



Northumberland
County Council

STATEMENT OF CASE

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY DEVENPORT ESTATES

**CONSTRUCTION OF A PUBLICLY ACCESSIBLE LANDMARK, COMMISSIONED TO
COMMEMORATE QUEEN ELIZABETH II AND THE COMMONWEALTH**

ON

LAND AT COLD LAW, KIRKWHELPINGTON, NORTHUMBERLAND

PLANNING INSPECTORATE REF: APP/P2935/W/20/3244389

LOCAL PLANNING AUTHORITY REF: 19/00247/FUL

1. INTRODUCTION

- 1.1 Devenport Estates ('the appellant') submitted an application seeking full planning permission for the development the subject of this appeal to Northumberland County Council ('the Council') on 22 January 2019. The application was validated on 24 January 2019.
- 1.2 The Council's Strategic Planning Committee considered the application at its meeting on 4 June 2019. The Committee deferred consideration to allow a Members' site visit to take place. The site visit took place on 2 July following which the application was again considered by the Committee also on 2 July. Further information received between the dates of the two Committee meeting was presented to the Committee. A number of objectors and representatives of the applicant spoke at the meeting. The Committee voted 13 to 3 to refuse the application due to the inappropriate location for the proposed development and delegated authority to the Director of Planning and Chair of the Committee to provide the final wording of the refusal reason.
- 1.3 The decision notice was issued on 10 July 2019 stating that planning permission was refused for the following reason.

The proposal results in development in the open countryside which fails to recognise the intrinsic character and nature of the countryside in this location and is therefore contrary to paragraph 170 of the NPPF and Policy NE1 of the Tynedale Local Development Framework Core Strategy.
- 1.4 The appellant has submitted an appeal against refusal of the planning application to the Planning Inspectorate ("PINS"). The Council's appeal questionnaire and related attachments were sent to PINS on 4 February 2020. The appeal is currently scheduled to be decided by written representations but the Council has informed the Inspectorate that it considers that a hearing should be held.

- 1.5 A Statement of Common Ground (“SOCG”) will set out matters agreed between the Council and the appellant. This will be submitted to PINS together with further documentation agreed between the Council and the Appellant, including a Section 106 Agreement.

2. THE APPEAL SITE AND ITS SURROUNDINGS

- 2.1 The appeal site is land at Cold Law on the Ray Estate, north of the C195 road that links the A696 at Knowesgate with the A68 at Ridsdale. The sculpture would be sited on the summit of Cold Law (336m AOD) and the proposal also includes a visitor car park adjacent to the C195 linking the sculpture by a curved footpath. The land is currently open grazing land with some areas of marshy ground. It is open countryside with an area of open access land, approximately 5km east of the boundary with Northumberland National Park.
- 2.2 There are a small number of isolated properties in the vicinity of the appeal site with the nearest villages being Ridsdale about 2 kms to the west and East Woodburn about 3 kms to the northwest. There are also wind farm developments between 2 and 4 kms to the northeast and between 2 and 4 kms to the southwest.

3. PLANNING HISTORY

- 3.1 In terms of planning history, there have been no planning applications for the site.

4. THE APPEAL PROPOSAL

- 4.1 The application the subject of this appeal is for full planning permission for the construction of a landmark sculpture and associated development. The sculpture would consist of a thin slice cut north to south through the uppermost bedrock of Cold Law, with a steel structure approximately 56m high tilted and elevated at the north end which would point to the sun at its zenith on midsummer’s day. The upper curve of the structure would match the topographical form of the hill, following its curved profile. The under surface would

be flat. The side profile of the structure would have angled lateral fins between the upper and lower flanges that have been designed to change in pitch and frequency along its length. It would be fabricated from Corten steel which would weather to a red / orange finish. It would incorporate a modest reflective element, the details of which are yet to be agreed.

- 4.2 During the construction period the associated development would comprise a temporary site compound on the footprint of the proposed visitors' car park and SuDs; a temporary access track running on the line of the proposed footpath; a temporary assembly area to the east of the proposed monument on which the temporary support frames for the monument would be built; and a temporary crane stand.
- 4.3 A visitor car park would be created with 20 parking places for cars and one coach parking space. The car park would be linked to the sculpture by a curved surfaced footpath from which there would be views of the sculpture along its length. There would be a viewing area to the west of the monument and an area of SuDs drainage to the north of the proposed car park.

