Documents that were prepared for the sites and formally adopted by the Council.
- 4.16 The suitability of Sandy Bay for redevelopment was most recently confirmed by the approval of the Porthcawl Placemaking Strategy by Cabinet on 8 March 2022. This document sets out the Council's vision for redevelopment of Sandy Bay, Coney Beach, Salt Lake and the surrounding area for mixed use development including the provision of circa 1100 homes across the wider development area, new commercial and leisure development, significant areas of new open space, community use

opportunities and new transport infrastructure. A copy of the illustrative masterplan layout produced as part of the Placemaking Strategy is provided as Appendix 4.

- 4.17 Whilst subject to the statutory trusts referred to above and physically open to the public, the suitability of Sandy Bay for redevelopment is further reinforced by the findings of the Council's 2020 Outdoor Sport and Children's Play Space Audit available via the following link:

<https://democratic.bridgend.gov.uk/documents/s25785/Appendix%2022%20-%20Outdoor%20Sport%20and%20Childrens%20Play%20Space%20Audit%202021.pdf?LLL=0>

- 4.18 This Audit does not recognise Sandy Bay as falling within any of the categories of open space identified by the Audit. It is noteworthy that, despite that, there remains an identified surplus of 'Amenity Green Space' within Porthcawl. 'Amenity Green Space' is defined within the Audit as being "*Informal recreation spaces, communal green spaces in and around housing and village greens*". 'Amenity Green Space' is the category of open space with the most shared similarities to the open previously developed nature of the land at Sandy Bay. As such, the appropriation of land at Sandy Bay for planning purposes and associated proposals for redevelopment would not affect the existing identified surplus of 'Amenity Green Space' within Porthcawl.
- 4.19 With respect to other categories of open space it is recognised that the Audit does identify shortfalls in other categories of open space that include Playing Pitches, Other Outdoor Sports, Equipped / Designated Play Provision, and Other Outdoor Provision. An extract of the numerical sub area analysis contained within the Audit is provided as Appendix 6. This numerical analysis shows the respective surpluses and deficits in forms of open space provision within Porthcawl.
- 4.20 The extent to which the extension of Griffin Park contributes towards the open space needs generated by the redevelopment of the land as a part of the Porthcawl Waterfront Regeneration Scheme would need to be considered in the process of considering any detailed planning application. In addition to the extension to Griffin Park it is anticipated that any future development proposals would include additional areas of smaller scale local open space (such as pocket parks and play areas) as required to meet the needs of the new development in line with planning policy requirements. Any such additional provision would be controlled by the Local Planning Authority when considering any future planning application.
- 4.21 As above, it is important to recognise that the development will also generate its own open space requirements and to that extent, the extension of Griffin Park is required to meet the needs of the new development as well as representing additional formal open space provision that will be available for existing residents within Porthcawl. To that extent the extension to Griffin Park and any contribution towards remedying the deficit in formal open space provision as identified within the 2020 Outdoor Sport and Children's Play Space Audit cannot be fully quantified until details of the overall open space provision within the new development and wider Porthcawl Waterfront Regeneration Area (PWRA) are confirmed through the planning application process.

4.22 The proposed retained and extended Griffin Park, which will remain in public ownership, also provides an opportunity to deliver qualitative improvements to open space provision within the area. It is also recognised that the appropriation of part of Griffin Park will enable the development of the area and that the development in so far as it affects Griffin Park will in the short term exacerbate a shortfall in formal open space provision, but any delay in delivering the extension to Griffin Park and any other additional space, the need for which is generated by the development, would be kept to a minimum.

4.23 Within the context outlined above it is not considered that there is an overriding public need for the existing use of the appropriation land. Additionally, and in the event it was considered that there was a benefit in retaining the land in its current use, it is considered that any such benefit would be outweighed by the wider benefits arising from the redevelopment of the appropriation land (and adjoining land that collectively forms the PWRA) in accordance with its LDP allocation and framework for development outlined within the Porthcawl Placemaking Strategy. In summary these wider benefits are considered to include the following:

- Creation of new and enhanced open space for current and future residents and visitors;
- Provision of improved connectivity across the site and to adjoining areas;
- Creation of additional housing to meet an identified need within the existing boundaries of Porthcawl and adjacent to established infrastructure;
- Additional job opportunities arising from both the construction and operational phases of the development;
- The development of this previously developed site protects against the unnecessary loss of countryside and the associated environmental impacts; and
- Having a positive impact on the perception and function of the area, benefiting existing residents and businesses.

