

# Carlisle City Council Report to Council

## Report details

|                             |  |
|-----------------------------|--|
| Meeting Date:               | 03 January 2023                            |
| Portfolio:                  | Economy, Enterprise and Housing            |
| Key Decision:               | Yes [KD 25/22]                             |
| Policy and Budget Framework | No   |
| Public / Private            | Public                                     |
| Title:                      | Caldew Riverside Remediation               |
| Report of:                  | Corporate Director of Economic Development |
| Report Number:              | ED01/23                                    |

## Purpose / Summary:

The purpose of the report is to make the Council aware of the progress made in understanding the nature of the contamination on the Caldew Riverside site and the development of a strategy for its remediation. The report also sets out the implications for the Council as owner of the site and the potential liabilities associated with the contamination that is known to be present.

The report gives an overview of the proposed remediation and development strategy for the site and the associated costs. In this regard, the report also seeks approval for a budget of £100,000 over three years to be allocated to the project to support the delivery of the proposed remedial strategy.

## Recommendations:

Members of the Council are asked to:

1. Note the contents of the report, including the risk associated with the ownership of the Caldew Riverside site and the proposed approach to its remediation.
2. Note the support from Homes England in developing a business case to draw down the additional funding required to fully remediate the site and enable it to be developed for housing.
3. Approve the creation of an earmarked reserve of £100,000, to be funded from virements from 2022/23 underspends, to be released over three years (from 2023/24) to be allocated to the project to support the delivery of the proposed remedial strategy.

**Tracking**

|            |                  |
|------------|------------------|
| Executive: | 19 December 2022 |
| Scrutiny:  |                  |
| Council:   | 03 January 2023  |

## 1. Background

- 1.1 The Caldew Riverside is a 2.2-hectare brownfield site owned by the Council located on the edge of the city centre. As shown in Figure 1, the site comprises of two council-owned surface car parks located at either end, with a vacant parcel of land occupied by trees, scrubland and hardstanding forming the central section.
- 1.2 The land was historically the site of the Carlisle Gas Light and Coke Company. In the absence of any formal clean-up, a legacy of contamination at the site remains, which progressively increases towards the southern end, where the former gas works was located. The site of the works was simply in-filled, which raised the level of the ground by several meters and accounts for the elevated nature of the Upper Viaduct car park.