5. PLANNING POLICY AND OTHER MATERIAL CONSIDERATIONS

- 5.1 Relevant planning policy and other material considerations are summarised in the following paragraphs.
- 5.2 The Development Plan in respect of the appeal site comprises the Tynedale Local Development Framework Core Strategy (2007) (TLDFCS) and the Tynedale District Local Plan (2000) (TDLP).
- 5.3 The following policies in the Tynedale Local Development Framework Core Strategy (2007) are relevant to the consideration of the appeal.

BE1 Principles for the built environment
GD1 General location of development

GD4 Principles for transport and accessibility
GD5 Minimising flood risk
NE1 Principles for the natural environment
EDT1 Principles for economic development

5.4 The following policies in the Tynedale District Local Plan (2000) are relevant to the consideration of the appeal.

GD2 Design criteria for all development
GD4 Range of transport provision for all development
GD6 Car parking standards outside built up areas
NE19 Protection of internationally important nature conservation sites
NE20 Protection of site of special scientific interest
NE21 Protection of sites of nature conservation interest
NE26 Protection of habitats of special importance to wildlife
NE27 Protection of protected species
TM4 New tourism development in the open countryside

5.5 As stated in the Statement of Common Ground the only Development Plan policy referred to in the reason for refusal is Policy NE1 in the TLDCS. Relevant parts of this policy are as follows:

“The principles for the natural environment are to:

(a) Protect and enhance the character and quality of the landscape, biodiversity and geological interest of the District and give particular protection to areas and sites recognised for their environmental and scientific interest.

(b) Manage the relationship between development and the natural environment in order to:

- Minimise risk of environmental damage.*
- Avoid the urbanisation of the countryside.*

(f) Ensure that development close to the Northumberland National Park does not have an unacceptable adverse effect on its landscape quality, wildlife or geological value.

(g) Enable and encourage people to experience, enjoy and understand the natural environment”.

5.6 Other planning policy documents are a material consideration of relevance to determination of this appeal and are the National Planning Policy Framework (NPPF), National Planning Practice Guidance (NPPG) and the Northumberland Local Plan Submission Draft Plan (NLP) February 2019 and Schedule of Proposed Minor Modifications (May 2019).

5.7 The NLP was submitted to the Secretary of State in May 2019 and is currently the subject of Examination in Public. A number of examination hearings were held in 2019 and in February 2020 and further hearings will take place later this year. The NLP will eventually replace the TLDFCS and the TDLP as part of the development plan for the appeal site. The following NLP Policies are relevant to the consideration of this appeal.

ECN15 Tourism and visitor development
QOP1 Design Principles (Strategic Policy)
TRA4 Parking provision in new development
ENV2 Biodiversity and geodiversity
ENV3 Landscape
ENV4 Tranquillity, dark skies and a sense of rurality
ENV7 Historic environment and heritage assets
WAT3 Flooding

5.8 Whilst none of these emerging policies are stated in the reason for refusal, the Council considers that the main emerging policies of relevance are Policies ECN15, QOP1, ENV3 and ENV4. Whilst the NLP is at an advanced stage, it is not yet adopted with the Examination in Public continuing and therefore these policies can only be given limited weight. Nevertheless they are

material planning considerations and help to demonstrate the future direction of planning policy in Northumberland.

5.9 The NPPF is a material consideration and paragraph 170 is stated in the reason for refusal. Relevant parts of paragraph 170 are as follows:

“Planning policies and decisions should contribute to and enhance the natural and built environment by

- : a) *protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
b) *recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services...”*

5.10 Other paragraphs in the NPPF are also relevant to the consideration of the appeal as follows.

Paragraph 7 – which states that *‘the purpose of the planning system is to contribute to the achievement of sustainable development’*.

Paragraph 8 – which states that *‘achieving sustainable development means that the planning system has three overarching objectives’* (an economic objective, a social objective and an environmental objective), *‘which are interdependent and need to be pursued in mutually supportive ways’*

Paragraph 11c - with regard to the presumption in favour of sustainable development.

Paragraph 12 – which states that *‘the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making’* and *‘where a planning application conflicts with an up-to-date development plan ... permission should not usually be granted’*.

Paragraph 47 - which reiterates that planning law requires applications for planning permission, be determined in accordance with the development plan, unless material considerations indicate otherwise.

Paragraph 48 – regarding the weight to be given to emerging plans.

Paragraph 124 – which states that good design is a key aspect of sustainable development and helps make development acceptable to communities.

Paragraph 127 – which states that planning decisions should ensure that developments are sympathetic to local character and history including landscape setting while not preventing or discouraging appropriate innovation or change.

Paragraph 128 – which encourages applicants to work closely with those affected by their proposals to evolve designs that take account of the views of the community.

