

CD J.2



Northumberland
County Council

PROOF OF EVIDENCE

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TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY DEVONPORT ESTATES

**CONSTRUCTION OF A PUBLICLY ACCESSIBLE LANDMARK AND
ASSOCIATED DEVELOPMENT**

ON

**LAND AT COLD LAW, STIDDLEHILL COMMON, NEAR RIDSDALE,
RAY ESTATE, NORTHUMBERLAND**

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

LOCAL PLANNING AUTHORITY REF: 19/00247/FUL

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SUMMARY (Separately bound)

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1. Letters of Objection
2. Position Statement concerning the Northumberland Local Plan
3. Ecological Benefits arising from the Proposed Development

ABBREVIATIONS

I use the following abbreviations in this proof of evidence

	Abbreviation
Devonport Estates	The Appellant
Keep The Wannies Wild	KTWW
Landscape and Visual Impact Assessment	LVIA
National Planning Policy Framework	NPPF
Northumberland County Council	The Council
Statement of Common Ground	SOCG
Tynedale District Local Plan Saved Policies (2007)	TDLP Saved Policies
Tynedale Local Development Framework Core Strategy (2007)	TLDFCS
Tynedale District Local Plan (2000)	TDLP

1. INTRODUCTION

1.1 This proof of evidence is submitted on behalf of Northumberland County Council in relation to a planning appeal lodged by Devonport Estates, against the Council's decision to refuse to grant planning permission for the construction of a publicly accessible landmark and associated development on 9.5 hectares of land at Cold Law, Stiddlehill Common, Ray Estate, Northumberland (PINS ref: APP/P2935/W/20/3244389).

1.2 I deal with planning considerations in this proof of evidence. David Stokoe, a landscape architect from Wood PLC, deals with landscape considerations in his proof of evidence. In respect of landscape considerations, I only deal with application of landscape planning policy and its implications for the planning balance.

2. QUALIFICATIONS AND EXPERIENCE

2.1 I am Gordon Halliday, an independent planning consultant. I have been a Chartered Member of the Royal Town Planning Institute since 1981.

2.2 I hold an MA (Hons) Degree in Geography and an MPhil in Urban Design and Regional Planning, both from the University of Edinburgh. I also have a Postgraduate Certificate in Public Sector Management Development from Northumbria University.

2.3 I was an Accredited Officer Peer for the Improvement and Development Agency, from 2007–2010 and I am currently Chairman of the RTPI Conduct and Discipline Panel, a post I have held since Spring 2018.

2.4 I worked in local government for 35 years, before going into private practice in 2010. I held various posts at Northumberland County Council, including as a Divisional Director from 2005-2008, a position that included Chief Planning Officer responsibilities, and subsequently as Head of Planning Strategy with the new unitary authority from 2008-2010.

2.5 As Chief Planning Officer I was responsible for all planning and conservation services, in addition to providing strategic leadership through the coordination and management of over 100 professional the Council on planning forums locally, regionally and nationally.

- 2.6 During my career I have provided expert witness evidence at various planning inquiries, working on behalf of Local Authorities and Independent Groups.
- 2.7 Since October 2019 as a planning consultant I have had a part-time contract in the Development Management service of Northumberland County Council, responsible for a number of high profile planning applications. I was not involved in the determination of the application the subject of this appeal but I was subsequently the case officer for a second application submitted by the appellants for the proposed development.
- 2.8 The evidence I have prepared and provide for this appeal is in accordance with the guidance of my professional institution. I confirm that the opinions expressed are my true and professional opinion.

3. THE SITE AND THE PROPOSED DEVELOPMENT

- 3.1 A Statement of Common Ground (dated March 2000) (CD L.1) has been agreed between the Council and the Appellant. Sections 2.3 and 2.4 set out information on the site and its surroundings, location and planning history; and the proposed development. Further to the information in Sections 2.3 and 2.4 of the SOCG I wish to point out the following aspects on these topics.
- 3.2 At the Case Management Conference, the Inspector questioned the inclusion of the words '*commissioned to commemorate Queen Elizabeth II and the Commonwealth*' on the basis that this is not an act of development. The Council agreed with the Inspector in an email to PINS dated 27 January 2020.
- 3.3 In addition to the landmark sculpture that is described in the SOCG, the proposed development includes a range of associated development, the impacts of which both during construction and following completion of the development need to be taken into account in determining this appeal.
- 3.4 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.