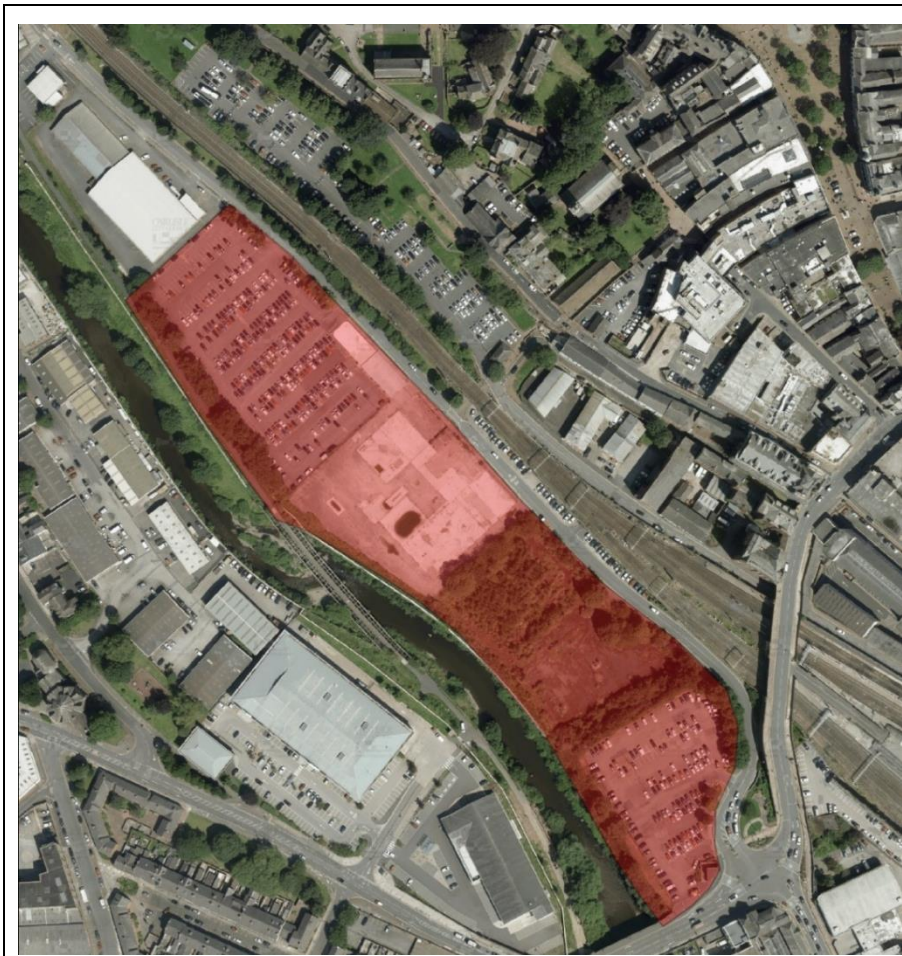


Figure 1: Caldew Riverside site area

- 1.3 The site has been identified in the Local Plan as a regeneration opportunity with significant potential to support the growth, vitality and viability of the city centre. It offers the unique potential to deliver a residential scheme that would boost the city centre population. From a planning perspective, the site is the best and only available location for the delivery of strategic scale residential development close to the city centre.

1.4 In 2019 Geo Environmental Consultant, Arcadis was appointed by the Council to undertake a review of existing historical site investigation reports and determine preliminary remediation options of the whole site. Based on this work, the Council received £850,000 of Town Deal Accelerated funding to progress the remediation of the site.

## 2. Proposals

2.1 Arcadis were reappointed to undertake full site characterisation work and produce a detailed Remediation Options Assessment (ROA). For this work the site was broken down into three parcels (see Fig 2):

- Parcel A: Upper Viaduct Car Park
- Parcel B (B1/B2): Brownfield site with hardstanding and scrubland
- Parcel C: Caldew Riverside Car Park.