Paragraph 131 – which continues on the theme of innovation stating *‘in determining applications great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in the area, more generally in an area, so long as they fit in with the overall form and layout of their surroundings’*.

Paragraph 213 – states that in respect of Development Plans adopted prior to publication of the NPPF, local planning authorities should afford due weight to relevant Policies according to their degree of consistency with the NPPF (the closer the Policies in the Plan to the policies in the NPPF, the greater the weight that may be given).

- 5.11 Similarly the NPPG is a material consideration although the Council does not refer to the NPPG in its reason for refusal.

5.12 Also relevant and a material consideration is the Northumberland Landscape Character Assessment. This was published in 2010 and presents a consolidated landscape character assessment for the whole County, building on previous work undertaken in the area. The appeal site is located in Landscape Character Area 8g (Sweethope and Blackdown, which is part of Landscape Character Type 8: Outcrop Hills and Escarpments).

6. CONSULTATIONS AND PUBLICITY

6.1 The table below provides a summary of all responses received from statutory and non-statutory consultees during the Council's consideration of the planning application:

<p>Corsenside Parish Council</p>	<p>Object to the proposed landmark. There is substantial local objection to the proposed development and concern regarding the lack of adequate consultation with local people, not helped by the reference on the planning application to 'Kirkwhelpington' 8.5 miles away.</p> <p>The proposed monument is very much out of keeping with the local area and the local vernacular. The proposed building material will be allowed to rust, does not fit in with the local landscape and will appear alien to its surroundings. Its size is of great concern being a very large industrial feature that will tower above the local landscape and completely dominate the local area. The site is very close to the National Park from many parts of which the monument will be visible, as it will from sections of Hadrian's Wall, a World heritage Site. It will impose itself on people rather than being a structure that can be sought out of choice.</p> <p>It is considered that the existing road infrastructure is insufficient to cope with the extra traffic that the structure</p>
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	<p>could generate, in particular the unclassified road leading to the proposed monument which is in poor condition, narrow, twisting, with blind summits, poor sight lines, dangerous junctions and additional safety considerations associated with slow moving agricultural traffic and occasional escapee livestock. The proposal to accommodate a coach in the proposed parking area is of concern, as coaches would present significant additional risk to local road users trying to overtake.</p> <p>There is a lack of amenities such as car parks and public toilets in local villages to support any increase in visitor numbers and potential for litter being blown far and wide in such a very exposed and windswept location, further detracting from the natural beauty of the area and resulting in environmental damage. The red light on the top of the monument would accentuate its intrusiveness having an unwelcome impact being on the edge of the third International dark skies Park.</p> <p>Local residents have chosen to live in the Parish because they want the peace, quiet and undisturbed natural environment the area offers.</p>
Northumberland National Park Authority	No objections subject to a condition to control any lighting due to the site's location in relation to the Northumberland Dark Skies Park.
Natural England	No response received.
Historic England	No objections as the proposal will not lead to harm to the three scheduled monuments in the area.
Ministry of Defence	No safeguarding objections subject to a minimum intensity 25 candela omni-directional flashing red light or equivalent infra-red light fitted at the highest practicable point of the structure.
Newcastle	No objections as the structure would not have an adverse

International Airport	impact on the safe operation of aircraft operating from Newcastle Airport.
Civil Aviation Authority	No response received.
National Air Traffic Services	No safeguarding objections.
NCC Highway Authority	No objection subject to conditions to ensure acceptability of the proposal.
NCC Public Protection	No comments.
NCC Countryside and Public Rights of Way	No comments as there are no rights of way implications involved in this development.
NCC Lead Local Flood Authority	No objections subject to conditions relating to conditions requiring a detailed drainage strategy, the adoption and maintenance of SuDs features and the details of watercourse crossings to be agreed.
NCC Ecology	No objections to conditions and a legal agreement.
NCC Archaeology	No objections and no further archaeological work is required.
NCC Building Conservation Officer	No objections subject to the imposition of conditions the submission of details relating to any illumination that is subsequently proposed.
NCC Tourism and Visitor Economy	<p>No objections subject to satisfying all statutory planning conditions and considerations. Tourism in Northumberland is rapidly increasing in significance with year on year increases in the performance of the visitor economy. In 2017 10.27m visitors spent £925m, an 8.6% increase in economic value and 5.7% increase in visitor numbers over 2016. The visitor economy provides over 14,800 direct and indirect full time jobs in the County.</p> <p>The structure will be a sensitive asset in relation to the landscape and the environment in an area already populated</p>

	<p>with wind turbines. Whilst it is questionable whether the landmark will exist as a substantially visited singular attraction, as an unusual feature and point of interest it will add value to the total visitor offer within the county and as such will contribute directly to ambitions for sustained growth in our economy.</p>
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6.2 The application was advertised by a site notice and a public notice in the Hexham Courant on 7 February 2019. In response to publicity 132 letters of objection, including letters from Redesdale with Byrness Parish Council, The Redesdale Society and The British Mountaineering Council and 1 letter of support were received. Only 29 of the letters of objection were received before the date of the 4 June meeting of the Strategic Planning Committee, with the remainder being received following the increased publicity given to the proposed development before the meeting of the Committee on 2 July. The majority of the letters of objection (92) were from local residents. None were 'standard' letters.