- 3.5 On completion of the development, the associated development would occupy the major part of the 9.5 hectare site. David Stokoe sets out the features that the associated development would comprise at his paragraph 2.1.1.2.
- 3.6 In terms of planning history, there have been no planning applications for the site, prior to the existing proposal. However, following the refusal of the appeal proposal and the submission of this appeal, Devonport Estates submitted a second application for the proposed development. Details of this are included in Section 5 below.

4. THE PLANNING APPLICATION

- 4.1 Information on the submission and determination of the planning application is set out in Section 2.2 of the SOCG (CD L.1) and information on the consultation responses is included in Section 4 of the SOCG. Further to the information in Sections 2.2 and 4 I wish to point out the following aspects on these topics.
- 4.2 A more detailed summary of the consultation responses is provided in the table in Section 3 of the Committee Report of 4 June (CD C.1). Subsequently the Council's Tourism and Visitor Economy Manager responded and that response was presented in full to the Committee in an addendum report on 2 July (CD C.3). I present my views on the Manager's views in paragraph 8.30 below.
- 4.3 The consultation responses include an objection from Corsenside Parish Council (CD B.9) in whose area the appeal site is located and Rochester with Byrness Parish Council also submitted an objection (see Appendix 1). As Keep The Wannies Wild (KTWW) point out subsequently a further three Parish Councils in the area (Otterburn Parish Council, Kirkwhelpington Parish Council and Elsdon Parish Council) have objected to the proposed development at the appeal stage. All these Parish Councils raised concerns about the harm that would result to the

local landscape. Of the 132 letters of objection submitted on the application, 92 were from local people. None were 'standard letters'. The vast majority of the nearly 2000 members of KTWW are resident in the local area. The Redesdale Society, whose main aim is to conserve and protect Redesdale, has objected to the proposal (see Appendix 1). The views of local people, when raising relevant land use planning concerns as these do, are material considerations in the consideration of the acceptability or otherwise of the proposed development in this sparsely populated location.

4.4 The Appellant considers that the Committee Members, in refusing the application, unreasonably dismissed the balanced and objective approach by officers. I do not agree. As the minutes of the Committee meeting (CD C.5) demonstrate, members carefully considered all the policy and other material considerations and had benefitted from a site visit to see the site and its surroundings. As a result they had concluded that the landscape of the Cold Law area would not provide an appropriate location for the proposed development. Notes of the Committee meeting submitted by the Keep The Wannies Wild group confirm the careful scrutiny of the application exhibited by the Committee.

4.5 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.

4.6 The decision notice (CD C.6) 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'.

4.7 As stated by Mr Pickles at the Case Management Conference (CD L.4), the Council does not contend that the site is 'valued' landscape in the terms set out in paragraph 170(a) of the NPPF.

5. THE SECOND APPLICATION

5.1 Devonport Estates submitted a second application for the proposed development that was validated on 28 February 2020. In the Planning Statement submitted with the resubmission it was stated that '*the application is effectively a resubmission of the scheme previously considered*' and it listed the material differences as follows:

- additional SuDS to include a greater volume of standing water;
- additional biodiversity improvements through adjusted seeding mix and greater seeded areas;
- path surface amendments – eastern radial path to be a grass seed mix and greater seeded area; western radial path to be site-won bound aggregate; and steps between approach path legs using site-won stone.
- additional seating to northeast portion of radial path and the bends of the approach path from the car park;
- additional signage boulders to add to educational aspects of the interpretive journey towards the sculpture.

5.2 These items do not form part of the proposed development that is the subject of this appeal.

5.3 Some of the documents submitted with the original application were resubmitted unchanged. However, a number of new documents were submitted as follows.

a. An economic impact report (CD D.5) that draws largely on a desk-based review of high-profile public art installations, including any impact assessments that have been undertaken.

b. A visitor strategy (CD D.3) that outlines how the attraction will be promoted and marketed and explains the nature and extent of the visitors that are expected to be drawn to the attraction.