Proposed Planning Use

4.24 When considering whether to appropriate the land for planning purposes it is important to understand the current planning status of the site. Whilst a detailed planning permission has not yet been secured, the site's previous UDP allocation, current LDP allocation, proposed RLDP reallocation and the approved Porthcawl Placemaking Strategy set out key land use parameters and a framework for comprehensive development that any detailed planning application would be expected to accord with.

4.25 The proposed appropriation land and the wider Porthcawl Waterfront Regeneration Area is currently allocated for mixed use development within the existing Local Development Plan. Policy PLA3 of the Adopted Local Plan sets out the Council's objectives for mixed use regeneration and identifies the Porthcawl Waterfront Regeneration Area as being a significant part of this strategy through its allocation as site PLA3(8).

- 4.26 In addition to the allocation in the Adopted LDP, the site is identified as a Mixed-Use Strategic Development Site within the RLDP Deposit Plan Public Consultation Document. Specifically, Policy PLA1 of the RLDP Deposit Plan Public Consultation Document allocates the land at Porthcawl Waterfront for a comprehensive, regeneration-led, mixed-use development that will deliver circa 1,115 homes (including 30% / 335 units of affordable housing), incorporating a new one form entry Welsh medium primary school, extension of the existing English medium primary school, a new food store, leisure facilities, a bus terminus, recreation facilities, public open space, plus appropriate community facilities and commercial uses. Policy PLA1 goes on to set out a series of placemaking and master planning principles that apply to the site.
- 4.27 The Porthcawl Placemaking Strategy builds upon the LDP and proposed RLDP allocation outlined above. The Placemaking Strategy was formulated in order to ensure that the future development of the wider Regeneration Area is aligned with the Council's aspirations to deliver development of the highest quality and responds to the wide-ranging needs of both the current community and future generations.
- 4.28 The preparation of the Placemaking Strategy and associated consultation provided an opportunity for members of the public to understand and influence the framework and guiding principles for development within the Porthcawl Waterfront Regeneration Scheme. This includes both the future development to be delivered upon the appropriation land and the wider development that will be unlocked via delivery of enabling infrastructure such as the new access road on the part of the land proposed to be appropriated.
- 4.29 The public consultation for the Placemaking Strategy was undertaken over a three week period from 24 November 2021 to 17 December 2021. The consultation included a two day public exhibition in the Porthcawl Pavilion which was attended by in excess of 1,000 members of the public. This exhibition was followed by the consultation material being displayed on the Cosy Corner site hoarding for 3 weeks and being made available online on the Council website.
- 4.30 The outcome of the public consultation process was fully outlined within the consultation report included as part of the 8 March 2022 report to Cabinet which resulted in the Placemaking Strategy being approved. In response to the areas of concern identified through the consultation, the following core amendments were made to the indicative mix and distribution of uses identified within the Porthcawl Waterfront Regeneration Area:
- Creation of a circa 200m long and 70m wide linear park along the Salt Lake seafront.
 - Enlarged area of open space adjoining the pedestrianised extension to Dock Street and adjoining piazza.

- Reduction in the area of land on Salt Lake earmarked for housing by approximately a third.
- 4.31 Whilst the aforementioned amendments do not directly alter the nature and scale of the form of development anticipated to be delivered across the land proposed for appropriation, they have introduced significant changes to the form of development across the wider Porthcawl Waterfront Regeneration Area as a whole, including the introduction of additional open space that can be used flexibly by the community.
- 4.32 In addition to these amendments the Placemaking Strategy includes proposals for a new access road to Sandy Bay complete with integrated active travel routes and a significant extension to Griffin Park which would connect through to the relic dunes and Sandy Bay Beach. The delivery of this enhanced access and open space infrastructure is reliant on the proposed appropriation as the land is required to be vested for planning purposes in order for the highway works and the associated development to be delivered.
- 4.33 It is within the planning context outlined above that the appropriation of land at Griffin Park and Sandy Bay is being proposed, with the appropriation being an important step towards facilitating the comprehensive regeneration of the Porthcawl Waterfront Regeneration Area.