6.3 Copies of all of the above correspondence have been provided with the Council's appeal questionnaire.

6.4 The appellant submitted 9 further letters in support of the proposed development with the appeal papers. The Council is aware that the objectors have formed a group called 'Keep The Wannies Wild' (KTWW) and that it will be submitting a comprehensive statement to the Planning Inspectorate for the Inspector to take into account in determining the appeal. The Council has seen a copy of this submission and considers that it will be helpful to the Inspector by bringing together the views of many of the objectors.

7. THE COUNCIL'S CASE

7.1 Section 38(6) of the Planning & Compulsory Purchase Act 2004 states that:
'If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be

made in accordance with the plan unless material considerations indicate otherwise’.

7.2 Therefore the starting point from a planning perspective in considering the acceptability or otherwise of the proposals is the development plan.

7.3 As stated above, the development plan in respect of the appeal site comprises the Tynedale Local Development Framework Core Strategy (2007) (TLDFCS) and the Tynedale District Local Plan (2000) (TDLP).

Main Issues and Analysis

7.4 The reason for refusal is as follows:

“The proposal results in development in the open countryside which fails to recognise the intrinsic character and nature of the countryside in this location and is therefore contrary to paragraph 170 of the NPPF and Policy NE1 of the Tynedale Local Development Framework Core Strategy”.

7.5 Mindful of this reason for refusal the Council considers that the main issues at this appeal are:

- a) whether there is conflict with the Development Plan and national planning policy in relation to development in the countryside;
- b) whether the location of the proposed development is appropriate bearing in mind any conflict with planning policy;
- c) whether the benefits of the proposal claimed by the appellant are sufficient to override any conflict; and
- d) whether the proposal represents sustainable development.

7.6 These issues are dealt with in turn below.

Conflict with Policy

7.7 The Relevant parts of Policy NE1 in the TLDCS are as follows:

“The principles for the natural environment are to:

(a) Protect and enhance the character and quality of the landscape, biodiversity and geological interest of the District and give particular protection to areas and sites recognised for their environmental and scientific interest.

(b) Manage the relationship between development and the natural environment in order to:

- Minimise risk of environmental damage.*
- Avoid the urbanisation of the countryside.*

(f) Ensure that development close to the Northumberland National Park does not have an unacceptable adverse effect on its landscape quality, wildlife or geological value.

(g) Enable and encourage people to experience, enjoy and understand the natural environment”.

7.8 The council considers that substantial weight should be given to TLDFCS NE1 as those elements of this policy of relevance to the Council’s refusal reason are considered to be consistent with the NPPF, in particular paragraph 170 which is referred to in the council’s reason for refusal. Relevant parts of paragraph 170 are as follows:

“Planning policies and decisions should contribute to and enhance the natural and built environment by

- :*
- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
 - b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services...”*

7.9 The Council recognises that the officer report to the Strategic Planning Committee concluded that the proposed development was not in conflict with the Development Plan policy or national planning policy. In reaching this conclusion the officer report took into account the LVIA that had been submitted with the planning application and the conclusions of the review of the LVIA that had been commissioned by the Council. However, the Strategic Planning Committee did not agree with the officer views, the conclusions of

the LVIA or the conclusions in the review of the LVIA commissioned by the Council.

