

## **APPLICATION REPORT – 21/00208/FULMAJ**

**Validation Date: 23 February 2021**

**Ward: Heath Charnock And Rivington**

**Type of Application: Major Full Planning**

**Proposal: Formation of temporary vehicular access from Chorley Road (A673) and erection of temporary compound to facilitate ground stabilisation and remedial works to support operational railway line**

**Location: Railway Bridge Chorley Road Heath Charnock**

**Case Officer: Chris Smith**

**Applicant: Network Rail**

**Agent: Mr Michael Gradwell, Network Rail**

**Consultation expiry: 19 March 2021**

**Decision due by: 18 June 2021 (extension of time agreed)**

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### **RECOMMENDATION**

1. It is recommended that planning permission is granted subject to conditions.

### **SITE DESCRIPTION**

2. The site comprises five parcels of land located on both sides of the A673 Chorley Road, several of which sit directly alongside the operational railway line which runs underneath the A673 railway bridge. These areas are shown as Areas A, B, C, D and E on the submitted plans, some of which are located in the Green Belt with a small part of the site is located within the settlement boundary of Adlington.
3. Areas A and B are open areas of land located on the eastern side of the highway and areas C, D and E are located to the west of the highway. Area D is an elongated strip of land located directly along the railway line. The character of the immediate locality is relatively mixed with open land to the north, residential properties located in the Adlington settlement area to the south and a small row of semi-detached properties to the east at The Green.

### **DESCRIPTION OF PROPOSED DEVELOPMENT**

4. The application seeks planning permission for the formation of a new temporary vehicular access from the A673 Chorley Road and the erection of a temporary works compound. This would be located within Area B to the east of the highway on an undeveloped plot of land adjacent to The Green. The compound would store plant and machinery to be used for ground stabilisation and remedial works which are required to support the operational railway line.
5. Remedial works consist of the back filling of mine workings and shafts which were discovered during recent railway electrification works. The remediation works would be achieved through a process of drilling and grouting of the mine workings.

## REPRESENTATIONS

6. No representations have been received.

## CONSULTATIONS

7. Greater Manchester Ecology Unit (GMEU) – Recommend conditions.
8. Chorley Council's Environmental Health Officer – Have confirmed that they have no objections and have confirmed that the environmental management plan submitted with the application is acceptable.
9. United Utilities (UU) – Have not raised any objections to the proposed development.
10. Heath Charnock Parish Council – Have confirmed that they have no objections to the proposed development.
11. Lancashire County Council Highways Services (LCC Highways) – Have no objections.
12. The Coal Authority – Have stated that the information provided indicates that the applicant is aware of the coal mining legacy present and the risks posed and will take account of these during the works carried out. They confirmed that they have no objections to the proposed development.
13. Chorley Council's Waste & Contaminated Land Officer – Have confirmed that they have no comments to make.
14. Lead Local Flood Authority (LLFA) – No comments have been received.
15. British Telecommunications Open Reach – No comments have been received.
16. Environment Agency – Have stated that whilst they do not have any objections to the proposed development, consideration should be given to the potential for a permit to cover the grouting process.

## PLANNING CONSIDERATIONS

### Principle of the development

17. Area C located within the southern portion of the site would be used to enable plant and machinery to access the working areas adjacent to the railway line. This part of the application site is located in the settlement area of Adlington. Policy V2 of the Chorley Local Plan 2012 - 2026 states that within the settlement areas excluded from the Green Belt, and identified on the Policies Map, there is a presumption in favour of appropriate sustainable development.
18. The principle of this part of the proposed development is, therefore, considered to be an acceptable one, subject to material planning considerations.
19. All other parts of the application site are located in the Green Belt. National guidance on Green Belt is contained in Chapter 13 of the Framework which states:

*133. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.*

*134. Green Belt serves five purposes:*

- a) to check the unrestricted sprawl of large built-up areas;*
- b) to prevent neighbouring towns merging into one another;*
- c) to assist in safeguarding the countryside from encroachment;*
- d) to preserve the setting and special character of historic towns; and*

*e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.*

*143. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.*

*144. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. '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 other considerations.*

*146. Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. This includes:*

*a) mineral extraction;*

*b) engineering operations.*

*c) local transport infrastructure which can demonstrate a requirement for a Green Belt location.*

*d) the re-use of buildings provided that the buildings are of permanent and substantial construction;*

*e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and*

*f) development brought forward under a Community Right to Build Order or Neighbourhood Development Order.*

