

No.1	APPLICATION NO.	2019/0060/FUL
	LOCATION	Land Adjacent To Railway Line Sandy Lane Aughton Lancashire
	PROPOSAL	Proposed installation of substation.
	APPLICANT	Network Rail
	WARD	Aughton And Downholland
	PARISH	Aughton
	TARGET DATE	25th March 2019

1.0 REFERRAL

1.1 The application was to be determined under delegated powers, however, Cllrs O'Toole and Westley have requested it be considered at Planning Committee to assess the impact of the proposed development on neighbouring amenity – including noise and electromagnetic impacts, the proposed siting of development and the impact on Green Belt.

2.0 RECOMMENDATION: That planning permission be **GRANTED** subject to conditions.

3.0 SUMMARY

3.1 By virtue of the loss of openness and conflict with one of the reasons for including land in the Green Belt (encroachment) the proposed development constitutes an inappropriate form of development in the Green Belt giving rise to harm to it. This harm must be attributed substantial weight. In addition, the development will give rise to an adverse impact on the character and visual quality of the locality and therefore conflict with Policies GN1, GN3 and EN2 in the West Lancashire Local Plan (WLLP). Whilst some of this impact can be ameliorated by landscape planting, additional weight against the development is recognised.

3.2 However, the NPPF, including section 13 relating to the Green Belt, recognises the strategic importance of sustainable transport and the significant wider environmental, social and economic benefits arising in comparison to the use of private petrol and diesel driven vehicles. Whilst the development would have an impact on the immediate locality I consider the wider benefits of sustaining and enhancing public transport provision do amount to very special circumstances and those circumstances outweigh the identified harm. The scheme would not result in significant harm to the surrounding land uses and I therefore recommend that planning permission is granted subject to conditions.

4.0 THE SITE

4.1 The application site is an area of active agricultural field of approx. 2000 m² lying immediately west of the Liverpool-Ormskirk railway line and associated fenced embankment to the north of Sandy Lane. The land lies below the level of the railway lines but above the level of the adjacent narrow lane. To the south-east is the railway underpass to Mickering Lane where residential properties are present. The end dwelling and gardens on the northern side of Mickering Lane lies immediately east of the railway embankment. The site is otherwise surrounded by open arable land.

5.0 THE PROPOSAL

5.1 The application proposes a line of electricity transformation apparatus serving the adjacent Ormskirk-Liverpool railway line. The apparatus consists of (from north to south):

Name	Length (m)	Depth (m)	Height (m)
Isolation transformer	1.35	1.3	1.55
Auxiliary transformer	1.5	1.5	2.1
AC Module	7.1	3.5	3.55
Rectifier Transformer	4.2	2.8	4.05
Rectifier Module	6.0	2.7	3.55
DC Module	5.3	3.0	3.05
4no. Track Feeder Switches	2.0	1.2	2.15

All dimensions approximate

- 5.2 The transformers appear as 'naked' apparatus finished in light grey; the remainder of the structures appear as cabinet buildings also finished in light grey. The site is proposed to be fenced and gated by 3.0 metre high, moss green finished, palisade fencing with external landscaping to be agreed. Within the site 0.76 metre high Armco barrier lengths will be offset between 4.5-6.0 metres from the apparatus on their western and southern sides. A curved 6.0 metre wide access track from Sandy Lane is proposed.
- 5.3 Some infrastructure works associated with the development will take place within the existing rail corridor – primarily new cable laying, such works are granted permission by virtue of the Town and Country Planning (General Permitted Development)(England) Order 2015 and are therefore outside the scope of the determination of this application.

6.0 PREVIOUS RELEVANT DECISIONS

- 6.1 None

7.0 OBSERVATIONS OF CONSULTEES

- 7.1 Director of Leisure and Environment (13.05.19) – no objections subject to condition.
- 7.2 Aughton Parish Council (19.02.19 & 21.03.19) – objects on the following grounds:

- due to the close proximity to dwellings the development would have a detrimental effect on the residential amenity of neighbouring properties;
- a negative impact on the openness of the Green Belt;
- note local concerns in respect of light pollution, noise, flooding and drainage issues and loss of wildlife.