- 7.10 It is important to note that Policy NE1 seeks not just protection of the character and quality of the landscape, but it also seeks enhancement. Similarly paragraph 170 of the NPPF requires planning decisions to contribute to and enhance the natural environment by protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside. The Council considers that the proposed development would not protect the character and quality of the landscape and rather than enhancing the landscape it would represent an alien, intrusive feature that would harm the landscape. It is clear that the landscape in the area of the appeal site is highly valued. The unspoilt nature of the area as well as the strong cultural and historical associations of the 'Wanneys' is a recurring feature in many of the letters of objection from residents in local communities.
- 7.11 The appeal site is located in a wild and open landscape within a remote area of Northumberland known as the Wanneys. Two wind farms have been developed in the area but unlike the proposed monument, the wind turbines are temporary structures with planning consents that require their removal after 25 years. The wind turbines also have a beneficial use through the generation of electricity as well as an ongoing injection of local benefit through the community fund. On many days they are difficult to see as their colour blends into the colour of the sky. The proposed monument by comparison would be very visible, indeed its aim is to be highly visible, and together with the associated car park, walkway, viewing enclosure and concrete plinth would be discordant and intrusive elements in the local landscape. Apart from the temporary wind turbines the area is undeveloped and unspoilt.
- 7.12 There would also be substantial harm to the local environment during the construction period, involving the slicing into the summit of Cold Law and the removal of rock, damage to the grassland through the importation of materials and the creation of the walkway and car parking area and disruption caused

by construction traffic and other vehicle movements. Whilst this would be for a temporary period the harm caused needs to be taken into account in the overall planning balance.

- 7.13 The view of the Strategic Planning Committee was that the proposed development would not be in accordance with Development Plan policy or national planning guidance.
- 7.14 As noted in paragraph 5.12 above, the appeal site is located in Landscape Character Type (LCT) 8: Outcrop Hills and Escarpments. The Northumberland Landscape Character Assessment (NLCA Part A) notes (para 4.77) that *'their distinctive form and rich semi-natural vegetation patterns contrast with the surrounding more intensively-farmed landscape'*. Key qualities of this LCT as stated in NLCA Part B para 5.114 include the *"open, relatively remote character"* and *"areas of uninterrupted sweeping moorland."* The guiding principle for this LCT is to manage change and the submission draft Northumberland Local Plan identifies at paragraph 10.24 that this involves *' where some change can be absorbed but changes arising from social, economic and environmental processes need to be managed.'* Landscape Character Area 8g: Sweethope and Blackdown forms the southern extremity of this LCT and *'comprises extensive open areas of heather and grass moorland'* (para 4.91 NLCA Part A). In refusing the application the Strategic Planning Committee gave weight to the harm that would result to the essential characteristics of this landscape.
- 7.15 The Council recognises that since the NLCA was prepared two wind farms have been developed in the vicinity of the appeal site. However, it is considered that this does not affect the basis of the NLCA and the implications of the wind farm developments for the determination of this appeal are dealt with elsewhere in this statement.
- 7.16 The emerging Northumberland Local Plan was not referred to in the reason for refusal but it is relevant to note the approach that it is taking to development in the countryside as this helps to demonstrate the future

direction of planning policy in Northumberland. The relevant policies are Policies ENV 3 and ENV 4.

7.17 Policy Env 3 deals with landscape and states that:

“the contribution of the landscape to Northumberland’s environment, economy and communities will be recognised in assessing development proposals,”

and then lists a series of criteria including criterion f. which states:

“Where it is considered that landscape character may be adversely affected. or aspects of this character that warrant protection would be degraded as a result of proposed development, then the development will only be permitted if it can be clearly demonstrated:

- i. How the harmful effects will be satisfactorily mitigated or, as a last resort, satisfactorily compensated; and*
- ii. There are significant national, or outside designated landscapes, regional or local planning reasons for allowing the development, and these considerations outweigh the landscape considerations”.*

7.18 Policy Env 4 deals with tranquillity, dark skies and a sense of rurality and states:

1. *“In order to limit the urbanising effects on open countryside landscapes... and to conserve or enhance tranquillity, development proposals will be required to demonstrate that:*

- a. The level of noise, traffic and light generated as a result of the development during construction and thereafter are minimised and dark skies maintained;*
- b. Intrusive external features, such as hard surfaces, car parking and urban-style boundary treatments are minimised;*
- c. Where a sense of openness of the open countryside is a key quality of the local landscape character, this will not be reduced;*
- d. The quiet enjoyment of the landscape is maintained.*

2. *During construction and thereafter, development should not result in a net adverse impact on the level of dark skies and where appropriate improvements should be sought, most especially in or affecting Northumberland Dark Sky Park....”*