20. The proposed compound would be a material change in the use of land in accordance with paragraph 146(e) of the Framework and the temporary site access and remedial works are considered to be engineering operations in accordance with paragraph 146b). Material changes of use and engineering operations are not necessarily inappropriate development within Green Belt locations providing that they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt.
21. As such there are two considerations in respect of the proposal and the appropriateness of the development in the Green Belt as follows:
- 1. Would the development preserve the openness of the Green Belt?*
  - 2. Would the development conflict with the purposes of including land in the Green Belt?*
22. The proposed compound would be built within Area B which is currently an area of open undeveloped land with no perimeter fencing or existing structures. The proposed development would enclose this land with approximately 2m high metal mesh fencing with the resultant compound accommodating plant and machinery to be used for the proposed remediation works. Whilst there is no formal definition of 'openness' the use of the land for the purposes described would not preserve the openness of the Green Belt as the site would change from an open area of land to an enclosed area containing plant and machinery.
23. The compound could also be made available for the storage of any materials, equipment or other paraphernalia in an unrestricted way that would have a spatial impact on the openness of the Green Belt. Visually, the site is open and not screened from the adjacent public highway. As such, it is considered that there would be both a spatial impact on openness and a visual impact. Consequently, it is considered that there would be a greater impact on the openness of the Green Belt and that the proposed development would not preserve the openness of the Green Belt. Substantial weight should be attached to the harm by reason of inappropriateness as set out at paragraph 144 of the Framework.
24. The proposed temporary site access from the A673 would be surface level development which would effectively preserve the openness of the Green Belt. Earthwork operations would create a land platform alongside the western side of the railway line to accommodate

drilling rigs. This, however, would be viewed within the context of the existing railway line cutting where land levels slope down steeply towards the railway line and the platform would be barely discernible from the nearest public vantage points located along the A673. It would, therefore, have limited impact on the openness of the Green Belt in both spatial and visual terms. The proposed remedial and ground stabilisation works would be surface level operations which would have limited impact on the openness of the Green Belt in both spatial and visual terms.

25. Given that it has been established, that the proposed compound is inappropriate development in the Green Belt, which would result in definitional harm to the Green Belt, any other harm caused by the development must also be considered and added to the definitional harm.
26. There are five purposes of the Green Belt as set out above.
27. Considering each in turn:
28. Purpose 1 (to check the unrestricted sprawl of large built-up areas)  
The application site is located in a rural area which is located away from large built up areas. It is not considered, therefore, that the application proposal represents unrestricted urban sprawl of a large built-up area.
29. Purpose 2 (to prevent neighbouring towns merging into one another)  
The proposed development would not result in neighbouring towns merging into one another.
30. Purpose 3 (to assist in safeguarding the countryside from encroachment)  
The proposed earthworks and remedial operations along the side of the railway line would not extend beyond the developed area of the existing railway verge and, therefore, no encroachment would occur. Whilst the immediate locality is best described as being rural in character with open fields to the north east and built residential development to the south, the site of the proposed compound is effectively a small existing open parcel of undeveloped land which is seen within the context of the open countryside to the north east. It is considered, therefore, that the proposed compound would introduce an intrusion of urban development into Green Belt countryside, and along with the repeated encroachments of vehicles passing to and from the compound, the cumulative impact of the proposed compound and access would result in a harmful encroachment into the Green Belt, when considered in relation to the previously existing open field.
31. Purpose 4 (preserve the setting and special character of historic towns)  
The site is not located within or near to a historic town, and the proposed building would not be located within the setting of any listed buildings.
32. Purpose 5 (to assist in urban regeneration by encouraging the recycling of derelict and other urban land)  
There would be no material impact on this purpose.
33. Overall, it is considered that the proposed development would result in inappropriate development in the Green Belt as it would not preserve openness and would result in other harm through encroachment, albeit on a temporary basis. Such development should not be approved except in 'Very Special Circumstances', which 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 other considerations.
34. The proposed remediation works are estimated to run for approximately 6 months and the vehicle access and storage compound required to facilitate the works would, therefore, be in-situ for a temporary period of time. The proposed works would involve the grouting of former mine workings in order to support the adjacent operational railway line. It is noted that Policy 3 of The Central Lancashire Core Strategy 2012 sets out strategic objectives relating to sustainable travel and seeks to manage car use in order to reduce congestion. It

aims to promote more sustainable modes of public transport including rail travel and it is considered, therefore, that by supporting the operational railway as an alternative mode of sustainable public transport, the proposed development would accord with the aims and objectives of the Core Strategy. Furthermore, it is noted that the proposed works are essential to the continued function and operation of the Manchester to Preston mainline railway which is part of the national rail network and is, therefore, a nationally important element of transport infrastructure.