An alternative, less prominent location nearer Merseyside should be considered by Network Rail for this proposal.

8.0 OTHER REPRESENTATIONS

- 8.1 101 letters from local residents objecting on grounds of:

Noise from apparatus – particularly at night and loss of tranquillity
Green Belt location
Inappropriate industrial development in a rural location
Out of keeping with the character and visual quality of the locality
Alternative locations better suited
Close proximity to residential dwellings
Safety and security
Health impacts from electromagnetic fields
Poor design of apparatus and fencing

Extent of neighbour notification
Concerns about lighting
Potential ecological impacts and loss of habitat
Loss of high grade agricultural land
Precedent for further development
Impact on setting of a Conservation Area
Construction limitations (road width), associated highway safety, pollution and disturbance
Increase in traffic
Impact on local property prices
Impedes an established footpath
Excessive height and scale
Benefits of development lie outside West Lancashire
Loss of biodiversity
Loss of rural view and character
Risk of fire
Insufficient ecological assessment
Local sightings of numerous red/amber/green list birds
Local sightings and soundings of other fauna of various conservation status
Formerly a barn owl roost on site
Will exacerbate surface water flooding on Sandy Lane – particularly at the railway bridge and local roads
Site subject of footpath application
Surface water run-off may affect road gulleys
Incorrect noise assessment, cumulative impact not assessed
Additional ecological survey effort required
Revised height information means visual impact greater

8.2 Two signed petitions of 84+51 objecting on the following grounds:
Level of consultation
Health and safety concerns – particularly from electromagnetic outputs
Landscape and visual impacts
Living conditions – overwhelming and oppressive form of development
Effect on Green Belt – loss of openness and result in encroachment
Unnecessary industrialisation of the countryside as alternative sites exist

8.3 Online petition saying 'no' to the proposed substation and better alternative siting – 628 (05.06.19) supporters.

9.0 SUPPORTING INFORMATION

9.1 The application is accompanied by the following supporting documents:
Planning Statement
Ecological Appraisal
Revised Acoustic Assessment
eDNA Pond Assessment for Great Crested Newt

10.0 RELEVANT PLANNING POLICY

10.1 The National Planning Policy Framework (NPPF) 2019 and the West Lancashire Local Plan 2012-2027 DPD (WLLP) provide the policy framework against which the development proposals will be assessed.

10.2 The site is located within the Green Belt and in an area of Landscape History Importance of County significance.

- 10.3 Relevant Local Plan Policies:
SP1 – A Sustainable Development Framework for West Lancashire
GN1 – Settlement Boundaries
GN3 – Criteria for Sustainable Development
EN2 – Preserving and Enhancing West Lancashire's Natural Environment
EN4 – Preserving and Enhancing West Lancashire's Heritage and Cultural Assets
IF2 – Enhancing Sustainable Transport Choice
IF3 – Service Accessibility and Infrastructure for Growth

Supplementary Planning Document, Design Guide (Jan 2008)