- 7.19 As noted in paragraph 5.8 above, the NLP is not yet adopted and although it is at an advanced stage its policies can only be given limited weight. However, policies ENV3 and ENV4 have not received large numbers of objections which increases the weight that they can be given. The emerging policies are material considerations in determining this appeal. The policies reinforce the sensitivity of open upland landscapes in Northumberland and unlike existing Development Plan policy they recognise the significance of the Northumberland Dark Sky Park (which had not been so designated when the Development Plan policies were formulated) and its sensitivity to landscape change.
- 7.20 In relation to Policy Env 3 the Council considers that the proposed development would adversely affect landscape character, its harmful effects would not be satisfactorily mitigated or compensated and that there are no national, regional or local planning reasons that would outweigh the harm to the character of the landscape. Therefore the proposed development is not in accordance with Policy Env 3.
- 7.21 In relation to Policy Env 4 the Council considers that the proposed development would represent an urbanising effect on an open countryside landscape, involving the creation of intrusive features such as hard surfaces, car parking and urban style boundary treatments and would not conserve or enhance the tranquillity of the area either during the construction period or thereafter and therefore it is not in accordance with Policy Env 4.
- 7.22 The LVIA is referred to in paragraph 9 above and it is important to provide further explanation of the Council's current position on this having regard to the Strategic Planning Committee's views. The Council has seen the detailed critique of the LVIA to be submitted by the Keep The Wanneys Wild group as part of its submissions on the appeal. It is considered that the conclusions set out in that critique mirror the views that the Strategic Planning Committee reached, following its site visit to the area, in refusing the planning application. A very experienced planner who has been informed by a landscape architect has prepared the critique and both are experienced in the

LVIA process. The Council considers that the Inspector will find this critique helpful in considering the appeal. Like the submitted LVIA and using the same methodology, it includes a detailed assessment of the sensitivity and effects of the proposed development from each of the fourteen viewpoints. It then compares its findings with the findings on sensitivity and effects in the LVIA and brings them together in a helpful table. The critique concludes that the LVIA has understated the magnitude of change and the adverse effects of the proposed development from most viewpoints. The Strategic Planning Committee had visited a number of these viewpoints during its site visit to the area.

- 7.23 It can be argued that the review of the LVIA commissioned by the Council appears to have been less thorough than perhaps would have been desirable. It certainly contains very little detail so it is difficult to test its conclusions. The Council recognises that the review was relied upon in the officer report but with hindsight it is considered that the critique carried out on behalf of KTWV is more representative of the views of the members of the Strategic Planning Committee in refusing the planning application.
- 7.24 The Council considers that a key consideration in the determination of this appeal is the weight that should be given to such factors as the harm that the monument and other *'intrusive external features such as hard surfaces, car parking and urban style boundary treatment'* would bring to the *'uninterrupted sweeping moorland'* that is a key feature of Landscape Character Type 8. The Council concludes that on balance the proposed development would conflict with Development Plan policy, national planning policy and the relevant policies in the emerging Northumberland Local Plan.

Inappropriate Location

- 7.25 The minutes of the meeting of the Strategic Planning Committee held on 2 July state that the Director of Planning in introducing the application stated that whilst the officer view was that the proposed development was acceptable on a technical basis, it was very much a matter for members to

decide if it was appropriate and right for the location. Following public speaking and questions the minutes state that:

“Councillor Flux proposed refusal of the application as he considered that the proposed development was in an inappropriate location and would have an unacceptable impact on the qualities of the area. This was seconded by Councillor Reid. A number of Members expressed support for the recommendation to refuse stating that they did not feel that the proposal either protected or enhanced the natural environment as was required by the NPPF. They considered it an inappropriate location for the monument which would spoil the beauty of the wild and natural environment’.

7.26 The Council acknowledges that the design of the proposed landmark is innovative and recognises the artist’s attempts to produce a sculpture that reflects some of the traditions of the area. However, the Strategic Planning Committee concluded that the appeal site was not an appropriate location for the proposed development. As highlighted in paragraph 5.10 above, the NPPF encourages appropriate innovation in design but this is caveated by stressing the importance of working closely with those affected by the proposal to evolve a design that takes account of the views of the community and the need for the development to fit in with the overall form and layout of the surroundings. The question here therefore is the weight that should be given to innovation and whether it is appropriate to the character and setting of the area. It is a remote, wild and open landscape and it is clear that the chosen design has generated widespread opposition in the area. Whilst there was pre-application dialogue with the local community this was limited to two exhibitions attended by only a limited number of people. The local community was presented with three designs, all of which were rejected by a significant minority of those attending the workshops, rather than being able to work with the artist on the development of a design that might have better reflected local opinion. The massive height of the proposed sculpture in particular has generated objections. Comparison from the appellant with the wind turbines in the area is misplaced as they have a beneficial use through the generation of electricity. The Committee gave

significant weight to the intrusive nature of the proposed development and the Council considers that any weight that is given to innovation in design is overridden by the inappropriateness of the appeal site for the proposed development.