- c. A Planning Statement (CD D.1) that updates the content of the Planning Statement submitted (CD A.3) for the original application.
 - d. A separate and more comprehensive Design and Access Statement (DAS) (CD D.2). The DAS submitted for the original application was incorporated within the Planning Statement.
 - e. A Statement of Community Engagement (SCE) (CD D.4) that updates the submission for the original application (CD A.26).
- 5.4 It was stated that the revised application included considerable additional information about the rationale and logic of the scheme and in particular the design drivers, as it was considered that these aspects were not sufficiently explained in the original application or sufficiently understood by the Committee. It was also stated that the DAS had been prepared to demonstrate the choice of location and the specific response to it by the artist in designing the proposed sculpture, this information being intended to address the Committee's reason for refusal.
- 5.5 A Landscape and Visual Impact Assessment (LVIA) prepared by Southern Green (CD E.1) had been submitted with the original application and the same LVIA was submitted with the resubmission. The Council had commissioned Stephenson Halliday to review the original LVIA (CD E.15) and that review was relied upon in the officer report presented to Committee on the original application (CD C.1). Given the importance and centrality of the issue to the consideration of the second application and with an open mind on what the review might find, the Council decided that a more detailed and comprehensive review of the LVIA was required. The Council commissioned a different consultant (Wood PLC) to carry out a new review of the LVIA. Wood PLC submitted their review on 20 May (CD F.1), comments on the review were received from the appellant on 7 August (CD F.2) and comments from Wood PLC on the appellant's comments were received on 20 August (CDF.3).
- 5.6 On 22 September 2020 I informed the appellant's agent that the second application would be presented to the meeting of the Strategic Planning Committee to be held on 6 October with an officer recommendation to refuse

planning permission. On 24 September the agent requested that the application be withdrawn and this request was agreed the same day. The officer report was not published. However, I consider that the various reports referred to in paragraphs 5.3 above contain information that is material to the consideration of this appeal and I refer to that information as appropriate.

6. THE DEVELOPMENT PLAN

6.1 The Development Plan in respect of the appeal site comprises the Tynedale Local Development Framework Core Strategy (2007) (TLDFCS) (CD G.1) and the Tynedale District Local Plan Saved Policies (2007) (TDLP Saved Policies) (CD G.2).

6.2 The former Tynedale District Council prepared the TLDFCS in 2007. The Core Strategy sets out the overall spatial planning strategy for the former District Council area up to 2021. The intention was that over time more detailed Development Plan Documents (DPDs) would be prepared to complement the Core Strategy. However, before these DPDs could be prepared in 2009 Northumberland became a unitary authority. These more detailed DPDs would have replaced policies in the TDLP that had been adopted in 2000. Pending the preparation of the more detailed DPDs, certain policies in the TDLP were 'saved' as the basis for determining planning applications together with policies in the Core Strategy.

6.3 I have considered both DPDs and consider that the following policies are relevant to the consideration and determination of the planning application.

6.4 Tynedale Local Development Framework Core Strategy Policies

BE1 Principles for the built environment
GD1 Principles for the 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

6.5 Tynedale District Local Plan Saved Policies

GD2 Design criteria for all development
GD4 Range of transport provision for all development
GD6 Car parking standards outside built up areas
TM4 New tourism development in the open countryside

6.6 Whilst saved policies NE19, NE20, NE21, NE26 and NE27 are also listed in the SOCG (CD L.1) (paragraph 3.3.1) and were referred to in the officer report to Committee (CD C.1), I do not consider that these nature conservation policies raise issues in relation to the appeal site and the SOCG (paragraph 3.10.5) states that they do not form part of the reason for refusal. The SOCG also confirms that the Council has no objections to the proposal on ecology grounds subject to planning conditions and a legal agreement. As such I do not propose to discuss these policies further.

6.7 The SOCG states that the following policies either do not form part of the reason for refusal or have been demonstrated to be complied with by surveys and assessments that were submitted with the application. As such I also do not propose to discuss these further.

TLDFCS policies BE1, GD1, GD4 and EDT1

TDLP saved policies GD4 and GD6

6.8 Whilst TLDFCS policy GD5 is not referred to in the SOCG, the proposal includes a series of measures including the creation of a SuDS basin with permanent water, swale separating the car park and SuDS basin, retention of existing marshy areas and drainage ditches on the site and the provision of boardwalks over the ditches. The Council has no objections to the proposal on grounds of flood risk subject to conditions relating to detailed drainage matters and the maintenance of SuDS features during the lifetime of the development, should the appeal be allowed. As such I do not propose to discuss flood risk further.

6.9 The NPPF at 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). I have considered the degree of consistency of the remaining three policies with the National Planning Framework. These are TLDFCS policy NE1 that is referred to in the reason for refusal and TDLP saved policies GD2 and TM4 that are relevant to parts of the development but are not referred to in the reason for refusal.

