

Officer Non Key Executive Decision

Relevant Chief Officer (Decision Maker):	Antony Lockley, Assistant Chief Executive
Relevant Cabinet Member (for consultation purposes):	Councillor Ivan Taylor, Deputy Leader and Cabinet Member for Partnerships and Performance
Report Author (Officer name and title):	Jenn Nicholls, Housing Strategy and Development Manager
Implementation Date of Decision:	5 September 2022

Foxhall Village Surface Water Drainage System - Section 104 and S115 Agreement with United Utilities

1.0 Purpose of the report:

- 1.1 To enable the completion of the S104 and S115 Agreements with United Utilities Water Limited (United Utilities) in respect of their formal adoption of the surface water drainage system assets on the West site at Foxhall Village.

2.0 Recommendation(s):

- 2.1 To approve the completion of the S104 and S115 Agreements with United Utilities in respect of their formal adoption of the surface water drainage system assets on the West site at Foxhall Village.

3.0 Reasons for recommendation(s):

- 3.1 To support the housing on the West site at Foxhall Village and provide long-term sustainable maintenance of this key drainage asset.
- 3.2 To reduce the Council's liability in respect of key drainage infrastructure on the West site at Foxhall Village, the completion of these Agreements will enable formal adoption of the assets, and thus future maintenance liability, by United Utilities following the designated maintenance period.
- 3.3a Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No
- 3.3b Is the recommendation in accordance with the Council's approved budget? Yes

3.4 Other alternative options to be considered:

None

4.0 Council Priority:

4.1 The relevant Council Priority is

“Priority two - Communities: Creating stronger communities and increasing resilience.”

5.0 Background Information

5.1 Executive resolved in January 2011 (EX3/2011) to undertake land assembly, remediation and procurement of a developer to work with the Council relating to the redevelopment of the Tyldesley Road/ Rigby Road area, and further to this in April 2013 (EX17/2013) to enter into a Development Agreement with the preferred developer to undertake redevelopment of the site (subsequently referred to as ‘Foxhall Village’).

5.2 Following lengthy strategic discussions with United Utilities the Council agreed to take forward an attenuated surface water drainage scheme to serve the West site at Foxhall Village. Under Officer decision PH69/2016 approval was granted for the Council to enter into a contract with Bethell Ltd for the delivery of the Foxhall Village surface water drainage works, this was to enable the completion of 410 new homes at the Foxhall Village sites (at that time being developed by Hollinwood Homes in accordance with a Development Agreement with Blackpool Council) and in order to protect bathing water quality by taking attenuated surface water from the new development to the sea rather than combining it with foul drainage in the area’s existing sewer network.

5.3 This type of permanent drainage was always planned to be part of the scheme. The only alternative would be to put the surface water from these sites into the old combined drainage system in the area, which would mean mixing large volumes of clean surface water with foul sewage. This would have had a detrimental impact on bathing water quality and potentially overload the local drainage system.

5.4 In July 2018 the Council entered in to a Deed of Undertaking with United Utilities relating to the sewers at Foxhall Village, which saw UU agree to contribute towards the costs of the surface water drainage scheme (£400,000) and an agreement to enter into a S115 Agreement in relation to Highway drain MH11 in the Promenade and a S104 Agreement in relation to the surface water drainage scheme.

5.5 Does the information submitted include any exempt information? No

List of Appendices:

5.6 None

6.0 Legal considerations:

6.1 In entering in to the Deed of Undertaking with United Utilities the Council committed to entering into a Section 115 and 104 Agreement and the carrying out of works in relation to the surface water drainage scheme at Foxhall Village, failure to do so would mean the Council was in breach of the terms of the Deed.

6.2 The Head of Legal Services will be instructed to enter into agreements for the adoption of the surface water drainage system assets on the West site at Foxhall Village.

7.0 Human Resources considerations:

7.1 None

8.0 Equalities considerations:

8.1 The Council has a wide ranging statutory responsibility under section 149 of the Equality Act 2010, known as the “Public Sector Duty” to have “due regard” in decision making to the need to :

- Eliminate discrimination, harassment, victimisation and other prohibited conduct
- Advance equality of opportunity
- Foster good relations between different (defined) groups

The recommendations in the report have been examined to understand the scope of possible impacts on people because of the protected characteristics of:

- Age
- Disability
- Gender Reassignment
- Race
- Religion or belief
- Sex

- Sexual Orientation
- Pregnancy and Maternity

The development of better quality housing in the town and improvements to surface water drainage as part of this development will, indirectly positively impact on quality of life and support the creation of more stable communities.

9.0 Financial considerations:

- 9.1 The cost of installing the surface water drainage system on the West site at Foxhall Village was funded by the capital project budget with a contribution from United Utilities (£400,000). Adoption of the drainage by United Utilities will reduce the Council's liability in terms of future maintenance costs.

10.0 Risk management considerations:

- 10.1 Adoption of the drainage by United Utilities will reduce the Council's liability in terms of future maintenance costs and provide a long term sustainable solution for the housing on the Foxhall Village development. In entering in to the Deed of Undertaking with United Utilities the Council committed to entering into a Section 115 and 104 Agreement in relation to the surface water drainage scheme at Foxhall Village, failure to do so would not meet the terms of the Deed and the Council would have to continue to maintain the surface water drainage system and the financial implications.

11.0 Ethical considerations:

- 11.1 None

12.0 Internal/ External Consultation undertaken:

- 12.1 None.

13.0 Decision of Chief Officer

- 13.1 To confirm the completion of the S104 and S115 Agreements with United Utilities in respect of their formal adoption of the surface water drainage system assets on the West site at Foxhall Village.

14.0 Reasons for the Decision of the Chief Officer

- 14.1 To support the Foxhall Village development by ensuring key infrastructure is adopted by United Utilities and thereby becomes their asset for future operation and maintenance.