7.27 It is clear from the minutes that Members properly considered the various material planning considerations as set out by officers both in the Committee report and in providing information in response to Members questions. They also took account their own experience in visiting the area. Their conclusion by a majority of 13 to 3 was that this was not an appropriate location for the proposed development. For the reasons set out in the section above on conflict with policy, this remains the view of the Council. Cold Law is not an appropriate location for the proposed development and the appeal should fail.

Benefits

7.28 The Appellant considers that *“the proposed development would deliver a number of economic benefits to the local and regional economy. These include those associated with attracting additional visitors to Northumberland and those associated with complementing the existing tourism offers in the County, thereby reinforcing the attractiveness of the offer in the county”* (Statement of Case paragraph 8.3.1). In support of this claim the Appellant refers to consistency with local planning policy (SoC paras. 8.3.3 and 8.3.4) and national planning policy (SoC para. 8.3.12) and quotes from the consultation response of the Council’s Tourism and Visitor Economy Manager (SoC para 8.3.7) and the addendum report of 2 July 2019 to the Strategic Planning Committee (SoC paras. 8.3.8 – 8.3.11).

7.29 However, nowhere in the Appellant’s submissions are there any estimates of how many additional visitors might be attracted, how many additional jobs might be created or safeguarded or how much additional revenue might be generated. The Council recognises that these might not be easy to estimate

but it considers that the absence of such information reduces the weight that can be given to this issue in the determination of the appeal.

7.30 In addition the Council does not believe that any economic benefits that do result will be significant either locally or regionally. The appeal site is remote from other major visitor destinations in Northumberland. In Section 9.6 of the Planning Statement the Appellant compares the proposed development with the Angel of the North and the ‘Weeping Window’, a temporary art installation that was displayed at Woodhorn Museum, near Ashington, for three months in 2015. The Council believes that such comparisons are misleading. The Angel of the North is located at a major gateway into the Gateshead – Newcastle conurbation, the main centres of population in the region. The ‘Weeping Window’ was a temporary installation on a national ‘tour’ following widespread publicity as a commemoration of World War II. The Council considers that it is fallacious to make such comparisons with the proposed monument at Cold Law given its remote location.

7.31 The Appellant also provides no evidence on the services and facilities that might benefit from the installation of the monument. As is demonstrated by the letters of objection that have been submitted there is an absence of retail establishments, tourist accommodation, public houses or other services and facilities for visitors to spend money in the local area. A summary of the limited available services and facilities within 10 kms of Cold Law is provided in the following table.

Table 1. Facilities and Services within 10 kms of Cold Law

Location	Distance from Cold Law	Type of Facility	Services Provided
Ridsdale	2 kms	Inn with b&b accommodation	Public house and 7 bedrooms
East Woodburn	3 kms	None	
West Woodburn	4 kms	Post office / retail shop Public house with visitor	Convenience goods and postal services Public house, 6 bedrooms and

		accommodation	meals
Knowesgate	6 kms	Filling station / shop. Motel	Petrol sales, convenience goods, Overnight accommodation
Kirkwhelpington	7 kms	Post office in Memorial Hall	Newspaper sales and postal services

7.32 The main visitor activity in the area is walking and rambling and the evidence of the British Mountaineering Council is that a majority of its members who provided views were opposed to the proposed development. The area is also popular for other outdoor recreational pursuits such as cycling. It is understandable therefore the local residents through their objections have expressed concern that if the monument did prove to be a sought after visitor destination, there would be the potential for more disbenefits locally such as road safety issues through increased traffic and indiscriminate parking and wind blown litter, than economic benefits, and that this might actually deter visitors who are attracted at present to walk and ramble in the area by its wild, remote and unspoilt character.

7.33 The Council considers that in a more appropriate location, a location less remote and more environmentally acceptable, a landmark sculpture to commemorate Queen Elizabeth II and the Commonwealth could usefully complement existing visitor attractions in Northumberland. However, the Council considers that the economic benefits likely to result from the proposed development at Cold Law are questionable at best and are not sufficient to override the conflict with environmental policy.