6.10 David Stokoe identifies those parts of TLDFCS Policy NE1 with a particular bearing for this appeal at his paragraph 3.1.3.1

6.11 I consider that the parts of TLDFCS Policy NE1 set out by Mr Stokoe are consistent with relevant provisions of the NPPF (including NPPF paragraphs 83, 127, 131 and 170) and that therefore full weight should be given to these parts of policy NE1.

- 6.12 The relevant parts of TDLP Policy GD2 for this appeal are as follows.
“Development will be required to respect the positive characteristics of the District’s natural and built environment and to conform to the following design criteria:
(a) The design should be appropriate to the character of the site and its surroundings...use of materials, structures and landscaped and hard surfaced areas.
- 6.13 I consider that the parts of TDLP Policy GD2 set out above are consistent with relevant provisions of the NPPF (including NPPF paragraphs 124 and 127) and that therefore these parts of the policy should be given full weight.
- 6.14 The relevant parts of TDLP Policy TM4 for this appeal are as follows.
“In the open countryside, outside the Green Belt and the North Pennines AONB, proposals for small scale new build tourism development will be permitted where the following criteria are met:
(a) the proposal can be absorbed into the landscape by taking advantage of natural features such as existing tree cover and/or the topography of the site and surroundings.
- 6.15 I consider that the parts of TDLP Policy TM4 stated above are consistent with the NPPF (paragraph 83) and that therefore the policy should be given full weight.
- 6.16 I consider Policies NE1 of the TLDFCS and Policies GD2 and TM4 of the TDLP in my analysis of the proposed development in Section 8 below.

7. OTHER MATERIAL CONSIDERATIONS

The National Planning Policy Framework

- 7.1 The National Planning Policy Framework (NPPF) (February 2019) is a material consideration in planning decisions.

- 7.2 As referenced in the introductory section of the NPPF, planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. It is also acknowledged that the Framework should be read as a whole (including footnotes and annexes).
- 7.3. I consider that the NPPF paragraphs that are most relevant for this appeal are paragraphs 7, 8, 11c and 12 which deal with sustainable development; paragraphs 83 on tourism; paragraphs 124, 127, 128 and 131 relating to design; paragraph 170 which is referred to in the reason for refusal; and paragraph 180 on tranquillity and illumination.

National Planning Practice Guidance

- 7.4 National Planning Practice Guidance (NPPG) (2014 as amended) is also a material consideration in planning decisions. I do not propose to refer to the NPPG in this proof of evidence.

Northumberland Local Plan

- 7.5 Emerging Development Plan policy is the Northumberland Local Plan Submission Draft Plan (NLP) February 2019 (CD G.4) and Schedule of Proposed Minor Modifications (May 2019) (CD G.4.1). The NLP was submitted to the Secretary of State in May 2019 and has been the subject of Examination in Public. A number of examination hearings have been held since 2019, a Phase 1 between October 2019 and February 2020 and a Phase 2 in October and November 2020. The Inspector's Report is currently awaited. More details about the NLP process and the policies relevant to this appeal are provided at Appendix 2 and should the position change an update will be given at the inquiry.

7.6 The NLP will eventually replace the TLDFCS and the TDLP as the development plan for the application site. The following NLP Policies are relevant to the consideration of the application.

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

7.7 Paragraph 48 of the NPPF identifies the considerations that affect the weight that can be given to policies in emerging Local Plans¹.

7.8 The Northumberland Local Plan (NLP) is at an advanced part of its public examination stage. Given the detailed discussions regarding modifications at the hearing sessions and that the Inspector indicated that she did not envisage needing to hold additional hearing sessions, the Council considers that the plan can be made sound subject to modifications. If this is confirmed in the Inspector’s letter, or the elements of the plan that are relevant to the determination of this appeal are not subject to additional work or significant change, the Council considers that substantial weight could be afforded to the draft plan.

7.9 As set out at Appendix 2 all the policies listed in paragraph 10.6 above are likely to be the subject of some proposed modifications although, with the exception of Policy ENV 4, the proposed changes are likely to be minor. In

¹ Paragraph 48 states: “Local planning authorities may give weight to relevant policies in emerging plans according to: a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given); b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)”

particular in respect of key policies for this appeal, Policy ENV3 on landscape character is likely to be largely unchanged. More significant changes are likely to be made to Policy ENV 4 on tranquility and dark skies. Further details are given in Appendix 2.