35. The temporary nature of the proposed development, its role in supporting the use of sustainable public transport and the continued function of nationally important infrastructure are considered to constitute very special circumstances in this case, sufficient to outweigh the definitional harm to Green Belt and the other harm through encroachment.

#### Design and impact on the character and appearance of the immediate locality

36. *Policy BNE1 of the Chorley Local Plan 2012 – 2026 states that planning permission will be granted for new development, provided that the proposal does not have a significantly detrimental impact on the surrounding area by virtue of its density, siting, layout, building to plot ratio, height, scale and massing, design, orientation and use of materials.*
37. It is acknowledged that the proposed access and compound would be visible within the adjacent streetscenes and in particular from public vantage points located along the A673. However, the immediate locality contains existing built development of functional appearance including the railway bridge itself and metal palisade fencing which delineates the operational railway land from adjoining public footpaths. The proposed compound would be enclosed by approximately 2m high metal mesh fencing and whilst this would contrast with the more rural characteristics of the immediate locality evident to the north east of the site, it would be seen within the context of the existing railway bridge and other functional development. Furthermore, given that the development would only be required for a limited period of time for the duration of the remedial works, any visual impacts would be temporary and limited.
38. The proposed remedial works would be located away from the public highway and the public vantage points located there and would not, therefore, have any significant or adverse impacts upon the character and appearance of the immediate locality.

#### Impact on neighbour amenity

39. *Policy BNE1 of the Chorley Local Plan 2012 – 2026 states that planning permission will be granted for new development, including extensions, conversions and free standing structures, provided that, the development would not cause harm to any neighbouring property by virtue of overlooking, overshadowing or by creating overbearing impacts.*
39. The proposed compound would be located approximately 35m to the north of the neighbouring residential property at no. 169 Chorley Road and approximately 45m to the west of the neighbouring properties located at The Green. It is considered that these degrees of separation would be adequate to ensure that there would be no unacceptable adverse impacts upon the levels of amenity currently enjoyed by the occupiers of these neighbouring properties. Furthermore, the compound would also be very well screened from these neighbouring residential properties by an area of dense and mature woodland which flanks the site to the east and south.
40. The nearest neighbouring residential properties to the proposed remedial works along the operational railway line would be located to south at the residential cul-de-sac 'The Asshaves'. However, given that the remedial works would be time limited, any impacts on neighbouring amenity would also be temporary and limited.

#### Highway safety

41. *Policy BNE1 of the Chorley Local Plan 2012-2026 states that developments must not cause severe residual cumulative highways impact or prejudice highway safety, pedestrian safety, the free flow of traffic, or reduce the number of on-site parking spaces.*

42. The proposed development would involve the creation of a new vehicle access from the A673 to the proposed compound. All other areas of the site would be accessed from the highway utilising existing vehicle access points. It is acknowledged, therefore, that there would be an increase in the amount and intensity of vehicle traffic within the immediate locality for the duration of the remedial works. However, this would be for a temporary period of time and LCC Highways have stated that they do not have any objections to the proposed formation of temporary vehicular access from Chorley Road (A673) and erection of temporary compound, and are of the opinion that the proposed development would not have a significant impact on highway safety, capacity or amenity in the immediate vicinity of the site.

