



Officer Report

Application Number:	HGY/2026/1854
Application Type:	Lawful development: Proposed use
Address:	Ventilation Shaft Compound, Colina Road, London, N8 0RA
Proposal:	Certificate of Lawfulness (proposed) for construction of single-storey transformer building within existing operational railway compound, installation of electrical plant, associated hardstanding, sustainable drainage features, new foul sewer connection, and ancillary works including security fencing & enclosures and provision for maintenance access.
Case Officer:	Neil McClellan
Valid Date:	01/07/2026
Applicant:	Transport for London
Agent:	Ms Cansu Mustafa

RECOMMENDATION

Permitted Development

1. PROPOSED DEVELOPMENT

This is a Certificate of Lawfulness application for the construction of a new transformer room to support the increased power demand associated with the Piccadilly Line upgrade project. The applicant, *Transport for London (TfL)*, is seeking to undertake the development as permitted development under Part 8 (Transport-Related Development) of the Town and Country Planning (General Permitted Development) (England) Order 2015.

2. SITE AND SURROUNDINGS

The site comprises a Transport for London (TfL) property located at the junction of Colina Road and Green Lanes. The rear part of the site is occupied by a double-height brick building containing a ventilation shaft serving the Piccadilly Line, which runs beneath it. The application site is located to the front of this building and comprises a hard-surfaced open yard area. The application site and the ventilation shaft building form part of the same TfL freehold title.

The site is adjacent to Bay House, a recently completed five-storey mixed-use building comprising residential accommodation on the upper floors and the NHS West Green Surgery medical practice at ground-floor level. The development forms part of the wider redevelopment of the former Hawes & Curtis site on Green Lanes. To the rear of the TfL site is an access road serving the development and Coriander House, a five-storey residential block.

The site is not located within a conservation area and is not a listed building, nor is it adjacent to any listed buildings.

At ground-floor level, the adjoining building, Bay House, contains a large side-facing window serving the medical practice, which directly faces the boundary with the TfL site. Adjacent to this

window are two large louvred panels. The flats on the upper floors have side-facing windows overlooking the site. In addition, a balcony/terrace at the front of Bay House, serving the first-floor flat, also overlooks the application site.

3. RELEVANT PLANNING HISTORY

The ventilation shaft was built in the early 1930s as part of the northern extension of the Piccadilly Line. The land in front of the shaft, which now forms the application site, has been used in the past as part of the car park of the former Hawes & Curtis next door to the site, and before that as part of the car park of the commercial laundry company that previously occupied the Hawes & Curtis Site. Throughout this time the site remained in the ownership of TfL or one of its predecessors.

As part of the original planning permission (Ref: HGY/2016/1807) to redevelop the adjoining Hawes & Curtis site, the land in front of the ventilation shaft building was to be acquired by the developer to provide a parking and servicing area for the medical practice proposed on the ground floor of the building fronting Green Lanes.

The original application acknowledged Transport for London (TfL) as the freeholder of the land in front of the ventilation shaft and the application form accompanying that application confirmed that notice had been served on TfL prior to the application being submitted.

At the time of the application, both TfL and London Underground Ltd confirmed they had no objection to the application and proposed use of the land. However, following the grant of permission TfL decided that they intended to retain the land in front of the ventilation shaft for future improvement works. It is understood that the site no longer forms part of the Hawes & Curtis development site. A non-material amendment was granted (Ref: HGY/2021/3583) confirming this.

4. RELEVANT PLANNING LEGISLATION

The Town and Country Planning (General Permitted Development) (England) Order 2015

The applicant is suggesting that the above works can be carried out under either Part 8 (Transport related development) or Part 18 (Miscellaneous development) of the Order.

Part 8: Transport related development

Class A – railway or light railway undertakings

Permitted development

A. Development by railway undertakers on their operational land, required in connection with the movement of traffic by rail.

Development not permitted

A.1 Development is not permitted by Class A if it consists of or includes—

(a) the construction of a railway;

(b) the construction or erection of a hotel, railway station or bridge; or

(c) the construction or erection otherwise than wholly within a railway station of—

(i) an office, residential or educational building, or a building used for an industrial process, or

(ii) a car park, shop, restaurant, garage, petrol filling station or other building or structure provided under transport legislation.

Interpretation of Class A

A.2 For the purposes of Class A, references to the construction or erection of any building or structure include references to the reconstruction or alteration of a building or structure where its design or external appearance would be materially affected.

Definition of operational land

For the purposes of the GPDO, *operational land* refers to land that is used or held for the purpose of carrying out the statutory undertakings of certain bodies, such as utility providers, transport operators, or airport operators, rather than for general land use purposes. Whilst the General Permitted Development Order (GPDO) grants specific permitted development rights in respect of such undertakings, the definition of operational land is derived from Section 263 of the Town and Country Planning Act 1990.