7.10 Against this background, at the time of drafting this proof, the Inspector's Report is still awaited and therefore, whilst the weight the NLP can be given has increased since the planning application was determined, it is still limited.

Other Documents and Strategies

7.11 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. Key qualities of this Landscape Character Type are the "*open, relatively remote character*" and "*uninterrupted sweeping moorland.*" The guiding principles for this LCT are its strong identity and the need to sensitively manage the landscape.

7.12 The Northumberland Economic Strategy 2019 – 2024 published in 2019 (CD G.10) is also relevant. The strategy identifies tourism as a key sector for providing employment with a key priority being to ensure Northumberland is an internationally significant tourism and culture destination.

8 DISCUSSION

Introduction

8.1 As stated in the Statement of Common Ground the Appellant and the Local Planning Authority agree that the current appeal concerns the balance of benefit versus harm in relation to the following policies:

- Paragraph 170 of the National Planning Policy Framework
- Policy NE1 of the Tynedale Local Development Framework Core Strategy.

- 8.2 The Inspector has identified the main issue as *'the effect of the proposal on the landscape character and appearance of the rural area.'* (CD L.4 paragraph 5).
- 8.3 The Inspector has also stated that *'the planning evidence will deal with benefits, tourism, planning policy not addressed in the landscape and character evidence, any other outstanding matters or considerations and the planning balance'*. (CD L.4 paragraph 9).
- 8.4 Mindful of the reason for refusal and the Inspector's advice I propose to address the following three topics.
- a) Effect on landscape character and appearance.
 - b) Benefits.
 - c) Sustainable development / the planning balance.

Effect on Landscape Character and Appearance

- 8.5 David Stokoe presents the Council's evidence in relation to the effect of the proposal on the landscape character and appearance of this relatively remote, rural area in Northumberland. His evidence includes reference to national and local planning policies.
- 8.6 Mr Stokoe has also explained the findings of his review of the Appellant's LVIA prepared by Southern Green, noting in particular where his findings differ from those of Southern Green.
- 8.7 I do not intend to repeat or summarise Mr Stokoe's evidence. However, I consider that the following statement from the NLP (CD G.4 paragraph 10.20) is important in emphasising the importance of protecting the landscape in Northumberland. It states: *'Northumberland's landscape is rightly considered a jewel in its crown. It has huge variety and great drama. It contains a spectrum of character from the rugged to the picturesque'*.

- 8.8 Based upon Mr Stokoe's assessment and conclusions, with which I agree, I consider that the appeal proposal is in clear breach of NPPF paragraph 170(b) and TLDFCS Policy NE1 referred to in the Council's reason for refusal.
- 8.9 I have next considered whether there are any other development plan policy considerations that should be taken into account in relation to the effect of the proposal on the landscape character and appearance of the area. I have identified design considerations and tourism considerations as relevant factors.
- 8.10 TDLP Policy GD2 requires that development respects the positive characteristics of the natural environment and conforms with design criteria including that the design is appropriate to the character of the site and its surroundings. 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 questions that arise here therefore are whether the design is appropriate to the character of the site and its surroundings and if it is, the weight that should be given to innovation.
- 8.11 I recognise that the design of the proposed landmark is innovative and represents the artist's attempts to produce a sculpture that reflects some of the traditions of the area. However, as described by Mr Stokoe, the area is a remote, wild and open landscape and I agree with Mr Stokoe that the proposed development, including not just the sculpture but the associated car parking and other development, will result in harm to the landscape character and appearance of the area as described by Mr Stokoe.
- 8.12 Furthermore it is clear that the chosen design has generated widespread opposition in the area, as I indicated in paragraph 4.3 of this proof of evidence. The Statement of Community Engagement submitted with the second application (CD D.4) indicates that the pre-application dialogue with the local community was very limited, comprising only a small number of exhibitions attended by 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.