#### Ecology

43. *Policy BNE9 of the Chorley Local Plan 2012-2026 sets out how development should safeguard biodiversity. Any adverse impacts on biodiversity should be avoided, and if unavoidable should be reduced or appropriately mitigated and/or compensated.*
44. *Policy BNE11 of the Chorley Local Plan 2012-2026 states that planning permission will not be granted for development which would have an adverse effect on a priority species, unless the benefits of the development outweigh the need to maintain the population of the species in situ.*
45. The application has been supported by the provision of a Preliminary Ecological Report prepared by NLG Ecology Ltd (dated May 2020). Following their initial review of this report, the Council's appointed ecological consultants, the Greater Manchester Ecology Unit (GMEU) stated that the survey and report have been undertaken by suitably qualified ecologists following best practice guidelines, however, they were limited by the access they had to the site and the lack of details on the scheme they had when undertaking the survey meant it was not possible to fully assess the impact of the proposed development on protected priority habitats and species. GMEU, therefore, recommended that the ecology survey should be updated, and a full ecological assessment carried out.
46. An updated Preliminary Ecological Report prepared by NLG Ecology Ltd (dated May 2021) was subsequently provided, and the survey work included areas which were previously inaccessible. However, GMEU note that the entire area of the site was still not accessed and, therefore, there remains a degree of uncertainty regarding the amount of vegetation work and habitat removal that would be required during the works. Notwithstanding this, GMEU advise that given the difficulties of accessing railway land and that there are certain aspects of the work that would only become known once the development is underway, it is reasonable to accept the findings of the survey, however, planning conditions should be imposed to ensure that any further necessary survey work in relation to protected and invasive species is carried out prior to commencement of works. They also state that further assurances regarding adequate compensation for the loss of any priority habitats and biodiversity value of the site are also required.
47. In relation to bats GMEU advise that if any works or vegetation removal is required within Area C (as shown in the Preliminary Ecological Report) an ecological survey of the area would be required prior to commencement of the works which would need to include an assessment of the bat roost potential of any trees proposed for removal, and further survey work. Any necessary mitigation and compensation measures highlighted as a result of this survey work should also be accommodated. They also state that several trees were identified as having moderate bat roost potential within Area D (shown as trees TN10 and TN10 in the Preliminary Ecological Report) and they should be protected by a 5 metre buffer should be works be carried out in close proximity to them and if any works to the trees are carried out, it should not be undertaken without further bat survey work. GMEU also advise that trees identified as having low bat roost potential should only be felled in accordance with the method statement included in the Preliminary Ecological Report.
48. With regards to nesting birds, GMEU state that no vegetation removal should be undertaken in the bird nesting season (March to August inclusive) unless it can be otherwise

demonstrated that no active nests are present. They also state that no other protected species were recorded on the site, but the habitat is suitable for species such as badger, hedgehog and amphibians/reptiles and, therefore, work should be undertaken in line with working practices outlined in the Preliminary Ecological Report. Furthermore, the Preliminary Ecological Report also recorded the presence of Himalayan balsam on the site and, therefore, works should be carried out in accordance with the biosecurity measures identified in the report.

49. GMEU also state that a biodiversity metric used to assess the impact on habits is based on a worst-case scenario as the extent of the work is unknown. They advise that works to priority habitats (such as woodland and hedgerows) is avoided and these habitats are retained and adequately protected, however, where this cannot be accommodated adequate mitigation and compensation would be required. Furthermore, the Preliminary Ecological Report recommends replacement planting on a minimum of a two to one basis and GMEU requested that Network Rail provide confirmation that this commitment can be accommodated. Network Rail have provided written confirmation that this mitigation can be achieved.

#### Trees

50. A number of trees protected by Tree Preservation Order no. 6 (Heath Charnock) 2012 are located within the southern part of the site (Area C). The trees are located directly adjacent to an existing area of hardstanding, however, the applicant has confirmed that this part of the site would only be utilised for access purposes and no tree works or felling would be required.

#### **CONCLUSION**

51. The proposed development is inappropriate development in the Green Belt and is, therefore, harmful by definition and there would be other harm through encroachment. However, in this case it is considered that the resultant harm is outweighed by the very special circumstances advanced by the applicant.
52. The proposed development would not have an unacceptable adverse impact on the character and appearance of the surrounding area, nor would it cause any significant harm to the amenity of neighbouring residents, highway safety, ecology or trees. It is, therefore, considered that the development accords with policies BNE1, BNE9 and BNE11 of the Chorley Local Plan 2012 – 2026. Consequently, it is recommended that the application is approved.

**RELEVANT POLICIES:** In accordance with s.38 (6) Planning and Compulsory Purchase Act (2004), the application is to be determined in accordance with the development plan (the Central Lancashire Core Strategy, the Adopted Chorley Local Plan 2012-2026 and adopted Supplementary Planning Guidance), unless material considerations indicate otherwise. Consideration of the proposal has had regard to guidance contained within the National Planning Policy Framework (the Framework) and the development plan. The specific policies/guidance considerations are contained within the body of the report.

#### **RELEVANT HISTORY OF THE SITE**

**Ref:** 76/00618/OUT                      **Decision:** REFOPP                      **Decision Date:** 14 September 1976  
**Description:** Outline application for 6 detached houses

**Ref:** 12/00330/ACT                      **Decision:** WDN                      **Decision Date:** 8 May 2012  
**Description:** Prior notification of alterations to the existing bridge (permitted development under Part 11 Class A of Schedule 2 of the Town and County Planning (General Permitted Development) Order 1995.)