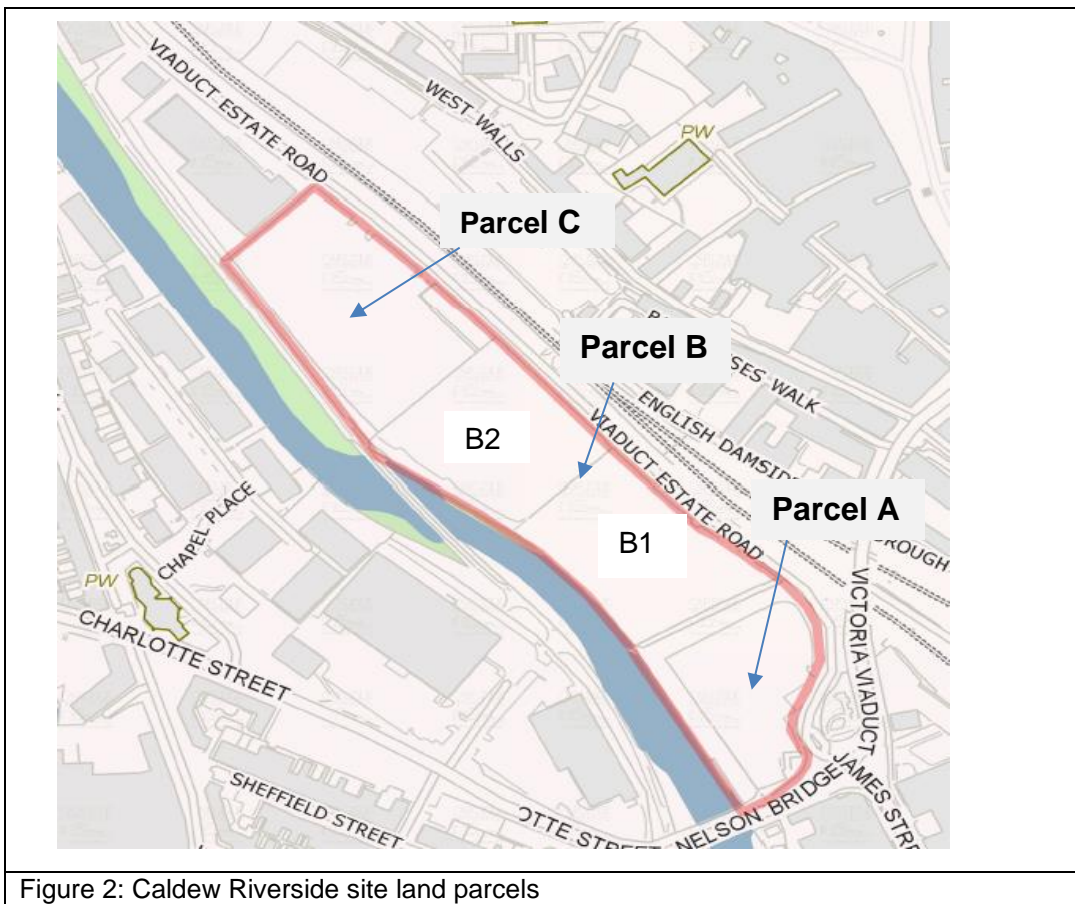


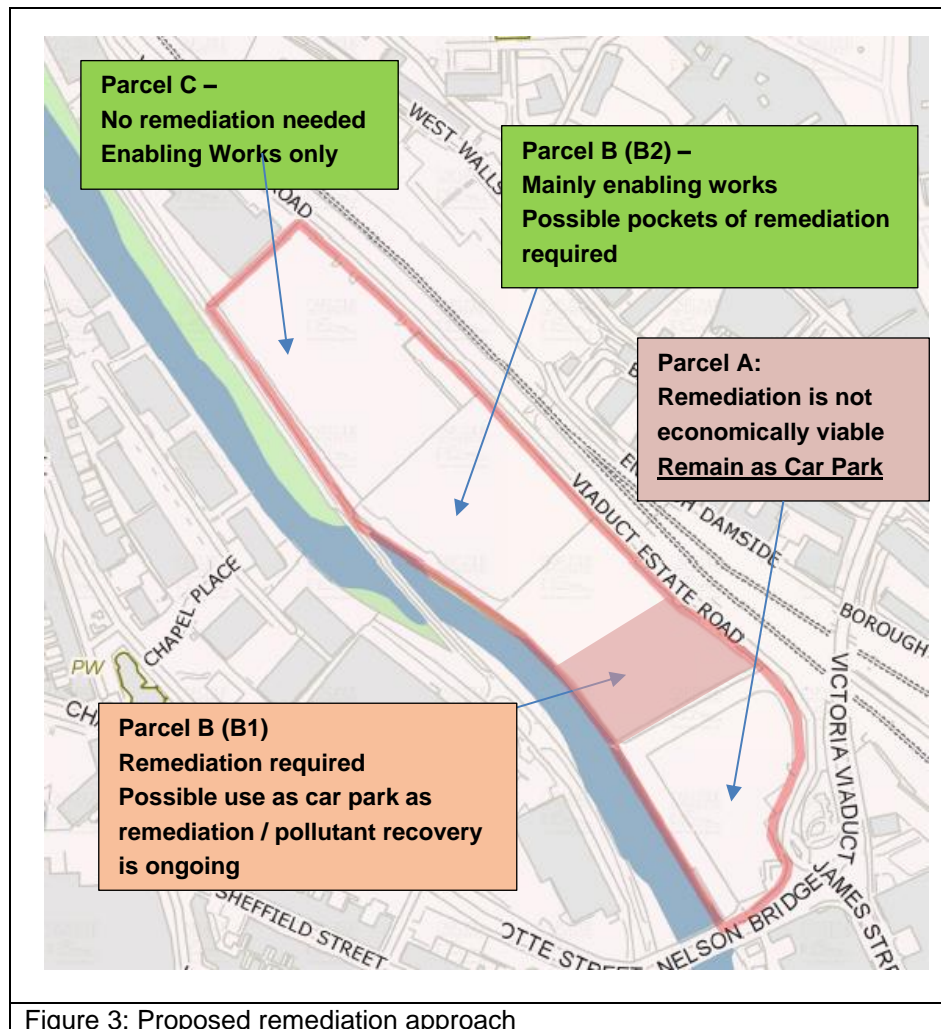
Figure 2: Caldew Riverside site land parcels