11.0 **OBSERVATIONS OF DIRECTOR OF DEVELOPMENT AND REGENERATION**

Principle of development – Green Belt

- 11.1 Policy GN1 in the WLLP states that proposals in the Green Belt will be assessed against national policy and any relevant Local Plan policies. Section 13 of the NPPF sets out the limited types of appropriate development in the Green Belt. Para. 146 states that local transport infrastructure which can demonstrate a requirement for a Green Belt location is not inappropriate providing it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.
- 11.2 The applicants supporting information advises that the requirement for the infrastructure is to facilitate the upgrade of facilities on the adjacent railway line and is limited to an accessible search area approximately midway along the stretch of electrified track between Maghull and Aughton Park stations. The midway point lies between Butchers Lane and Sandy Lane all of which lies within the Green Belt, however, the latter site is preferred due to land availability. I therefore accept the argument that a Green Belt location is necessary, however, the in-principle test is on condition that the development preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.
- 11.3 It is inevitable that most forms of development will give rise to a loss of openness – generally defined through appeal and court decisions as being the absence of 'development'. In the absence of any qualification as to acceptable impacts, it can only be concluded that the proposal fails the openness test and therefore falls outside the scope of appropriate development in the Green Belt. The same reasoning would apply in terms of conflicting with one of the reasons for including land in the Green Belt – i.e. that the annexing and installation of the apparatus will result in a form of encroachment on land previously free from development. On that basis the proposals are considered inappropriate development in the Green Belt.
- 11.4 Inappropriate development in the Green Belt is harmful by definition and should not be approved except in very special circumstances. The NPPF defines that *very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by any other considerations*. It also advises that any harm to the Green Belt should be afforded *substantial* weight.

Very Special Circumstances

- 11.5 Policy SP1 and the NPPF requires that decision makers should take a positive approach in favour of sustainable development. In this instance the substantial weight attributed to protecting the openness and permanence of the Green Belt must be weighed against the benefits the scheme would bring. The applicant has detailed that the proposals form part

of a program to facilitate the upgrade of services on the Merseyrail network. This includes new rolling stock with step-free access, safer carriages and reduced travel times. It is submitted that this aligns with the general thrust of national and local policies to promote the prioritisation of public transport as a sustainable means of travel.

- 11.6 There is unequivocal support for sustainable public transport – notably within Section 9 of the NPPF; Paragraph 104 e) states that policies should:

provide for any large scale transport facilities that need to be located in the area, and the infrastructure and wider development required to support their operation, expansion and contribution to the wider economy.

Paragraphs 108 and 110 promote and give priority to the provision of high quality accessible public transport and this focus is reflected in Objective 6 of the WLLP and Policies SP1, GN3, IF2 and IF3. This policy framework gives significant weight to support for development proposals of this nature with recognised economic and social benefits, both within the Borough and beyond its bounds.

- 11.7 In terms of environmental impacts, these must be assessed both at the site specific level and with regard for wider environmental considerations. In this instance the applicant has provided a suitable habitat survey of the site and surroundings. Primarily due to the agricultural nature of the site, it is not anticipated that any significant impact on priority species or their habitat will arise, nor any significant loss of biodiversity value occur. The site currently forms part of an active agricultural holding producing arable crops, the land is therefore subject to regular disturbance. Any ecological value is therefore limited, intermittent and more than likely offset by the establishment of long-term boundary landscaping along with the wider environmental benefits associated with the enhancement of the public transport system when compared to/displacing the impacts associated with private motor vehicle use.

- 11.8 The land in question is classified as Grade 1 agricultural land which is afforded protection under the terms of EN2. However, this policy includes an exemption for strategic infrastructure that would be triggered by the development in question.

- 11.9 In terms of the impact on the local landscape character, the proposal is sited alongside the railway embankment that substantially provides a screen barrier from any long views over open countryside to the east. Limited elements of the development would break the height of the embankment – the AC module building by approx. 0.25 m and the upper part of the rectifier transformer by about 0.6 m. However, other than on Sandy Lane itself, views from the west are limited due to restricted public areas and the local field pattern providing intermediate screening. Here, although the proposals will appear as an uncompromising utilitarian form of development, the facility will be primarily viewed against the backdrop of the railway embankment and be partially screened through mitigation landscaping.

- 11.10 Given the above, I consider the environmental impacts of the development are therefore limited and, when considered in the planning balance with the economic and social gains, are sufficient very special circumstances to outweigh the harm to the Green Belt arising from inappropriateness, loss of openness and encroachment. On that basis I conclude that the principle of development is acceptable under the terms of the NPPF and the WLLP.

