

ITEM NO:	<u>Location:</u>	Land at Stotfold Road, Hitchin
	<u>Applicant:</u>	Network Rail Infrastructure Ltd
	<u>Proposal:</u>	Certificate of Appropriate Alternative Development - Confirmation that there is no class of development appropriate for the land unless acquired by Network Rail Infrastructure Ltd
	<u>Ref. No:</u>	17/00743/ 1
	<u>Officer:</u>	Tom Rea

Date of expiry of statutory period: 25 April 2017

Reason for Delay (if applicable)

Extension of time agreed until 26th May 2017

Reason for Referral to Committee (if applicable)

This application is required to be determined by the Council's Planning Control Committee under paragraph 8.4.5 (f) of Section 8 of the Constitution.

1.0 Relevant History

- 1.1 Construction of a 2.26km length railway off the East Coast Main Line (ECML) at Hitchin on the north and north east side of Hitchin Industrial estate west of Stotfold Road. Approved by the Secretary of State for Transport under a Transport and Works Order (TWA/09/APP/05) on 31st March 2011. (NHDC Ref: 09/01840/1SU).

2.0 Policies

2.1 North Hertfordshire District Local Plan No.2 with Alterations (Saved Policies)

Policy 2 - Green Belt.

Policy 55 - Car Parking Standards.

Supplementary Planning Documents.

Vehicle Parking Provision at New Development SPD.

2.2 National Planning Policy Framework

Section 1 - Building a strong, competitive economy.

Section 3 - Supporting a prosperous rural economy.

Section 4 - Promoting sustainable transport.

Section 9 - Protecting Green Belt land

Section 11 - Conserving and enhancing the natural environment.

2.3 North Hertfordshire District Local Plan 2011-2031 Proposed Submission

Policy SP1 'Sustainable Development in North Hertfordshire'

Policy SP7 'Infrastructure requirements and developer contributions'

Policy T1 'Assessment of transport matters'

Policy D1 'Design and Sustainability'

Policy NE7 'Reducing Flood Risk'

Policy NE8 Sustainable Drainage Systems'

Public consultation on The Proposed Submission Draft Local Plan has been completed and the consultation responses published. The Council has approved the Plan for submission to the Secretary of State for the Environment at a meeting of Full Council on 11 April 2017.

3.0 Representations

3.1 **Site Notice:** No representations received

4.0 Planning Considerations

4.1 Site & Surroundings

4.1.1 The application site comprises of a section of the north east bound Hitchin to Cambridge branch railway line. The rail line is single track and constructed on an earth bund immediately to the east of the Hitchin Employment Area (HE1). At its eastern end the line links into the existing south west bound part of the railway close to the rail bridge over Stotfold Road. The site includes an access off Stotfold Road and a fenced off maintenance area and associated car park.

The railway forming part of the site was constructed in 2011/ 2012 under a Transport and Works Order granted by the Secretary of State for Transport in March 2011 (see history above).

The whole of the application area is within the Green Belt.

4.2 Proposal

4.2.1 This application seeks a Certificate of an Appropriate Alternative Development under Section 17 of the Land Compensation Act 1961 (as amended). Section 17 Certificates are a tool for assessing the level of compensation due following the compulsory acquisition of land. The amended Section 17 provides for the Planning Authority to issue a certificate in respect of the subject land to confirm the LPA's view that either an alternative form of development could be considered appropriate (a positive certificate) , or inappropriate (a negative certificate).

4.2.2 In this case the land edged red on the submitted certificate application has been acquired by Network Rail for the construction of the Hitchin Rail curve - a project now completed and operational. The application is submitted for and on behalf of Network Rail Infrastructure asking the LPA to confirm their view that there would have been no class of development now or in the future appropriate for the land had it not been acquired by Network Rail.

