

Item No. 12

APPLICATION NUMBER	CB/15/03100/FULL
LOCATION	67 and land rear of St Johns Street, Biggleswade, SG18 0BT
PROPOSAL	Remediation of the former gasworks, for the improvement of the site and to reduce potential environmental liabilities.
PARISH	Biggleswade
WARD	Biggleswade North
WARD COUNCILLORS	Cllrs Jones & Mrs Lawrence
CASE OFFICER	Mark Spragg
DATE REGISTERED	24 August 2015
EXPIRY DATE	19 October 2015
APPLICANT	National Grid Property Holdings
AGENT	Stratus Environmental Ltd
REASON FOR COMMITTEE TO DETERMINE	Cllr Tim Woodward requested that the application be called in for the following reasons: <ul style="list-style-type: none">- Plans do not show full extent of adjacent properties- Concern about wildlife on site- Trees act as a sound barrier and should remain- The site is likely to be heavily contaminated- Further information should be provided on future plans for the site- What conditions would mitigate the impact on the adjoining properties- What is the environmental impact of leaving the site as it is.
RECOMMENDED DECISION	Full Application - Recommended for Approval

Summary of Recommendation

The proposal is recommended for approval as it is considered acceptable in terms of its impact on the character and appearance of the site and its surroundings. There would be no undue impact on the amenity of the neighbouring occupiers and no highway or environmental issues. As such the proposal would be in accordance with policies CS18, DM3 and DM15 of the Core Strategy and Development Management Policies (2009), policies 43, 44, 57 and 58 of Development Strategy for Central Bedfordshire and the National Planning Policy Framework (2012).

Site Location:

The application site is a former gasworks which was operational as a processing plant between 1884 and the mid 1930's. It continued to be used for gas storage until approximately 1989, when the gas holders were removed.

The site is located adjacent to the East Coast Mainline (to the East), beyond which are light industrial uses. To the south of the site is St Johns Street and a road

bridge, with residential properties on the other side of the road. To the west of the site are the rear gardens of No's 2-12 Birch Road and 38 Willsheres Road. To the north is amenity land within Willsheres Road.

The site is accessed via an unmade access track, which also serves an existing residential property, 67 St Johns Street (owned by the applicant), and which is located within the site boundary.

The site occupies an area of approximately 0.3 hectares and apart from the access and land forming part of No.67 is overgrown. There is light vegetation cover in the south part of the site with dense vegetation and semi mature trees in the central and northern parts. Some redundant above ground gas apparatus, structures and pipe work remains within the site.

The Application:

National Grid is seeking planning permission to carry out environmental improvement/remediation works to two main areas within the site (identified on the remediation works layout drawing). The purpose of the remediation is to render the ground quality suitable for an alternative use in the future. However, the application states that permission is only being sought for the remediation and does not seek consent for any other use of the land, which would be subject to a separate planning application.

The Planning Statement sets out the scope of the works being proposed which the applicant anticipates would take approximately 5 weeks to complete. The works will include:

- Removal of skid unit. The skid unit is no longer operational and does not contain gas. Removal of this structure is to be carried out in advance of the investigation works and would be carried out with light plant equipment.
- Remediation Works (Phase 2) Excavations to allow removal of contaminated materials (Areas A and B). Areas of excavation containing treated materials to be covered with a layer of geotextile and overlain by no less than 100mm of uncontaminated stone, crushed concrete or similar.
- Stockpiles in the centre of the site to be sampled to allow disposal options to be assessed. If necessary stockpiles may be temporarily moved to other parts of the site to allow subsequent works to take place.
- Contaminated materials encountered during site works, to be assessed for removal/remediation as necessary.
- A site compound to be established in the northern part of the site which will include, offices, parking and welfare facilities.

No changes in levels are involved and following the remediation work the land would return to its natural condition.

The application is also accompanied by a Noise and Vibration Management Plan, Air Quality Management Plan, Remediation Scheme, Badger Survey, Ecological

Appraisal and a Statement of Community Involvement.