Impact on surrounding land uses

- 11.11 A primary concern of local residents is that of the impact of noise and electromagnetic radiation arising from the apparatus when in continuous use. A noise assessment models the anticipated impact of the proposed apparatus and is measured against the recorded

night-time background noise as a worst case scenario. The modelling shows that the noise level experienced at the nearest residential properties (including the outdoor amenity space) will be no more than 25dB(A) LAEQ – a level about 1dB(A) over the background noise at night; it is anticipated that this level can be further reduced by the installation of acoustic mitigation to achieve levels similar to night time background levels, if necessary. These noise levels, are well below any guidance that suggests any adverse effect levels on residents and therefore there are no grounds to refuse planning permission on that basis.

- 11.12 In terms of electromagnetic fields and their potential health concerns, the equipment will inevitably produce localised electromagnetic fields, however, such fields generally have a significant drop-off over a short distance such that they are unlikely to affect the nearest residential properties on the other side of the railway embankment. The applicant confirms that the proposed development meets with the Rail Safety and Standards Board requirements that reflect internationally accepted guidelines relating to public health.
- 11.13 Objections suggest that the proposal will result in an oppressive and overwhelming form of development. Given the presence of the existing railway embankment between the site and dwellings to the east, and the distance to residential properties to the west I do not agree that the development would cause such harm to residential amenity in the area. There are no public footpaths within close proximity that might result in such an impact for recreational walkers in the vicinity; the only potential for such impact is where the fencing abuts the existing railway bridge. Here, the fencing will be close to the highway but set back behind a landscaping strip of about 8 metres long. I do not consider this would be such a significant impact on users of the highway to warrant refusal of the application.
- 11.14 Concerns have also been raised in respect of building-mounted lighting intended to facilitate personnel when maintaining the site. These are sensor triggered lights facing downwards and therefore will only be lit on limited and intermittent occasions; it is therefore unlikely they would cause any significant amenity concerns in the locality.

Heritage

- 11.15 The development lies approx. 200 m due east of the closest point of the Holt Green Conservation Area (CA). Under the terms of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, Section 16 of the NPPF and Policy EN4 in the WLLP the Council must consider whether the proposal preserves or enhances the character and appearance of the CA including its setting. The scale of development in a broad landscape setting will mean its visual impact at 200m will be minimal from the CA and views into it will be substantially limited to rail users. At this distance I do not consider the views into and out of the CA will be materially affected by the development and therefore conclude the development will not harm the character and appearance of the CA.

Design and appearance

- 11.16 As referenced above, the proposed development is of a standard utilitarian appearance that will appear out of context in the general character of the rural landscape. The nature of the equipment, fencing, mounting slabs and access road will inevitably cause harm to the visual quality and character of the locality. This will be tempered to a limited degree by the fact it sits alongside the railway line where associated infrastructure might be expected but also by the proposal to install and maintain landscaping to the external edge of the site. The height of some of the apparatus will mean that some of the structures will take some time for an appropriate landscaping scheme to substantially assimilate the development in this locality. Unfortunately, due to security and safety standards imposed

on the applicant it has not been possible to agree significant improvements to this aspect of the development, however, with matured landscaping I consider the identified harm can be reduced.

Traffic and highways

- 11.17 Inevitably there will be some significant impacts on the immediate highway network during the construction phase of the development because of the nature of the Sandy Lane carriageway; it is likely that temporary arrangements during the construction phase of development would be required. However, once installed, it is not anticipated that the proposal will result in any significant prejudice to highway safety or capacity in the locality, despite the carriageway width limit in the vicinity. The proposal includes suitable access and visibility and there is sufficient room within the compound to enable service vehicles to turn. The level of traffic associated with the long term use of the site is not anticipated to be significant. An application to LCC for a public right of way across the site has not yet been investigated and therefore has no current legal standing – it is notable also that since that application was made fencing preventing general access to the private land has recently been erected. The development is therefore considered acceptable under the requirements of Policy GN3 in the WLLP in relation to traffic, highways and accessibility.