2.2 Initial sampling and analysis of groundwater samples from existing wells confirmed that the site poses complex contamination issues. To unlock the development potential of the site and progress a remediation / regeneration programme, a further series of investigations and monitoring on the site during 2021 was undertaken to gain a better knowledge of the land quality and regulatory constraints, and physical conditions to inform an effective remediation strategy.

- 2.3 Working geographically, from SE to NW, Parcel A remains highly polluted by virtue of the former gas works that is deeply buried below. Cost modelling indicates that Parcel A is beyond cost-positive economic regeneration and the Environment Agency (EA) have said that the continued use as car park is reasonable and may continue. The investigations and monitoring confirm that contamination is leaching from Parcel A and is impacting the adjacent first 30m or so of Parcel B (B1).
- 2.4 Moving NW, beyond the initial polluted zone of Parcel B (B1), the pollution becomes progressively less severe and potentially simpler to deal with. This applies to the former garage use on the northern half of Parcel B (B2) and all of Parcel C. This means that the northern half of Parcel B (B2), and the whole of Parcel C, are less complex to make 'development ready' and bring to market. Normal civil engineering techniques can be used.
- 2.5 However, in terms of the southern part of Parcel B (B1) the challenge is that contamination from Parcel A is migrating onto it. Therefore, there are two alternatives: the installation of in-ground barriers or, an 'in-the-ground' recovery system. Discussions with the EA indicate that in-ground barriers to stop migration of pollution, would face challenge and inevitably also delay remediation. In contrast, the EA have been supportive of a progressive 'recovery' of gas works oils and tars that have already migrated onto Parcel B (B1).

## Remediation Strategy

2.6 The proposed approach to the remediation of the site is set out in Figure 3 below.



2.7 In terms of Parcel B (B1), the recovery approach would involve the installation of a special skimming pump system that would remain in operation for between 2-3 years. This would mean the land could not be developed but could be utilised as public open space, or as supplementary car parking. Analysis of the quantities removed would be measured during this time, to support cessation of active skimming, and transition to simple passive methods, such as adsorbents / geosocks.

## Remediation Costs / Funding

2.8 Estimated costs have been prepared based on the information known to date. This is summarised below.

|  | Estimate | Funding Source |
|--|----------|----------------|
| <b>Parcel C (1 hectare)<br/>Enabling Works</b> |          |                |
| 2023-25  | £1.22m   | Developer      |

|  |                             |  |
|--|-----------------------------|--|
| Removal electricity cables / lighting columns<br>Breaking out buried structures<br>Removal of black top from car park.               |                             |  |
| <b>Parcel B1 (0.76 hectare)<br/>Enabling Works + localised remediation</b>   |                             |  |
| 2023-25<br><br>Removal electricity cables / lighting columns<br>Breaking out buried structures<br>Removal of localised contamination | £1.18m                      | Developer / Homes England Funding (TBC)    |
| <b>Southern Part of Parcel B (0.7 hectare) (Remediation only)</b>  |                             |  |
| 2023<br>Tank removal and impacted soils around tank  | £600,000                    | Town Deal Capital Accelerated Fund         |
| 2023-25<br>NAPL Removal<br>Installation of NAPL recovery system  | £3.5m                       | Homes England Funding (TBC)                |
| Maintenance of recovery system   | £25k per annum over 3 years | Carlisle City Council / Cumberland Council |
| Table 1: Estimated Remediation Costs   |                             |  |

- 2.9 Officers are currently working with Homes England (HE) to develop a business case that will enable the required funding to be drawn down to complete the full remediation works. This funding would be on the premise that the remediated site would then be developed for housing.
- 2.10 HE is providing funding support to undertaken masterplanning and viability assessments to enable the development of a 'city centre living' scheme for the site. The concept is to provide a range of house types on the site – terraces, town houses and apartments – that would cater for a range of ages, including retirement living.
- 2.11 The business case is tabled for formal submission to HE in early 2023 and a report will be brought for the Executive to consider prior to submission that will provide an overview of the proposals in more detail.