- 8.13 The 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 that is also my view. I consider that any weight that is given to innovation in design is overridden by the inappropriateness of the appeal site for the proposed development.
- 8.14 TDLP Policy TM4 requires small scale new build tourism development to be absorbed into the landscape by taking advantage of natural features such as existing tree cover and/or the topography of the site and surroundings. The NPPF states that planning decisions should enable sustainable rural tourism and leisure developments which respect the character of the countryside. The questions that arise here therefore are whether the proposed development meets the requirements of Policy TM4 and the NPPF.
- 8.15 I consider that it is very obvious that the requirements of Policy TM4 are not met, as the proposed development would not be absorbed into the landscape. Indeed the opposite is the case. The sculpture sited on the summit of Cold Law would be a prominent feature in the landscape.
- 8.16 Furthermore it must also be taken into account the fact that the landmark feature is only part of the proposed development. The associated development of car parking, walkway etc, will occupy much of the 9.5 hectares of land that is proposed for development and will be highly visible in particular from the C125 road but also from other viewpoints to the south. These features and the visitor activity attracted by the landmark sculpture will fundamentally alter the character of the site and its setting within the wider area of open, largely undeveloped countryside. For the reasons set out in Mr Stokoe's evidence I do not consider that the proposed development would respect the character of the countryside

and therefore the requirements of the NPPF in respect of sustainable tourism development are not met.

8.17 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 and in Mr Stokoe's evidence, I agree with that view. Cold Law is not an appropriate location for the proposed development.

8.18 I also find it difficult to understand the connection between the objective of the appellant in wishing to commemorate the Queen and the Commonwealth and the appeal site. There is no indication that the Queen has any connection with the appeal site or the general locality or that the Queen has endorsed the construction of a landmark monument in this location. I have read the DAS submitted with the second application in detail but I do not find the case persuasive that a commemorative development should be at Cold Law rather than elsewhere in Northumberland.

8.19 I have next considered whether or how my conclusions are affected by the emerging policies in the NLP. The policies that are particularly relevant to the main issue are policies ECN15, QOP1, ENV 3 and ENV 4. As stated above, only limited weight can be given to these emerging policies at this time. In respect of ECN 15 there is no support for the proposed development. I consider that the same comments that I have made in relation to TDLP Policy GD2 apply in respect of NLP Policy QOP1. Similarly I consider that the same comments that apply to TLDFCS Policy NE1 apply to NLP Policy ENV3. In respect of ENV Policy ENV4, whilst I have concerns about the impact of the proposed development on tranquillity, dark skies and a sense of rurality, I consider that this could largely be addressed by the imposition of appropriate planning conditions.

8.20 My conclusions are therefore not altered by my consideration of the emerging policies in the NLP.

Benefits of the Proposal

8.21 I deal secondly with the benefits of the proposed development claimed by the appellant.

Environmental Benefits

8.22 The Appellant considers that the scheme will deliver biodiversity net gains in the medium-term through sensitive management and implementing the planting scheme, SuDS and habitat creation. However, in the absence of the proposed development there would be no particular need for such biodiversity enhancement in the Cold Law area. The environmental benefits claimed by the appellant are in fact measures that would be required through planning conditions or the planning Obligation to make the proposals acceptable should planning permission be granted. I therefore do not see how these can be considered to be real benefits of the proposals, as claimed by the Appellant.

8.23 Also relevant is that the potential benefits of the Conservation Management Plan (CMP) have to be compared with what might happen anyway in the absence of the proposed development. The CMP would apply to an area of 60 hectares of land including the 9.5 hectares of land that comprises the appeal site. However, the whole of the proposed CMP area is within an Entry Level plus Higher Level Environmental Stewardship Agreement in the name of Devenport Farms who are being paid to manage this land. The County Ecologist has prepared a note on this agreement (see Appendix 3) concluding that much of the ecological benefit resulting from the implementation of the Conservation Management Plan may actually be delivered in the absence of the proposed development, through the Environmental Stewardship Agreement.

- 8.24 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 Mr Stokoe's and my evidence, I consider that 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.
- 8.25 I conclude therefore that in the overall planning balance the environmental benefits claimed by the Appellants can only be afforded very limited weight.

Social Benefits

- 8.26 The Appellant's Statement of Case and other submissions do not make any specific reference to the proposal resulting in social benefits. However, it could be argued that the social role of the proposed development is that the development of a landmark sculpture to celebrate Queen Elizabeth II for her services to the country and her lifelong dedication to the Commonwealth represents a social function. 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 could 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 evidence to this inquiry.
- 8.27 I conclude therefore that in the overall planning balance any social benefits can only be afforded very limited weight.