RELEVANT POLICIES:

National Planning Policy Framework (NPPF) (March 2012)

- Conserving and enhancing the Natural Environment

Core Strategy and Development Management Policies - North 2009

Policy CS18 - Biodiversity and Geological Conservation

Policy DM3 - High Quality Development

Policy DM15 - Biodiversity

Emerging Development Strategy for Central Bedfordshire 2014

Policy 43: High Quality Development

Policy 44: Protection from Environmental Pollution

Policy 57: Biodiversity and Geodiversity

Policy 58: Landscape

The draft Development Strategy was submitted to the Secretary of State on the 24th October 2014. After initial hearing sessions in 2015 the Inspector concluded that the Council had not complied with the Duty to Cooperate. The Council has launched a judicial review against the Inspectors findings and has not withdrawn the Development Strategy. The first phase of the legal challenge took place at a hearing on 16th June 2015. This was to consider whether the court would grant the Council leave to have a Judicial Review application heard in the High Court. The Judge did not support the Council's case. On the 22nd June 2015 the Council lodged an appeal against his judgement. The status of the Development Strategy currently remains as a submitted plan that has not been withdrawn. Its policies are consistent with the NPPF. Its preparation is based on substantial evidence gathered over a number of years. It is therefore regarded by the Council as a sustainable strategy which was fit for submission to the Secretary of State. Accordingly it is considered that the emerging policies carry weight in this assessment.

Relevant Planning History:

None

Consultees:

Biggleswade Town
Council

Holding objection.

The Town Council has requested that the application is called in for the following reasons:

- Plans do not show full extent of adjacent properties
- Concern about wildlife on site
- Trees act as a sound barrier and should remain.
- The site is likely to be heavily contaminated
- Further information should be provided on future plans

for the site

- What conditions would mitigate the impact on the adjoining properties.
- What is the environmental impact of leaving the site as it is.

Ecologist

I have read through the submitted Ecological Appraisal which was dated 2014, there are additional surveys to this from 2013 and a badger update in 2015. The planning statement considers the findings of these surveys and notes that the brownfield habitat on site has the potential to provide suitable habitat for common invertebrates, small mammals and reptiles. To ensure there are no detrimental impacts arising from the proposed development mitigation methods will be incorporated into the scheme. I would recommend that a condition requires works on site to be carried out in accordance with the submitted Reptile Mitigation Method Statement.

Badger evidence had been found on the site previously but a 2015 assessment confirmed the absence of badgers and use of the site by foxes. It is therefore considered that there are no constraints to the proposed works on-site from the presence of badger. However given the history of the site, and the general nature of this species, it is considered that the site should be surveyed immediately prior to works starting on-site to confirm the continued absence of this species. A condition should require the submission of the results of this survey together with any further action and mitigation required (if necessary).

The NPPF calls for development to deliver a net gain for biodiversity, whilst the works to site do constitute an environmental gain, to achieve specific gains for biodiversity it is recommended that the effect of the proposed works is minimised by retention of on-site habitats as far as possible, and by avoiding 'tidying-up' of vegetation outside working areas. Materials such as crushed or broken concrete extracted during works should be retained on-site in areas currently dominated by dense bramble, outside the working areas, in order to extend the mosaic of open habitats. Creation of rubble piles will provide microhabitats suitable for a range of invertebrates and help to retard the succession of habitats to dense scrub, thereby maintaining the open mosaic habitats of value to invertebrates and reptiles.

Pollution officer

Support the application. The findings and assumptions of the remediation scheme appears reasonable.

Trees and Landscaping	<p>The site has been previously cleared to a large extent some years ago, at present there is a significant level of scrub regrowth largely consisting of Sycamore.</p> <p>On the east boundary with the rail line there are a number of larger primarily Sycamore trees, I was unable to access the site and as such it was unclear whether the trees were within the site or on railway land. Looking at the Remediation Works Layout it would appear that the Area B shown will involve excavation works and it is possible that these works may make the trees unstable. The trees do not really afford anymore than some screening for the site and would not be likely to warrant a tree preservation order. The stability of these trees should be considered by the applicant if this application is approved.</p>
Environment Agency	Comments to be reported
Highways Officer	No objection
Network Rail	No objection subject to requirements

Other Representations:

Neighbours	<p>1 letter of objection has been received from the occupier of 6 Birch Road. The points made are summarised as follows:</p> <ul style="list-style-type: none"> - Impact on wildlife and existing trees - Loss of privacy and additional noise from trains - Noise and vibration during remedial works
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Determining Issues:

1. Principle of Development
2. The effect on the character and appearance of the area and environmental impacts
3. The impact on the residential amenity of neighbouring properties
4. Highways Matters
5. Other considerations

Considerations

- 1. Principle of Development**

1.1 The proposal does not propose any new buildings or any change of use of the land. Instead it proposes measures to remediate the land by reducing potential environmental liabilities, demolishing redundant structures and treating existing contamination.

1.2 As such, the principle of the works is considered acceptable. Any future use of the site would need to be considered on its particular merits.

2. The effect on the character and appearance of the area and environmental impacts

2.1 The proposal would include removal of some existing overgrown vegetation and the Tree Officer has confirmed that there are no trees worthy of protection on the site. The site was previously cleared of vegetation about a year ago and has now regrown again to its current state. It is intended that after completion of the remediation works the vegetation would be left to regrow again. The site will remain partly screened by trees outside the site, when viewed from St Johns Street, with all trees outside the site unaffected .