### **3. Risks**

- 3.1 The following risks have been identified in relation to the remediation of the Caldew Riverside, and its potential future redevelopment.

#### **Council as site owner**

- 3.2 Legally, where there is a pollution linkage found on a site that is causing or threatening significant harm or water pollution, then the "appropriate persons" are responsible for its clean up (under the Environmental Protection Act 1990; The Contaminated Land (England) Regulations 2006).
- 3.3 Appropriate persons are divided into two classes: Class A persons, are those who caused or knowingly permitted the polluting substances to be in, on or under the land or Class B persons, the current owners or occupiers of the land. If no Class A person can be identified, then responsibility will pass to any Class B persons. The owners and occupiers may have neither caused nor permitted the pollution to be present on the land, but the law takes the view that someone should be responsible for the site.
- 3.4 From the conveyance of the land, it does appear that the whole undertaking of the Carlisle Gas Light and Coke Company was actually transferred to the Council in 1850, not just the land. The copy of the conveyance is not hugely clear, but it does refer to the payment of £15,480 pounds (£2.2m in today's money). The conveyance also refers to the Carlisle Gas Act 1850 which appears to be a local act to give the then body who executed council functions power to run this type of company. It also refers to the transfer of plant, equipment, securities and debts which again is all language which links to a business as a going concern rather than just the land.
- 3.5 If the Council (via its predecessor form) was the operator of the site up until it was decommissioned, then they may also be found to be the polluter – and Class A person. However, given the length of time that has passed, it is unlikely there would be a company who still carried the liabilities of Company. Based on the information to date, it is therefore unlikely there is a third party liable for the remediation of the land, other than the landowner. Therefore, responsibility for the site and the contamination falls to the Class B person, which is Carlisle City Council.

#### **Impact on Income**

- 3.6 The current Caldew Riverside car park, which is owned and operated by the City Council is located on Parcel C. This car park currently generates around £200,000 income per annum for the Council and this income forms part of the revenue budget for the Council.



- 3.7 The proposals to remediate the Caldew site would result in the loss of the car park and the income derived from it. This loss of income, and the implications of this, needs to be considered within the context of the wider proposals for the site. The loss of car parking, the impact on capacity and the availability for visitors must be considered as part of the business case. The city has a number of surface level car parks within walking distance of the city centre and an exercise is currently being undertaken to establish their capacity and levels of use.
- 3.8 Development of the site would generate wider economic benefits to the Carlisle area as a result of additional households and associated spend. There would also be additional income, albeit indirect, to the Council via Council Tax (Cumberland Council given the timescales) but it is acknowledged that not all the income derived from Council Tax would be directly received by the Council. Also, the costs of providing Council services to the additional households would need to be factored into any financial considerations.

### **Future redevelopment of the site**

- 3.9 Clearly, the Caldew site must be remediated before it can be regenerated and redeveloped. The results of the site characterisation work indicate that the situation is both complex and dynamic, with ongoing leaching of contaminated material from Parcel A onto B. This means that whilst most of the site can be subject to typical remediation approaches i.e., breaking out of ground level / buried structures and the removal of localised contamination, the area of Parcel B next to Parcel A will need a different approach, that will extend over a longer time frame.
- 3.10 The Environment Agency have been involved in the site characterisation work and are supportive of a progressive recovery of gas works oils and tars that have already migrated onto Parcel B. Once 'neat' oils and tars are diminished, monitoring of the natural biological improvements would provide the evidence the EA need to determine whether future migration is no longer of regulatory concern.
- 3.11 This complexity also has implications for the future development of the site and the ability to attract a developer. The issue of ongoing contamination leaching from Parcel A into Parcel B will be significant for developers in terms of both securing finance for the scheme and liability for future occupants of it. Therefore, the preferred remediation scheme must give the market confidence.