Advertisement of intention to Appropriate Land

- 4.34 Section 122(2A) of the Local Government Act 1972 requires a notice to be published in a newspaper circulating in the area in which the land to be appropriated is situated. In response to this requirement a notice was placed in the Western Mail on the 6 June and 13 June 2022. An electronic copy of this notice and the associated appropriation plan was also made available on the Council's legal notices page.
- 4.35 The proposed appropriation was readvertised via both site notice and Western Mail advert over a further 21 day period commencing 30 June 2022 using an amended notice, as it was brought to the attention of Council officers during the first period of consultation that there was only a reference to Griffin Park and not Sandy Bay in the body of the notice. This was done for the avoidance of any doubt about the land which is proposed to be appropriated. Objectors were informed that there was no need to submit a further objection if their objection already dealt with the proposed appropriation of Sandy Bay, as many/most had.
- 4.36 In addition to proposed appropriation being advertised in the Western Mail and on the legal notices page the consultation was expanded beyond the baseline statutory requirements by advertising the appropriation more widely, in order to ensure the public had maximum opportunity to be made aware of and in turn consider and comment on the proposed appropriation. This additional consultation consisted of the following:
- Display of notices and proposed appropriation plan at key entry points to Griffin Park and Sandy Bay.

- Background information, copies of documents and instructions of how to comment included on the BCBC consultation page
- Press and social media releases which provided further information and detail on how to comment.

4.37 With respect to the duration of the consultation the baseline requirement is for a 2 week period as outlined within the report to Cabinet that provided the initial authorisation to proceed with the advertisement of the appropriation. As with the approach to advertising outlined above additional time for responses was provided with the consultation period set at 3 weeks in order to maximise the opportunity for the public to consider and comment on the appropriation. In addition, the 21 day re-advertisement of the proposed appropriation commencing 30 June 2022 gave further time for members of the public to consider the proposed appropriation and submit written representations for consideration.

Representations Received

4.38 Representations of objection were received in response to the advertisement of the intended appropriation. An analysis of and officers' comments in response to the issues raised within the representations is set out in Appendix 5.

4.39 In summary, the advertisement resulted in 679 responses being received. The majority of these representations consisted of objections to the Council's proposals for the Porthcawl Waterfront Regeneration Scheme and most contained multiple reasons for making objections. In terms of the number of individual grounds for objection, recurring themes included the following:

- Fully opposed to the appropriation
- Opposed to any housing within Sandy Bay
- Opposed to the amount of housing
- Want to see more open space retained
- Concerned about loss of tennis courts
- Oppose loss of community building in Griffin Park
- Object to loss of Griffin Park
- Desire for more leisure and recreational uses
- Comments in relation to parts of the PWRA which fall outside the appropriation land
- Concerns as to whether the Well-being of Future Generations (Wales) Act is being considered in full
- Ecology concerns
- Concerns regarding infrastructure capacity
- Concerned about impact on access to medical facilities and education provision
- Consider insufficient information has been provided

- Lack of consultation
- Concerns about legal process

4.40 The consultation summary document provided as Appendix 5 includes officer comments in response to the summarised / paraphrased and aggregated grounds of objection. It is now necessary for Cabinet to formally consider the consultation responses and to decide whether the proposed appropriation should proceed. In considering representations made following the advertising of the intended appropriation, the Council is required to take these into account in reaching its decision to appropriate. This involves the exercise of discretion and the duty to act reasonably, taking into account all material considerations. In practice this will involve considering whether there is a need for the land to remain in its existing use in addition to balancing the benefits of appropriating the land against any detriment suffered by members of the public that may use and enjoy the land for open space purposes. Cabinet should consider the issues set out in detail in this report. Members of the public who currently use the open space for recreational purposes will have their current ability to use part of the open space land for these purposes taken away, but the short term exacerbation of a shortfall in formal open space provision in relation to the proposed appropriation of part of Griffin Park as well as the effects of the appropriation on all the land proposed to be appropriated must be weighed in the balance against the wider social, economic and environmental benefits to the area.

Human Rights

4.41 Objections have raised concerns in relation to the PWRA and impact on access to open space and leisure facilities. Consideration should be given to whether the Council would be complying with the Human Rights Charter for Leisure if it proceeds with the proposed appropriation. The World Leisure Organisation's review of the implications of the 1948 United Nations Universal Declaration of Human Rights recognises the right of all to enjoy leisure time and to freely participate in the cultural life of the community, for governments at national, regional/provincial and local levels; commercial organizations; education institutions; professional bodies; non-government organizations; and individual citizens. The latest revision was conducted by a Special Taskforce of the World Leisure Academy over the period 2017-2019 and was approved in 2020.