2.2 The Council's Ecologist considers that the works to the site constitute an environmental gain. However, it is recommended that a condition be imposed requiring works on site to be carried out in accordance with the submitted Reptile Mitigation Method Statement. The Ecologist also recommends that a further badger survey is carried out immediately prior to works starting on-site to confirm the continued absence of the species.

2.3 In summary, it is considered that the proposed remediation of the land would be environmentally beneficial to the locality and would enable the sustainable reuse of land within the settlement envelope, subject to the merits of any future proposal.

3. Impact on the residential amenity of neighbouring properties

3.1 The site currently provides a barrier between the railway line and houses in Birch Road and Willsheres Road. However, it is private land and none of the trees within it are considered worthy of protection. Remediation of the site is considered to represent a long term benefit to the occupants of the other adjoining properties.

3.2 The application includes details of remediation control measures to minimise any impact in terms of noise and on the occupiers of neighbouring properties. The supporting Noise and Vibration Management Plan and an Air Quality Management Plan both seek to mitigate and manage amenity issues. The Council's Control of Pollution Officer supports the proposal and considers the submitted Remediation Method Scheme to be acceptable.

3.3 Whilst comment has been made about the detail of adjacent properties shown on the submitted plans a site visit has been carried out and it is considered that there is sufficient detail submitted with the application to adequately assess the implications of this proposal.

3.4 On the basis of the above it is not considered that any undue loss of privacy or amenity would result to any neighbouring properties, subject to the

implementation of the works in accordance with the submitted details.

4. Highway Matters

- 4.1 It is not considered that any highway implications arise from the proposals, which would generate minor traffic movements only during the remediation works. The planning statement explains that the majority of traffic movements will be associated with the mobilisation and demobilisation of plant and equipment at the commencement and cessation of the remedial works. Where possible contaminant soils which have been treated for use will be used as "clean" backfill material on the site. This will minimise the amount of material required to be exported offsite for disposal or imported for backfill purposes, thereby reducing traffic movements. A gateman will be employed by the remediation contractor to control traffic ingress and egress from the site, which would be from the existing access on St John's Street. The Highways Officer has raised no objection to the proposals. However, highway implications in respect of a future use of the site would need to be assessed accordingly.

5. Other Considerations

- 5.1 Human Rights issues: There are no human rights issues associated with this application.
- 5.2 Equality Act 2010: The proposal raises no Equality issues

Recommendation:

The application is recommended for approval subject to the following:

RECOMMENDED CONDITIONS / REASONS

- 1 The development hereby permitted shall begin not later than three years from the date of this permission.
- Reason: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 All work carried out on site shall be carried out in accordance with the submitted Reptile Mitigation Method Statement. The site shall be surveyed immediately prior to works commencing to confirm the continued absence of Badgers at the site. The results of this survey together with any further action and mitigation required shall be submitted to the Local Planning Authority for approval before any works commence. Any works shall be carried out in accordance with the agreed details.
- Reason: In the interests of any protected species. (Policy 57, DSCB)
- 3 The works hereby approved shall be carried out in accordance with the

details submitted in the Remediation Scheme, Air Quality Management Plan and the Noise and Vibration Management Plan.

Reason: To ensure appropriate remediation, and in the interests of the amenity of the surrounding area and neighbouring properties.
(Policy 57, DSCB)

- 4 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers SS1031/1/01, 02, 03, 04, 5819-E-01-RevA, Remediation Scheme (Sirius), Air Quality Management Plan (Stratus), Noise and Vibration Management Plan (Stratus)

Reason: To identify the approved plan/s and to avoid doubt.

Notes to Applicant

1. It is recommended that in order protect on-site habitats as far as possible, the 'tidying-up' of vegetation outside working areas should be avoided. Materials such as crushed or broken concrete extracted during works should be retained on-site in areas currently dominated by dense bramble, outside the working areas, in order to extend the mosaic of open habitats. Creation of rubble piles will provide microhabitats suitable for a range of invertebrates and help to retard the succession of habitats to dense scrub, thereby maintaining the open mosaic habitats of value to invertebrates and reptiles.

2. **Fail Safe Use of Crane and Plant**

All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.

3. **Excavations/Earthworks**

All excavations/ earthworks carried out in the vicinity of Network Rail property/ structures must be designed and executed such that no interference with the integrity of that property/ structure can occur. If temporary works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Project Manager should be undertaken. Network Rail will not accept any liability for any settlement, disturbance or damage caused to any development by

failure of the railway infrastructure nor for any noise or vibration arising from the normal use and/or maintenance of the operational railway. No right of support is given or can be claimed from Network Rail's infrastructure or railway land.