Operational land includes land that is actively used for the purposes of a statutory undertaking, or land that is held specifically for those purposes. The use or purpose of the land must relate directly to the operational requirements of the statutory undertaker, such as a railway operator.

The definition does not extend to land which, by virtue of its nature and situation, is comparable to ordinary land in general use rather than land required for specialised operational purposes.

Certain types of undeveloped or mixed-use land held by statutory undertakers are excluded from the definition under Section 264 of the 1990 Act where they are comparable to ordinary commercial, residential, or other non-operational land.

Under Section 264, the interest in the land must have been acquired by the statutory undertaker before 6 December 1968.

Based on the history of the site, officers are satisfied that the land was acquired by TfL's predecessor for operational purposes prior to 6 December 1968. As such, the site is considered to constitute operational land within the meaning of Section 263 of the Act.

Section 264 of the TCPA sets out the circumstances in which land held by statutory undertakers is not to be treated as operational land, notwithstanding the general definition provided by Section 263.

As a matter of principle, permitted development rights continue to exist unless they have been removed, modified, or otherwise restricted by the GPDO or through another statutory mechanism. Such mechanisms include an Article 4 Direction, a planning condition expressly removing permitted development rights, or obligations contained within a Section 106 Agreement.

5. ANALYSIS/ASSESSMENT OF THE APPLICATION

A requirement of Class A, Part 8, Schedule 2 is that the development be carried out on operational land. In considering that issue, I note that:

- a) the Application Site forms part of the same freehold title as the existing Piccadilly Line ventilation shaft compound;
- b) the ventilation shaft serves the Piccadilly Line, and the railway runs beneath the site;
- c) the freehold title shows a transfer dated 8 March 1934 to the London Passenger Transport Board, a statutory predecessor of TfL, also evidenced by the historical land certificate provided by TfL;

- d) the title documentation demonstrates that TfL has retained ownership of the Application Site notwithstanding the leasehold interests; and
- e) the proposed transformer is required in connection with the operation and maintenance of the Piccadilly Line.

Given the above factors, officers are satisfied that the application site constitutes “operational land” for the purposes of Part 8. Further, given the title documents show that the land was acquired by the London Passenger Transport Board in 1934, the exclusion contained in s 264 TCPA, which applies to certain land acquired by statutory undertakers on or after 6 December 1968, does not arise.

Does planning history prevent reliance on the GPDO?

Having reviewed planning permission HGY/2016/1807, the associated Section 106 Agreement, and the subsequent Section 96A approval, officers consider that none of these matters prevent TfL from relying upon the permitted development rights contained within Class A of Part 8 of Schedule 2.

The starting point is that permitted development rights remain available unless they have been removed or restricted through a legal mechanism, such as a planning condition removing permitted development rights, obligations contained within a Section 106 Agreement, or an Article 4 Direction.

There is no planning condition attached to HGY/2016/1807 that removes or restricts the exercise of permitted development rights under Part 8. Similarly, there is no provision within the Section 106 Agreement that prevents TfL from exercising its permitted development rights. Furthermore, there is no Article 4 Direction affecting the application site.

Importantly, the application site remained in TfL ownership throughout, forms part of the same freehold title as the existing Piccadilly Line ventilation shaft compound, and continues to exist as a discrete parcel of land. The approved development was therefore implemented without the TfL parcel being developed in accordance with the approved plans.

The fact that the application site was included within the red-line boundary of planning permission HGY/2016/1807 does not alter this position. A planning permission authorises development but does not require it to be carried out. Whilst the wider development permitted by HGY/2016/1807 was implemented, the landscaping and parking works proposed on the TfL-owned land were not undertaken.

The Section 96A approval amended the description of development only. It did not amend any planning conditions, grant a new planning permission, or remove or restrict any permitted development rights otherwise available to TfL.

Whilst the planning history has resulted in an inconsistency between the approved development and the works carried out on the site, officers do not consider that this, in any way, restricts the permitted development rights upon which TfL seeks to rely.

6. REPRESENTATIONS

Unlike standard planning applications, local planning authorities do not have a statutory obligation to publicize or notify neighbours about an LDC application. Decisions are based strictly on factual evidence, history, and legal compliance rather than planning merits, neighbourhood opinions, or local objections.

23 Individual responses have been received from local residents and other interested parties. The majority are from owners and occupiers of the Evergreen development that now occupies the former Hawes and Curtiss site adjacent to the application site. Responses have also been received from the two local ward councillors (Cllr Rosie Latchford and Cllr Jo Kuper), Ladder Community Safety Partnership and the Director of the Bay House RTM Company, which represents leaseholders of the residential block immediately adjacent to the site. A 278-signature petition has also been received.