**Ref:** 13/01169/PNOT                      **Decision:** PAAPP                      **Decision Date:** 11 February 2014  
**Description:** Proposed reconstruction of bridge

### Suggested conditions

1. The development hereby permitted shall be carried out in accordance with the approved plans below:

<b>Title</b>	<b>Plan Ref</b>	<b>Received On</b>
LOCATION PLAN	7618719-B	23 February 2021
SETTING OUT INFORMATION FOR FORMATION LEVEL	GM11119-004 REV B	23 February 2021
GENERAL ARRANGEMENT	GM11119-006 REV C	23 February 2021
SETTING OUT INFORMATION PROPOSED DITCH	GM11119-005 REV B	23 February 2021
PROPOSED COMPOUND BELLMOUTH DETAILS	1002-000365-JMS-XX-XX-DR-C-0002	23 February 2021
PROPOSED COMPOUND BELLMOUTH GENERAL ARRANGEMENT	1002-000xxx-JMS-XX-XX-DR-C-0001	23 February 2021
PROPOSED BENCH CONSTRUCTION DETAILS	GM11119-003 REV E	23 February 2021
PROPOSED COMPOUND BELLMOUTH DETAILS	1002-000365-JMS-XX-XX-DR-C-0002	23 February 2021
CROSS SECTIONS AT RESTORATION LEVEL	GM11119-007 REV C	23 February 2021
CROSS SECTIONS AT FORMATION LEVEL	GM11119-002 REV C	23 February 2021

*Reason: For the avoidance of doubt and in the interests of proper planning.*

2. This permission shall expire 12 months from the date of this permission and following this the use of the site shall have been discontinued and the land restored to its previous state in all respects and any plant, material or equipment associated therewith shall be removed.

*Reason: To reserve to the Local Planning Authority control over the long-term use of the land, as the use may be inappropriate to the locality on a permanent basis.*

3. If any works or vegetation removal is required in Area C as labelled in the 'Preliminary Ecological Report V2 May 2021' carried out by NLG Ecology Ltd, received on 18th May 2021, an ecological survey of the area will be required prior to commencement of the works, which will need to include an assessment of the bat roost potential on any trees proposed for removal, and further survey work.

*Reason: To ensure that habitats are suitably protected at all times during any works on site.*

4. Trees identified as having moderate bat roost potential labelled as TN10 and TN11 within Area D in the 'Preliminary Ecological Report V2 May 2021' carried out by NLG Ecology Ltd, received on 18th May 2021, shall be retained and protected by a 5m buffer if work is proposed in close proximity to them. If any work to these trees is proposed, it should not be undertaken without further bat survey work as per section 4.2.7 of the Preliminary Ecological Report.

*Reason: To ensure that habitats are suitably protected at all times during any works on site*

5. Any trees identified as having low bat roost potential, should only be felled in line with the method statement detailed in section 4.2.8 of the 'Preliminary Ecological Report V2 May 2021' carried out by NLG Ecology Ltd, received on 18th May 2021 and any other tree work should be undertaken in line with the recommendations of sections 4.2.9 to 4.2.11 of the Preliminary Ecological Report.

*Reason: To ensure that habitats are suitably protected at all times during any works on site.*

6. No works to trees or shrubs shall occur between the 1st March and 31st August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance and written confirmation provided that no active bird nests are present which has been agreed in writing by the Local Planning Authority.

*Reason: Wild birds and their eggs are protected under Part 1 of the Wildlife and Countryside Act 1981, which makes it illegal to kill or injure a bird and destroy its eggs or its nest whilst it is in use of being built*

7. Work should be undertaken in line with working practices outlined in sections 4.2.14 to 4.2.24 inclusive of the 'Preliminary Ecological Report V2 May 2021' carried out by NLG Ecology Ltd, received on 18th May 2021. If at any time any protected species are suspected of being present on the site, work should cease immediately, and an ecologist contacted.

*Reason: To safeguard protected species.*

8. Himalayan balsam is present on the site and work should therefore be carried out in accordance with the biosecurity measures identified in section 4.2.5 and appendix D of the 'Preliminary Ecological Report V2 May 2021' carried out by NLG Ecology Ltd, received on 18th May 2021, to prevent the spread of this species.

*Reason: Himalayan balsam is present on the site. It is illegal to cause the species to spread in the wild*