Economic Benefits

- 8.28 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”* (CD I.2 paragraph 8.3.1). In support of this claim the Appellant refers to consistency with local planning policy (CD I.2 paragraphs 8.3.3 and 8.3.4) and national planning policy (CD I.2 paragraph 8.3.12) and quotes from the consultation response of the Council’s Tourism and Visitor Economy Manager (CD I.2 paragraph 8.3.7) and the addendum report of 2 July 2019 to the Strategic Planning Committee (CD I.2 paragraphs 8.3.8 – 8.3.11).
- 8.29 The original planning application was not accompanied by 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 by the proposed development.
- 8.30 The comments of the Council’s Tourism and Economy Manager (CD B.14) should be viewed in that context. He raised no objections to proposal subject to all statutory planning conditions and considerations being satisfied. He considered it would be an asset and add value to an industry increasing in performance but he considered it *‘questionable whether the landmark will exist as a substantially visited singular attraction’*. His comment relating to it being a *‘sensitive’* asset should be viewed in the context that he is not qualified to comment on landscape sensitivity. I consider that at best his comments represent qualified support for the proposal assuming no substantial adverse landscape and visual impact and do not suggest that any tourism benefit should be given significant weight.
- 8.31 Additional information was submitted with the second planning application on the potential economic benefits of the proposed development. For the resubmission, the applicant commissioned ERS Research & Consultancy to prepare an economic impact assessment. The ERS report (CD D.5) draws largely on a desk-based review of high profile art installations. However the

report notes that few such assessments have been carried out for individual sculptures similar to the proposed development.

8.32 The Planning Statement (CD D.1 paragraphs 9.3.1 and 9.3.2) for the second application summarises the conclusions of the report as follows. *“Given the uniqueness of the proposal, it is difficult to quantify the potential impacts of the Elizabeth Landmark. Considerations include likely visitor types (i.e. day visitors, visiting friends and relatives, holidaymakers in paid accommodation), displacement (assessing what would have been spent in the county anyway, but is instead being spent proximate to this location) and the relationship between spending figures and the resulting Gross Value Added (GVA) and Full Time Equivalent (FTE) employment. Allowing for the possibility that some visitors will purposely visit the Landmark as a priority whereas others will simply add it on to a trip or journey, the report finds that the following benefits are likely over a ten-year period:*

- *£3.35 million additional visitor spending;*
- *£1.43 million additional GVA*
- *10.59 jobs (8.12 Full Time Equivalent) which translates to 72.49 additional FTE over the ten year period.”*

8.33 The figures quoted above are the Appellant’s estimates of the economic impact that the proposed development would have in Northumberland. The ERS report (CD D.5) considers that within the local area whilst there is likely to be some additional economic activity benefitting local businesses, it is unlikely to be on a scale that will create any additional employment.

8.34 The ERS report (CD D.5) also considers that Northumberland would benefit from the local, national and international media attention that the proposed development would attract and that it could act as a catalyst to further investment in the county.

8.35 The economic impact assessment has drawn on the findings of a Visitor Strategy (CD D.3) that was prepared to seek to understand the likely behavioural patterns of those visiting the sculpture. It is stated that the

survey has been based on data for similar attractions and other sites in Northumberland, taking differences in location, transport and facilities into account.

- 8.36 The Visitor Strategy (CD D.3) states that the ambition is to attract 25,000 visitors by year 3 recognising that perhaps 70% of these are likely to be existing visitors / tourists within Northumberland who have extended their stay or added the Landmark to their itinerary. The targets are that 40% of visitors will include an overnight stay in the county and that the average total spend will be £50 per visitor. To achieve these targets there will be a marketing and promotion strategy. 88% of visitors are expected to travel by car with 83% living outside the northeast. 53% are expected to be on holiday with 47% being day visitors travelling from their home or a relative's home. Whilst 37% of visits are expected in summer, it is considered that the Landmark has the potential to attract visitors throughout the year.
- 8.37 It is stated that there is a limited number and range of accommodation and facilities within 5 kilometres of the site, including seven providers of overnight accommodation with a capacity for 53 guests in approximately 27 rooms and pitches for 5 caravans / motorhomes. The main providers are the public houses / hotels at Ridsdale (Gunn Inn) and West Woodburn (Bay Horse Inn). There are no shops within 5 kilometres of the site. Within 10 kilometres are the villages of Otterburn and Bellingham (8.5 kms) where there is a wider range of holiday accommodation and shops that could benefit from increased numbers of visitors to the area and also the village of Knowesgate. The Visitor Strategy also anticipates that the Landmark could be an additional attraction for visitors to Hexham, Corbridge, Morpeth, Hadrian's Wall and Kielder Forest, thus supporting the aims the Northumberland Economic Strategy and the Discover Our Land initiative.
- 8.38 In his response to the second application the County Tourism and Visitor Economy Manager stated as follows. I have underlined certain words to emphasise the uncertainty surrounding the comments. *"Whilst it is not possible to accurately determine whether the landmark will exist as a substantially visited singular attraction, as an unusual feature and point of*

interest, it has the potential to add value to the total visitor offer within the county, and could contribute to our ambitions for sustained growth in the visitor economy’.