4.42 Article 1 of the Charter for Leisure recognises that everyone, whether adult or child, has the right to adequate time for rest and for the pursuit of leisure activity. Article 5 explains that leisure is a medium through which other rights and related benefits set out in the Universal Declaration of Human Rights and associated covenants can be exercised, including: the physical, mental, emotional and social development of the child through play; support for family life; personal expression and development; sustaining of cultural life of the community; and promotion of physical and mental health and well-being through sport, physical activity and cultural engagement. Article 6 provides that rights should therefore be observed and supported by all of society's institutions, including commercial organisations, education institutions, professional bodies and non-government organisations. It recognises that

Governments at national, regional/provincial and local levels have particular responsibilities reflecting commitments under United Nations treaties and, in some cases, provisions in national constitutions and legislation. Article 7 sets out that although Governments face many challenges and competing demands for resources, they nevertheless have particular responsibilities to:

- ensure availability and protection of land for open space for recreation in residential areas;
- ensure preservation of, and public access to, natural and culture heritage;
- ensure the provision of suitable space and facilities for children's play;
- support provision of health-enhancing amenities, such as facilities for sport and exercise;
- support cultural institutions and activities;
- ensure that all members of the community, regardless of age, gender, sexual orientation, ethnicity, religion, ability or income, have access to beneficial leisure facilities and services;
- support suitable training of a technical and professional work force for the leisure/ sport/cultural service industries;
- support research on the benefits and costs of leisure activity and on the provision of leisure facilities and services;
- include recognition of leisure-related rights in relevant national/provincial legislation and regulations, including those concerned with regulation of mass communications and digital media;
- recognise, in national, regional and urban policies and plans, the contribution which leisure-related provisions can make to personal, social, cultural and economic development;
- support other human rights which facilitate the participation in the cultural life of the community, including the right to food, clothing, housing and medical care and necessary social services and security, as set out in Article 25 of the Universal Declaration of Human Rights.

4.43 UK domestic legislation has not adopted the World Leisure Organisation's Charter For Leisure nor the Universal Declaration of Human Rights which it reviewed. It has however, via the Human Rights Act 1998, adopted various rights in the European Convention on Human Rights, including for example the rights to family and personal life in Article 8 and the right in Article 1 of Protocol No. 1 to own property and use possessions, which should also be considered. The close interconnection between the Universal Declaration of Human Rights (reviewed in the Charter for Leisure) and the European Convention on Human Rights is clearly expressed in the preamble to the latter treaty. It is therefore considered that the Council should consider the impact of the Charter for Leisure.

4.44 It is clear from the drafting of the European Convention on Human Rights that those rights of relevance are not absolute and can be overridden in a fair and proportionate manner. For example, Article 8 is qualified in that rights only apply except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the

prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others. Similarly, Article 1 of protocol number 1 does not in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties. In considering the appropriation of the land, the Council has to carefully consider the balance to be struck between individual rights and the wider public interest. Any interference with Convention rights is considered to be justified in order to secure the economic, social, physical and environmental regeneration that the redevelopment will bring. Appropriate compensation will be available to those entitled to claim it under the relevant statutory provisions.

- 4.45 The proposed appropriation fits within a legislative context which requires consideration of the continued need for open space and provides for compensation of those whose property interests are affected. The policy context within which the proposed appropriation is being considered has been the subject of wide consultation. It is also considered that the proposed appropriation fits within the factual background which is described above in more detail. Overall, it is considered that the proposed appropriation wholly accords with the Charter for Leisure, the Universal Declaration, the European Convention and the Human Rights Act 1998. Any interference with such rights is considered to be a proportionate reasonable and lawful interference with the same in all of the circumstances.
- 4.46 Similarly, consideration should be given to the UN Convention on the Rights of the Child. The Convention came into force in the UK in 1992. Specific regard must be given to whether the appropriation is a breach of Article 31 – the right of every child to relax, play and take part in a wide range of cultural and artistic activities. In all of the circumstances, overall, it is considered that the proposed appropriation is in accordance with the UN Convention on Rights of the Child.
- 4.47 It is considered that there is a compelling case in the public interest for appropriating the Council's land as described in this report and that the appropriation would strike an appropriate balance between public and private interests. Furthermore, it is considered that the interference with individual rights is necessary and proportionate in the context of the delivery of the scheme and the benefits it will bring. These benefits are summarised within paragraph 4.21 of this report.

5 Effect upon policy framework and procedure rules

- 5.1 The approval of the proposed appropriation is an important step in the progression of the Porthcawl Waterfront Regeneration Scheme within the programme for delivery and will positively support the Council's policies and procedures.
- 5.2 As detailed within preceding sections of this report the site is currently allocated for mixed development within the existing Local Development Plan. In addition to the allocation in the Adopted Local Plan the site is identified as a Mixed-Use Strategic Development Site within the Replacement Local Development Plan Deposit Plan

Public Consultation Document. The Porthcawl Placemaking Strategy sets out a framework for development that delivers upon the objectives of the existing and proposed LDP allocations.