7.34 The fourth issue relating to sustainable development is dealt with in the following section of this statement.

8. SUSTAINABLE DEVELOPMENT

- 8.1 It is necessary to consider whether the proposed development represents sustainable development having regard to the benefits referred to the Appellant. As referred to earlier in this statement the NPPF at paragraph 7 identifies the three dimensions to sustainable development – an economic role, a social role and an environmental role. Paragraph 8 advises how the three roles are mutually dependent and should not be undertaken in isolation and makes clear that to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.
- 8.2 In the Appellant's Planning Statement submitted with the planning application there is reference to the economic, social and environmental roles of social development. It is stated that that the objective of the landmark is to celebrate Queen Elizabeth II for her services to the country and her lifelong dedication to the Commonwealth. It is also stated that it will provide a new cultural tourism destination to form part of a growing continuum of tourism sites with the aim of benefitting the local community and economy by bringing new visitors to the area and so help to sustain existing local facilities and services. It is stated that anticipated that the proposed landmark has been carefully designed to reflect and enhance the natural landscape of the area and that with time it will become a cherished part of the urban and rural landscape of northeast England.
- 8.3 In the Appellant's Statement of Case at section 8.3, further information is given on the alleged economic benefits in particular by reference to the comments submitted by the Council's Tourism and Visitor Economy Manager and by reference to the officer's report to the Strategic Planning Committee. At section 9.6 the Appellant's Statement of Case provides further information of the alleged potential local economic value by reference to the Angel of the North and the Weeping Window sculptures.

Economic Role

8.4 Whilst the Appellant has provided further information on the economic role of the proposed development in the appeal statement, there has been no evidence provided to estimate visitor numbers, jobs to be created or increased revenue to be generated by the monument. For the reasons set out in Section 7 of this Planning Statement, the Council does not consider that the economic benefits would be significant either to local communities or the wider area. Whilst they may be weighed in the planning balance the Council does not consider that these, or any of the other factors claimed by the Appellant, override the conflict with local or national planning policy towards the environment. The Council considers that this conflict prevents the proposed development from being considered as sustainable development.

Social Role

8.5 The social role of the proposed development claimed by the Appellant is simply that the objective of the landmark is to celebrate Queen Elizabeth II for her services to the country and her lifelong dedication to the Commonwealth. The Council has no in principle objections to a sculpture being installed in Northumberland to commemorate the Queen and the Commonwealth. Such a sculpture provided in an appropriate location would be a fitting tribute. However, the Council does not consider that the proposed development in the proposed location is appropriate for the reasons set out in Section 7 of this Planning Statement. Whilst the appellant has submitted some letters of support for the proposal, the Council has received significantly more letters of objection, most of which are from people living in the area as well as their elected representatives, the Parish Council. The Council recognises that the number of objections is not a planning reason for refusal but it considers that the planning reasons for objection set out in many of these letters should be weighed in the planning balance.

Environmental Role

8.6 The Appellant claims that the location, design, nature and materials of the proposed monument have had regard to local environmental conditions. For the reasons set out in Section 7 of this Planning Statement, the Council considers the proposed development is inappropriate both in terms of location and design and does not meet the very high environmental standards required by planning policies locally and nationally for such an open and relatively unspoilt landscape. The existence of wind turbines, which are temporary structures providing economic benefit, in the general area, should not be taken as a precedent for allowing inappropriate development that conflicts with national and local planning policy.

8.7 It is acknowledged that in the longer term there would be some local environmental enhancement through habitat creation to be secured through a Section 106 planning obligation and that this would offset to some extent the damage to habitats that would occur in particular during the construction period. However, they need to be viewed as only one element in the wider overall scheme and in the absence of the proposed development there would be no particular need for such biodiversity enhancement and this certainly does not override the landscape harm that would result from the proposed development. The Strategic Planning Committee was aware of these environmental enhancements and took them into account in refusing the application.

Conclusion

8.8 Taking the three roles together, for the above reasons the Council concludes that the proposed development does not represent sustainable development.

9. CONCLUSION

9.1 Notwithstanding an officer recommendation to grant planning permission, the Council's Strategic Planning Committee concluded that the application that is the subject of this appeal should be refused. Members were perfectly within

their right to reach such a decision. As is recorded in the minutes of the meeting of the Strategic Planning Committee held on 2 July 2019, the Director of Planning in introducing the application pointed out that '*the development was acceptable on a technical basis, but it was very much a matter for Members to decide if it was appropriate and right for the location*'. In the light of the assessment undertaken by officers, the balancing of material considerations, their own experience in visiting the area and looking at the views from various viewpoints, and taking into account the objections raised by local residents and the Parish Council, the Committee considered that there were sound policy and other material planning reasons for refusing permission. The Committee therefore concluded that the proposed development should not be permitted.

- 9.2 This decision does not diminish the importance of the view reached by officers of the Council. However, it was not a view shared by the local County Councillor, the local parish council and a substantial number of local people, all of whom may reasonably be considered to know the area best and would be most directly affected. It is a matter of balance but the Committee's assessment was that planning permission should be refused for the reason given and having taken all other material planning considerations into account. This remains the view of the Council and therefore the appeal should fail.