Trees and Ecology

- 11.18 There are no trees of merit within the application site that would be adversely affected by the proposed development. Reference is made within the documentation to some potential to accommodate a bat roost within a nearby tree lying on a potential access route that may require trimming works to facilitate access to the development; although no firm conclusion is drawn with respect to such works. The tree lies outside the application site and on land presumably in third party ownership. It therefore lies outside any potential to impose controls through planning condition and is consequently an operational matter for the applicant – just as any other off-site Habitats Regulation requirements or Tree Preservation Order issues would be elsewhere en route.
- 11.19 No other protected species or habitats are identified on the site itself primarily due to its active agricultural nature. However, when the field is used for grass production it may provide cover and foraging for Great Crested Newt (GCN). A pond exists approx. 120 m to the west of the site. An assessment of the pond identifies that protected Great Crested Newt (GCN) are not present there. Representations suggest nearby garden ponds have not been surveyed however, no presence of GCN is claimed and, subject to reasonable avoidance measures during any construction period, work on the land is significantly less likely to adversely impact GCN and their habitat than the agricultural working of the land. It is therefore concluded that the impact of works will not be material to the conservation status of any local GCN population and the works can be completed when managed through a reasoned method statement (RAMS) and therefore be made acceptable under the terms of Policy EN2 in the WLLP.

Drainage

- 11.20 In the absence of any known surface water system for the site it is concluded that surface water currently goes to ground. Local residents advise that in prolonged or heavy periods of rainfall water runs on to the carriageway of Sandy Lane and can accumulate below the rail bridge. The presence of the apparatus does have limited potential to give rise to a more rapid run-off as the site falls to Sandy Lane, therefore, in order to ensure the development does not exacerbate surface water flooding potential in the locality, a scheme for the controlled management of surface water on the site shall be required by planning condition to meet the requirements of Policy GN3 in this respect.

Other Matters

- 11.21 Objectors state that the development could result in a precedent decision that would facilitate future applications for similar proposals. Each planning application must be considered on its own merits and therefore any decision on the current proposal would not prejudice the decision or planning considerations should similar applications be submitted for other locations in the Borough.
- 11.22 Concerns have been stated with respect to the level of neighbour notification on this application. As with all applications for planning permission the required publicity is carried out in accordance with prescribed requirements as set out in The Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 11.23 It is anticipated by local residents that property prices may be affected by the development, however, this is not a material consideration to the planning assessment and cannot be attributed weight for that purpose.
- 11.24 For clarity, should the Committee be minded to support the application the extent of the development would NOT trigger the requirement to refer the matter to the Secretary of State under the terms of the Town and Country Planning (Consultation) (England) Direction 2009.

Summary

- 11.25 By virtue of the loss of openness and conflict with one of the reasons for including land in the Green Belt (encroachment) I consider the proposed development constitutes an inappropriate form of development in the Green Belt giving rise to harm to it. This harm must be attributed substantial weight. In addition, the development will give rise to an adverse impact on the character and visual quality of the locality and therefore conflict with Policies GN3 and EN2 in the WLLP. Some of this impact can be ameliorated by landscape planting and therefore limited additional weight against the development is also recognised. However, the NPPF, including section 13 relating to the Green Belt, recognises the strategic importance of sustainable transport and the significant wider environmental, social and economic benefits arising in comparison to the use of private petrol and diesel driven vehicles. Whilst the development would have an impact on the immediate locality I consider the wider benefits of sustaining and enhancing public transport provision do amount to very special circumstances and those circumstances outweigh the identified harm and therefore recommend that planning permission is granted subject to conditions.

12.0 RECOMMENDATION

- 12.1 That planning permission be **GRANTED** subject to the following conditions:

Conditions

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.
2. The development hereby approved shall be carried out in accordance with details shown on the following plans:-
Plan reference 6431454-3 Rev C received by the Local Planning Authority on 23 January 2019, 6431454-3a Rev H received 12 March 2019 and 6431454-3b Rev D received on 14 February 2019.
3. Within two months of commencement of development a landscaping scheme shall be submitted to the Local Planning Authority. The landscaping scheme shall show the

location, branch spread, and species of all existing trees and hedges; the location, species and number of all proposed trees, shrubs and hedges; and the location of all existing and proposed grassed and hard surfaced areas. Trees and shrubs planted shall comply with BS. 3936 (Specification of Nursery Stock) and shall be planted in accordance with BS. 4428 (General Landscape Operations). On approval in writing by the Local Planning Authority and within a period of 9 months from the date when any part of the development is brought into use the approved landscaping scheme shall be carried out. All planting shall be maintained and dead or dying material shall be replaced for a period of seven years from the agreed date of planting.