4.2.3 The application states the grounds for the applicant holding the above opinion are as follows:

- the land is not identified for development either in the adopted local plan or Proposed Submission Local Plan.
- the land is not identified for development in the December 2014 Preferred Options consultation paper or 2015 new sites paper
- the land is within the Green Belt

4.3 Key Issues

4.3.1 As noted above, this application is not a planning application. However, it is necessary to consider the applicants assertion that the land the subject of this certificate has no class of development that would be appropriate, were it not acquired by Network Rail.

- 4.3.2 The applicant had acquired temporary possession of the land through the Transport and Works Order process and completed the necessary rail infrastructure development and therefore consideration of this certificate must be on the basis of the finished project and the status of the land at present and in the future.
- 4.3.3 The application site is located within the Green Belt and therefore the presumption in favour of granting planning permission for development as set out in paragraph 14 of the NPPF does not apply having regard to footnote 9 of that paragraph. Development in the Green Belt is restricted so there are few classes of development that would be appropriate for the land edged red submitted with this certificate. The potential uses for the land are considered as follows:
- 4.3.4 Agricultural use
The rail curve bisected an agricultural field leaving a small field to the south of the railway. The rail embankment has a vehicular underpass through it (maximum height 4.4 metres) and this allows for continued agricultural use and this is the case today with the field being used for an arable crop as part of the larger agricultural holding to the north of the curve. There has been a loss of some agricultural land but this has not fundamentally affected the agricultural use of the wider area of land. I do not consider that the loss of the agricultural land to be significant.
- 4.3.5 Leisure use
Footpath 89 which links the Hitchin Industrial estate with Stotfold Road has been maintained. Although slightly diverted from its original route an underpass through the rail curve facilitates continued use of the footpath. Other than the footpath it is doubtful whether the land could have been used for any other leisure use given its isolation and detachment from the urban area and difficulty of vehicular access.
- 4.3.6 Alternative access to / from Hitchin Employment site
The rail curve effectively blocks any future alternative access for HGV's accessing or egressing the Hitchin Employment area. The underpass is too low and too narrow for most commercial vehicles. However there is no planning permission for such an access road and no mention is made of the potential alternative access road in the adopted Hitchin Urban Transport Plan (2011). In addition there is no land allocated or safeguarded for an access road in the Proposed Submission Local Plan. Furthermore the access road and its associated infrastructure would be likely to be deemed inappropriate development in the Green Belt. I consider therefore that the alternative use of the rail land as forming part of an alternative employment land access road is too remote a possibility as an alternative land use to attribute any significant weight in planning terms.
- 4.3.7 Having regard to the above the only potential use of the land the subject of this application prior to the construction of the rail curve would have been for agriculture however the agricultural use of the land north and south of the rail curve has been maintained. In any event agriculture is not defined in any use class in the Use Classes Order being a sui -generis use. It is unlikely that the land would be used in the future for agriculture given the topography of the land now and the permanency of the infrastructure.

I consider that the agricultural factor should be accorded very limited negative weight in the planning balance.

- 4.3.8 The Secretary of State for Transport in granting a Transport and Works Order for the construction of the rail curve in 2011 placed substantial weight on the public benefits of the development and its importance as part of the national rail infrastructure. This factor should be given significant positive weight in the planning balance.

4.4 Conclusion

- 4.4.1 I consider that having regard to the above factors it is evident that there is no alternative appropriate class of development for the land edged red in this application were it not acquired by Network Rail Infrastructure Limited. Accordingly, the requested application for a Certificate of Appropriate Alternative Development should be granted.

5.0 Legal Implications

- 5.1 In making decisions on applications submitted under the Town and Country Planning legislation, the Council is required to have regard to the provisions of the development plan and to any other material considerations. The decision must be in accordance with the plan unless the material considerations indicate otherwise. Where the decision is to refuse or restrictive conditions are attached, the applicant has a right of appeal against the decision.

6.0 Recommendation

- 6.1 That a Certificate of Appropriate Alternative Development be Granted.