4. **Security of Mutual Boundary**

Security of the railway boundary will need to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Project Manager.

5. **Fencing**

Because of the nature of the proposed developments we consider that there will be an increased risk of trespass onto the railway. The Developer must provide a suitable trespass proof fence adjacent to Network Rail's boundary (minimum approx. 1.8m high) and make provision for its future maintenance and renewal. Network Rail's existing fencing / wall must not be removed or damaged.

6. **Method Statements/Fail Safe/Possessions**

Method statements may require to be submitted to Network Rail's Asset Protection Project Manager at the below address for approval prior to works commencing on site. This should include an outline of the proposed method of construction, risk assessment in relation to the railway and construction traffic management plan. Where appropriate an asset protection agreement will have to be entered into. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. "possession" which must be booked via Network Rail's Asset Protection Project Manager and are subject to a minimum prior notice period for booking of 20 weeks. Generally if excavations/piling/buildings are to be located within 10m of the railway boundary a method statement should be submitted for NR approval.

The method statement will need to be agreed with:

Asset Protection Project Manager
Network Rail (London North Eastern)
Floor 2A
George Stephenson House
Toft Green
York
YO1 6JT

Email: assetprotectionlneem@networkrail.co.uk

7. **OPE**

Once planning permission has been granted and at least six weeks prior to works commencing on site the Asset Protection Project Manager (OPE) MUST be contacted, contact details as below. The OPE will require to see any method statements/drawings relating to any excavation, drainage, demolition, lighting and building work or any works to be carried out on site that may affect the safety, operation, integrity and access to the railway.

8. **Demolition**

Any demolition or refurbishment works must not be carried out on the development site that may endanger the safe operation of the railway, or the stability of the adjoining Network Rail structures. The demolition of buildings or other structures near to the operational railway infrastructure must be carried out in accordance with an agreed method statement. Approval of the method statement must be obtained from Network Rail's Asset Protection Project Manager before the development can commence.

9. **Vibro-impact Machinery**

Where vibro-compaction machinery is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement

10. **Abnormal Loads**

From the information supplied, it is not clear if any abnormal loads will be using routes that include any Network Rail assets (e.g. bridges, in particular the adjacent St Johns Street bridge over the railway). We would have serious reservations if during the construction or operation of the site, abnormal loads will use routes that include Network Rail assets. Network Rail would request that the applicant contact our Asset Protection Project Manager to confirm that any proposed route is viable and to agree a strategy to protect our asset(s) from any potential damage caused by abnormal loads. I would also like to advise that where any damage, injury or delay to the rail network is caused by an abnormal load (related to the application site), the applicant or developer will incur full liability.

11. **Encroachment**

The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail and its infrastructure or undermine or damage or adversely affect any railway land and structures. There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail air-space and no encroachment of foundations onto Network Rail land and soil. There must be no physical encroachment of any foundations onto Network Rail land. Any future maintenance must be conducted solely within the applicant's land ownership. Should the applicant require access to Network Rail land then they must seek approval from the Network Rail Asset Protection Team. Any unauthorised access to Network Rail land or air-space is an act of trespass and we would remind the council that this is a criminal offence (s55 British Transport Commission Act 1949). Should the applicant be granted access to Network Rail land then they will be liable for all costs incurred in facilitating the proposal.

12. **Lighting**

Where new lighting is to be erected (for example temporary lighting to help facilitate works) adjacent to the operational railway the potential for train drivers to be dazzled must be eliminated. In addition the location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. Detail of any external lighting should be provided as a condition if not already indicated on the application.

13. **Heaping, Dust and Litter**

It should be noted that because of the nature of the proposals we would not want to see materials piled against our boundary. Items to be heaped on site should be kept away from the boundary an equal distance as the pile is high to avoid the risk of toppling and damaging or breaching our boundary. We also have concerns over the potential for dust clouds and rubbish created from the processing at the site affecting the railway signal sighting. Therefore adequate measures for preventing dust and rubbish blowing onto Network Rail property are to be in operation.

14. The applicant is advised that parking for contractor's vehicles and the storage of materials associated with this development must take place within the site and not extend into within the public highway at any time without authorisation from the highway authority. Under the provisions of the Highways Act 1980 the developer may be liable for any damage caused to the public highway as a result of traffic movements associated with implementation of the development hereby approved.

Statement required by the Town and Country Planning (Development Management Procedure) (England) Order 2015 - Part 5, Article 35

This application has been recommended for approval. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Council has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.