All but one of the respondents' objects to the proposed development.

The objections raise the following issues and concerns:

- The site given its previous uses and planning history does not meet the statutory definition of operational land and therefore Class A of Part 8 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 does not apply. TfL should therefore apply for planning permission for the proposed development.
- The site was promised as a landscaped amenity space as part of the original planning permission for the Evergreen development.
- Potential noise and vibration from the proposed transformer station.
- Health concerns relating to the creation of an electromagnetic so close to neighbouring residential properties.
- Safety concerns relating to the fire risk posed by industrial transformers and the proximity of the proposal to neighbouring flats.
- The negative impact of the structure on the streetscene given its size, design and prominent location.
- Its impact on the outlook and visual amenity of adjoining residents.
- Lack of prior notification/consultation on the proposed development.
- The plans include the siting of a 48-sheet-advertisement, which would have a further negative impact on the character of the streetscene and on local visual amenity.
- The proposal will exacerbate the existing environmental and other problems that arise from TfL's poor management and neglect of the existing ventilation shaft and its surrounds, including graffiti, fly tipping, anti-social behaviour and air pollution from the shaft.

Officer response

The question of whether or not the site constitutes operational land is dealt with in the report above. But in summary, officers are satisfied that the land was acquired prior to the 6th December 1968, for the purpose of carrying on the statutory undertakings of the then operator of the Piccadilly Line. Subsequent use of part of that land for other uses unrelated to the statutory undertaking and the recent grant of planning permission for the Evergreen development are not considered to alter the situation. As a matter of principle, permitted development rights continue to exist unless they have been removed, modified, or made otherwise unavailable under the GPDO. The standard mechanisms include an Article 4 Direction, a planning condition expressly removing permitted development rights, or obligations contained within a Section 106 agreement, none of which apply to the land in question.

Other objections raise matters such as design, visual impact, loss of amenity, noise, health and safety and the loss of the proposed landscaped area. Those matters are not relevant to determination of a lawfulness (proposed) development certificate.

7. SUMMARY & CONCLUSION

The proposed development would be by a railway or light railway undertaker on their operational land and is required in connection with the movement of traffic by rail. It would therefore be considered permitted development under Part 8, Class A of the above order. It is noted that there are no limits on the size, type or siting of any structure required for the above purposes provided it is on the undertaker's operational land. Based on the submitted information, the Local Planning Authority is therefore satisfied that the proposed transformer station would be permitted development under Part 8, Class A.

8. COMMUNITY INFRASTRUCTURE LEVY

Under Regulation 6(2) of the Community Infrastructure Levy Regulations 2010, certain operational infrastructure works are not treated as "development" for CIL purposes. This includes a range of infrastructure typically undertaken by statutory undertakers, such as substations, pipelines and railway infrastructure, and such works may therefore fall outside the scope of CIL.

9. BIODIVERSITY NET GAIN.

The proposed development is exempt from the mandatory Biodiversity Net Gain (BNG) requirements. Development authorised by a development order, including permitted development rights under the GPDO, is excluded from the statutory BNG regime. As the proposal is being undertaken pursuant to permitted development rights under Part 8 of Schedule 2 of the GPDO, the biodiversity gain condition does not apply.

10. RECOMMENDATION

Grant Certificate

In pursuance of their powers under the above Acts and Order, the London Borough of Haringey as Local Planning Authority hereby CERTIFY that the above proposal described by the applicant does **constitute** PERMITTED DEVELOPMENT and is therefore LAWFUL.

The proposed construction of a transformer building is permitted development under Schedule 2, Part 8, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

INFORMATIVE: Design enhancements and public realm improvements

Notwithstanding the confirmation of lawful development, the applicant is advised to engage with the Local Planning Authority (LPA) to explore opportunities to improve the design and appearance of the proposed transformer building. Given the site's prominent position at the junction of Green Lanes and Colina Road, the preferred approach would be to investigate whether the building can be set back from the back edge of the pavement on one or both frontages to create a landscaped strip capable of accommodating tree planting, shrub planting and other forms of soft landscaping.

Where such setbacks are not feasible, consideration should be given to alternative greening measures, including the provision of green walls and climbing vegetation on the building elevations. Opportunities should also be explored to incorporate public art or mural treatments into the external design of the building, helping to create a more attractive and visually distinctive addition to the local area.

The LPA would welcome discussions with TfL regarding potential design refinements and opportunities to secure a higher-quality visual outcome for the site.

For the avoidance of doubt, the LPA would not support the use of the building elevations for large-format advertising displays, billboard-style advertisements or advertisement hoardings, for which advertisement consent would be required.

Informatives:

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