## **4. Consultation**

- 4.1 Internally within the Council, there has been ongoing involvement and dialogue with the Environmental Protection colleagues, who have the remit to advise and oversee the investigation, strategy development and remediation works for contaminated land. There are no objections or concerns in relation to the approach outlined in the report, albeit caveated that this must be approved by the Environment Agency.

4.2 The Environment Agency (EA) has been involved through the process outlined in the report. The remediation options work commenced following their endorsement and approval of the site characterisation work. The EA has confirmed that the remediation approach outlined in the report raises no objections in principle. The next stage will be to formally submit the remediation strategy and implementation plan, including phasing.

## **5. Conclusion and reasons for recommendations**

5.1 Substantial additional work has undertaken to understand the nature of the contamination affecting the Caldew site and its implications for the Council as owner of the site and the future redevelopment of the site, given that it has been identified as a regeneration opportunity.

5.2 The Environment Agency has approved both the site characterisation work and the approach to remediation set out in the report. The next stage is to formally submit the remediation strategy for approval.

5.3 The report outlines the risks associated with the proposals for the remediation of the Caldew site. The key risk is that the responsibility for the site, the contamination and any adverse environmental effects / events that may arise as a result, falls to Carlisle City Council. To date the contamination and environmental impacts have been contained within the confines of the site and therefore the risks have been low. However, this situation cannot continue indefinitely and the greater the passage of time without intervention, the greater the risk the site could begin to pose a risk to both human health and the natural environment.

5.4 On this basis the Council is asked to

- Note the contents of the report, including the risk associated with the ownership of the Caldew Riverside site and the proposed approach to its remediation.
- Note the support from Homes England in developing a business case to draw down the additional funding required to fully remediate the site and enable it to be developed for housing.
- Approve the creation of an earmarked reserve of £100,000, to be funded from virements from 2022/23 underspends, to be released over three years (from 2023/24) to be allocated to the project to support the delivery of the proposed remedial strategy.

## **6. Contribution to the Carlisle Plan Priorities**

6.1 The remediation and future redevelopment of the Caldew Riverside site will support the delivery of the vision set out in the Carlisle Plan, which is to enable Carlisle to

grow and prosper as the capital of the Borderlands region. It also contributes directly to the priority of delivering inclusive and sustainable economic growth, by making Carlisle a more attractive place to live, work, visit and invest.

**Contact details:**

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**Appendices attached to report:**

- None

Note: in compliance with section 100d of the Local Government Act 1972 the report has been prepared in part from the following papers:

- None

**Corporate Implications:**

|                   |  |
|-------------------|--|
| Legal             | <p>Environmental law: the legal aspects of liability are set out in the body of the report.</p> <p>Subsidy Control: Any use of grant funding needs to be compliant with the relative subsidy control regime in place at the time the funds are to be used.</p> <p>Procurement: the procurement of the contractor to supply, fit and maintain the infrastructure to implement the remediation plan would need to be procured in compliance with the Council's Contract Procedure Rules.</p>   |
| Property Services | Remediation of the site will improve the marketability of the site improving prospects for its long-term development   |
| Finance           | <p>The report outlines the proposals to enable to the Caldew Riverside site to be brought forward for future development. The report outlines that the main issues on the site are contamination and to address this, significant expenditure would have to be incurred (up to £6.3m). The report outlines that the majority of this funding requirement would be delivered by external bodies, such as developers and Homes England.</p> <p>There is a requirement though for the Council to contribute financially to this scheme. The report requests that funding is established of £100,000 for 3 years from 2023/24. This can be funded and vired from existing 2022/23 underspends budgets.. An earmarked reserve should be established to hold the funds</p> |

|                        |  |
|------------------------|--|
|                        | <p>and should be released via an officer decision notice by the Corporate Director of Economic Development and Corporate Director of Finance &amp; Resources (or relevant officers within Cumberland Council) when required each year.</p> <p>The site generates a significant income from car parking for the Council (£198,500) and any proposed remediation work may have an impact on this level of income in the short to medium term if alternative parking arrangements cannot be made. In the longer term, any future development of the site may remove parking allocation from the area and reduce the available capacity for visitors to the City Centre.</p> |
| Equality               | None   |
| Information Governance | None   |