4. On completion of the construction of the development no permanent external lighting shall be used on the site other than sensor activated lighting with an illumination time set at less than five minutes. All external lighting shall be directed downwards so light sources are not directly visible from the adjacent highway or nearby residential properties and shall not be permitted to illuminate the adjacent railway embankment.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any subsequent Orders or statutory provision re-enacting the provisions of these Orders no additional or replacement apparatus shall be erected or undertaken on the site without the express written permission of the Local Planning Authority.
6. Within two months of the date of commencement of works a scheme for the sustainable management and disposal of surface water drainage of the site, including any necessary attenuation measures, shall be submitted to the Local Planning Authority. On approval in writing the scheme shall be implemented in full prior to first use of the transformer units and be maintained as such at all times for the duration of the development.
7. The rating level of noise emitted from the site shall not exceed 25dB(A)LAeq,15min at any time as measured or calculated at the closest building façade of any residential property on Mickering Lane, Aughton, Ormskirk. All measurements and assessments shall be done in accordance with BS 4142:2014. Details of any sound attenuation measures to achieve this standard shall be provided to and agreed in writing with the local planning authority before first use of the transformer apparatus. Any agreed sound attenuation scheme shall be provided in accordance with the approved details before the transformers become operative and shall remain in place for the duration of the development.
8. No development shall take place until a scheme of reasonable avoidance measures for the protection of Great Crested Newts has been submitted to and agreed in writing with the Local Planning Authority. The development shall be completed in accordance with the approved scheme.

Reasons

1. Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt and to ensure compliance with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
3. To assimilate the proposed development into its surroundings and to ensure that the development complies with the provisions of Policy EN2 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
4. To prevent light pollution, loss of amenity, highway safety or adverse impact on ecological interests in the locality and thereby comply with the requirements of Policies GN3 and EN2 of the West Lancashire Local Plan (2012-2027) Development Plan Document.
5. To avoid conflict with national Green Belt policy and the substantial weight attributed to its openness and permanence; and protect local residential amenity and thereby comply with policies GN1 and GN3 in the West Lancashire Local Plan (2012-2027) Development Plan Document.
6. To ensure that the site is properly drained in the interest of local amenity and that the development, therefore, complies with the provisions of Policies GN3 & IF3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

7. To safeguard the amenity of adjacent properties and the area generally and so comply with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
8. To safeguard ecological interests in the locality and so ensure that the development complies with the provisions of Policy EN2 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

Reason for Approval

1. The Local Planning Authority has considered the proposed development in the context of the Development Plan including, in particular, the following Policy/Policies in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document:

SP1 - A Sustainable Development Framework for West Lancashire

GN1 - Settlement Boundaries

GN3 - Criteria for Sustainable Development

EN2 - Preserving and Enhancing West Lancashire's Natural Environment

EN4 - Preserving and Enhancing West Lancashire's Heritage and Cultural Assets

IF2 - Enhancing Sustainable Transport Choice

IF3 - Service Accessibility and Infrastructure for Growth

together with Supplementary Planning Guidance and all relevant material considerations. Whilst the Local Planning Authority recognises that the proposal does not fully comply with Policy/Policies GN1, GN3 and EN2 in the West Lancashire Local Plan 2012-2027 DPD it feels that special circumstances exist, namely that the development will contribute to an improved and sustainable public transport system with associated environmental, social and economic benefits. It is considered that these special circumstances justify approval of the application as set out in the Officer's report. This report can be viewed or a copy provided on request to the Local Planning Authority.