- 8.39 I consider that the estimates of potential visitor numbers and the economic and employment benefits claimed by the appellant are almost insignificant when compared to the overall benefits that the tourist industry generates in Northumberland. In 2018 it is estimated that 10.48 million visitors contributed £1 billion of spending and that there were 15,700 direct and indirect full time jobs in the sector in Northumberland. The benefits are also very limited when compared to other art based attractions in the northeast. For example the ERS report indicates that the Angel of the North attracted an estimated 8000 visitors per week in its first few years. 125,000 people visited the Weeping Window public art sculpture that was displayed at Woodhorn Museum for seven weeks in 2015 and the net benefits to Northumberland were estimated at over £800,000. The report refers to other art based attractions nationally and internationally all of which generated or were estimated to have generated significantly larger visitor numbers and economic and employment benefits.
- 8.40 I conclude therefore that any economic benefits that do result will not be significant either locally or regionally. Furthermore the appeal site is remote from other major visitor destinations in Northumberland. I consider therefore that only very limited weight should be given to the economic benefits in the planning balance.
- 8.41 The main visitor activity in the area at present is walking and rambling. The British Mountaineering Council has stated that a majority of its members who provided views were opposed to the proposed development (see Appendix A). The area is also popular for other outdoor recreational pursuits such as cycling. David Stokoe has highlighted the extent of the public rights of way network and open access land in the area. He considers that this aspect was not fully addressed in the Southern Green LVIA and that recreational users would experience adverse visual effects from the proposed development.
- 8.42 It is understandable therefore that 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, ramble, climb and cycle in the area by its wild, remote and unspoilt character.

8.43 I consider 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 appellants' own surveys have demonstrated clearly that the economic benefits likely to result from the proposed development at Cold Law are very limited both in Northumberland as a whole and in particular in the vicinity of the Cold Law location. Therefore I conclude that the economic benefits are not sufficient to override the conflict with environmental policy.

Sustainable Development / The Planning Balance

8.44 Thirdly I consider the planning balance and whether the proposals represent sustainable development, having regard to the benefits referred to by the Appellant. 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. The appellant considers that the proposal achieves these three objectives and that the proposed landmark would be sustainable development '*that will benefit the area by promoting cultural tourism and helping to sustain local services*'. (CD A.3 paragraphs 8.03 and 8.04)

8.45 I have commented on each of the three objectives of sustainable development. The main benefits claimed by the Appellant are economic benefits but in summary I have concluded that these would be very limited. Similarly I have concluded that any social benefits would be very limited. In respect of the environmental benefits claimed by the Appellant, I consider that these are

measures that would be required through planning conditions or the Planning Obligation to make the proposals acceptable should planning permission be granted and that the land is already being managed through a Stewardship Agreement. It is the Council's case that Cold Law is not a location for the erection of a landmark sculpture on grounds of harm to the landscape character and appearance of the site and surrounding area.

8.46 I therefore conclude that the conflict with national and local planning policy on grounds of harm to the character and nature of the landscape, together with the very limited benefits that would result, prevent the proposal from considered as sustainable development. The planning balance weighs strongly in favour of dismissing the appeal.

9. CONCLUSIONS

9.1 Based upon Mr Stokoe's assessment and conclusions, with which I agree, I consider that the appeal proposal is in clear breach of NPPF paragraph 170(b) and TLDFCS Policy NE1 referred to in the Council's reason for refusal on grounds of harm to the landscape character and appearance of the site and surrounding area.

9.2 Whilst policies in the emerging NLP can only be given limited weight, the plan is at a significantly more advanced stage than when the application was refused planning permission and my consideration of relevant emerging policies does not affect my overall conclusion that the proposed development conflicts with the Development Plan and the NPPF.

9.3 I have considered whether or how these conclusions might be influenced by design and tourism policy considerations or by the economic, environmental and economic benefits claimed by the appellant. I have concluded that none of these policy and other considerations outweigh the harm, that the proposal does not represent sustainable development and that the planning balance weighs strongly in favour of dismissing the appeal.