- 5.3 In addition to the planning status of the site at a local level, there is significant support for the proposed regeneration at a national policy level. Planning Policy Wales (PPW) supports the prioritisation of suitably located previously developed land for regeneration purposes, subject to other policy considerations.
- 5.4 When considered in the policy and procedural context outlined above, the proposed appropriation represents an important and necessary step in progressing the delivery of development across the PWRA, realising the regeneration objectives of the Council and wider national placemaking objectives of Welsh Government.

6. Equality Act 2010 implications

- 6.1 An initial Equality Impact Assessment (EIA) screening for the development across the PWRA has identified that there would be no negative impact on those with one or more of the protected characteristics, on socio-economic disadvantage or the use of the Welsh Language. It is therefore not necessary to carry out a full Equality Impact Assessment on this proposal.
- 6.2 For the avoidance of doubt, whilst the proposed appropriation seeks to change the legal status of the land it will not directly result in any material change to the physical state of the land. Any future decisions in connection with the disposal of the site and associated development will be brought before Cabinet for consideration in due course. Any future planning application will be subject to determination by the Local Planning Authority. Further EIA will be required and carried out at these stages.

7. Well-being of Future Generations (Wales) Act 2015 implications

- 7.1 The Well-being of Future Generations (Wales) Act 2015 Assessment based on the 5 ways of working has been considered, as summarised below, and there are no significant or unacceptable impacts upon the achievement of well-being goals/objectives as a result of this report.
 - Long term - The Porthcawl Waterfront Regeneration Scheme is a strategic development scheme which has the potential to add vibrancy to the locality through the provision of new housing, leisure and tourism opportunities, as well as retail and commercial developments; set within appropriate open space, parking and public realm.
 - Prevention – the current Porthcawl Waterfront Regeneration Scheme sites are largely unoccupied and under-utilised and detract from the attractiveness of the area.
 - Integration – the development of land within the Porthcawl Waterfront Regeneration Scheme will integrate with and access the existing town centre, sea front and leisure developments.

- Collaboration – the Council will continue to collaborate with residents, visitors and end users of this project to ensure successful and sustainable development and outcomes.
- Involvement – ongoing engagement with the community will continue to be an important facet of the Porthcawl Waterfront Regeneration Scheme.

8. Financial implications

- 8.1 The process of appropriation can in some instances result in compensatory payments where there are underlying third party interests in land. In this case there are no such known interests in the appropriation land and therefore it is not anticipated that any compensatory payments would arise as a result of the proposed appropriation. However, in the event that such interests were engaged then compensation would be made available and, in the event of any dispute, the extent of compensation would be referable to the Upper Tribunal (Lands Chamber) for determination. Given that the appropriation has not yet been confirmed, and it is not anticipated that that any compensatory payments would arise as a result of the proposed appropriation, it is premature to confirm if any compensation payments will have to be made or to what value. Should there be a need for compensation payments the amounts required, if agreed between the parties, will be clarified and a report will be presented back to Cabinet and/or Council to inform it of the amounts to be paid along with the funding source. Should there be a capital cost this will reimbursed from future sale receipts from disposal of the land at Porthcawl.
- 8.2 With respect to the proposed relocation of existing facilities impacted by the proposed development and provision of new facilities as part of the wider development, it is anticipated that these projects will be part of a significant number of large-scale individual and interlinked development projects as identified within the Porthcawl Placemaking Strategy. The approval of the legal process of appropriation does not constitute approval of any additional capital or revenue expenditure in connection with such individual projects and therefore there are no direct financial implications arising for BCBC from this report. All financial considerations will need to be considered on a project by project basis and further reports will be brought back to Cabinet and/or Council in connection with any future planned disposal / development of the appropriation land and wider regeneration area as appropriate.

9. Recommendations

Cabinet is recommended:

- 10.1 To consider the representations received in response to the advertisement of the proposed appropriation of land at Griffin Park and Sandy Bay and officers' responses to those representations set out in Appendix 5.
- 10.2 To approve the appropriation for planning purposes of the land at Griffin Park and Sandy Bay outlined in red on the Appropriation Plan (Appendix 1)

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18 October 2022

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Background Documents: Porthcawl Placemaking Strategy 2022
Bridgend Local Development Plan (Adopted September 2013)
Bridgend Replacement Local Development Plan Deposit Plan
(2022)