

CLOSING SUBMISSIONS FOR KTWV

Planning applications for landmarks are few and far between and, almost by definition, they are also different from each other. That makes it hard to apply planning policies that have generally been drawn up to address the more common forms of development: buildings, infrastructure or changes of use.

The application before this Inspector has been promoted as a glorious celebration of the Queen and Commonwealth. Along the way of this very lengthy process a picture has been painted of happy smiling people coming in an orderly way to celebrate the Queen's birthday or be educated about the Commonwealth and local history, taking healthy strolls and enjoying the views. But real life is much more complicated than that.

As we have learned more and more about how this development would work we have found more and more questions that need to be answered. The LVIA has assessed only the physical changes within the site: the sculpture, the car park and the paths and Ms Southern confirmed in cross examination that matters to do with the impact of the use in terms of activity were beyond its scope. When questioned, Ms Southern gave her idea of visitor flow as a 'trickle' when compared with somewhere that was holding a large event. But who is to say her guess is right?

The appellant's response has been to say baldly that there will be no lighting and no events. But the Inspector cannot rely just on Mr Creedy's say-so, there would have to be control through planning conditions to prevent permitted development rights being used for temporary uses, buildings and structures, portaloos for example, which could well be found essential in the future because of the lack of public toilets.

The uses to which an unattended car park in an isolated location can be put is legion. In the locality of the appeal site, for example, there are already problems from overnighting in the A68 layby, evidenced in letters from objectors, and reading these is not for the squeamish. The car park at the appeal site would be an attractive place for motor home stop-offs. They would have a visual impact, adding to the harm to landscape character. Whatever other activities might go on in the car park: barbecues, drone flying, parties, ice cream vans for example, would also harm landscape character through noise and vehicle movements. Conditions would be required to try and mitigate some of these aspects.

But even with all the conditions suggested by KTWV (CD L.6.2) the development would still not be acceptable in terms of its impact on

landscape character and appearance. The motor cycle clubs, for example, will not be told where they can or cannot go. The bottom line is that the appellant will be responsible for what goes on on his private land but has little control over it. No external authority is going to come and remove camper vans that stay for days or tell people to put out their bonfires, turn down their music or take their drones home. No, it is some unknown management arrangement that will be responsible for dealing with that. And it is to Lord Devonport that any enforcement action would be directed in the event of a breach of planning conditions.

The appellant's Economic Impact Assessments are described as 'scenario based' and I will come back to these in due course. The point I am making is that there are many possible scenarios and the appellant cannot lay claim to possess the only true one when so much is speculation. Ms Southern confirmed in cross examination that there is a well-recognised dichotomy, even in the National Park, as to the balance to be struck between attracting more visitors for the benefits to health, well-being and the local economy, when those very visitors could also degrade the environment that is valued so much by other users. This is exactly the point that KTWW has been making from the start.

So, I turn to the main issue in this appeal, the impact on landscape character and appearance. Our case is that this has two aspects: firstly, the visual impact of the development, associated vehicles and any future buildings/structures. Secondly, the impact of the use in terms of the landscape character qualities of remoteness, wildness and tranquility.

We have at last been provided with proper visualisations from viewpoints 1 and 2 of Ms Southern's LVIA (CD I.5.1). She confirmed in cross examination that the only location from which the similar heights of Hepple Heugh, Hartside and the landmark can be appreciated is that at Image 4 of Mr Hitchens' appendices CD I.4.1. The much-vaunted 'synergy' would not be noticed.

From closer viewpoints the sculpture would appear massively taller than Hepple Heugh or Hartside and not as slender as claimed. We do not accept that closer viewpoints should be discounted, as Ms Southern suggested, because the viewer's nose would be pressed up against the structure. We are talking about views from the public road, probably the most visited of all the viewpoints. We maintain that point 1 should be accorded 'High' sensitivity because walkers use that stretch of road to go between public footpaths and that the effect from there, as well as from point 2 should be marked as 'Substantial'. There are other viewpoints that should have higher assessments, particularly number 7. The differences between us are set out in the table in Mrs Jones' critique (Appendix 12 to CD K.2) and the Inspector will come to his own conclusions after his site visits.

What did come over very clearly from Ms Southern's evidence is that her approach, in line with the conventions of landscape architects' practice, is somewhat mechanistic and does not recognise the realities of human interaction with the landscape. She states that the area cannot be wild because it is managed; in fact nowhere in Great Britain would be allowed that adjective in her view. She also uses the ranking from the Northumberland Key Land Use Impact Study (CD G.8 and G.9) to denigrate the quality of the landscape around Cold Law although that is not an adopted document, neither was it intended to be used for planning application decisions.

Against her downbeat assessment, we have the artist's response to the project objective from the Planning Statement submitted with the appeal application (CD A.3):

"To have the opportunity to design a landmark to be placed in this **raw and beautiful landscape** is undoubtedly a privilege and a challenge that I wholeheartedly relish. Its success will grow from a sensitivity to land and place: born in form, material and presence from the **majestic geography** that supports it." The appellant cannot argue with the assessment of his own chosen artist.

We also have the 15 late letters in Mr Creedy's appendix 4 (CD I.3.1), three of which use the term 'wild' to describe the area and Cllr Watson refers to the 'magnificent surroundings'. So these are supporters who rate the landscape much higher than Ms Southern and of course the Inspector has read hundreds of letters from objectors who also hold the landscape in high regard. Their perception is that it is 'wild' and who can disagree with an individual's perception? They are the people who will feel the pain of Cold Law being mutilated, who will be disturbed by the motor cycle clubs and who will find their tranquility has gone.

As a matter of fact, Cold Law does not sit among the wind turbines and it is merely an accident of land ownership that puts them both in the Ray Estate. It can be seen from some of the objection letters that local people, who accepted the wind farms as necessary in the interests of reducing carbon emissions, believed that they would be temporary and not provide a precedent for further development. Unfortunately that is what seems to be being argued here.

The three Landscape Character types whose boundaries meet very close to Cold Law have key qualities that would be seriously harmed by the intrusion of this development. The appellant wishes to see the sculpture from his property but would also achieve visual domination over a very wide area, and far beyond the land he actually owns. There would be very public consequences. As detailed in Mrs Jones' landscape proof (CD K.3) the structure and its associated uses would **interrupt the sweeping**

character, reduce the openness, intrude into the extensive views and take away the sense of remoteness and tranquility, all of these being recognised as key qualities. It is our case that this impact would unacceptably harm the landscape character and appearance and conflict with the development plan, emerging local plan policies and NPPF on this main issue.

Of course the development plan has to be read as a whole and there are policies that support tourism, economic development and even specifically public art. Policies often pull in different directions. But it is our case that those are all qualified to ensure that harm is not caused in other ways. Either such development is required to be small scale, or in keeping with local character or sustainable, none of which are met by this scheme. The argument put forward by some supporters that tourism must, by definition, be beneficial is a bad one and such an open-ended approach would not be appropriate in planning policy. We do not see landscape planning policies allowing for exceptions where economic development is involved. And wind farms may relate to different considerations that are not relevant to this appeal such as an overriding national need.

A planning balance has to be carried out to see whether there are other material considerations that outweigh the conflict with the development plan and other policies that our case has identified. The appellant has put forward four of these: economic benefits through increased tourism spending, ecological improvements, social benefits and the presumption in favour of sustainable development. I shall deal with each in turn while recognising that the first three feed into the fourth item, the over-arching matter of sustainable development.

The economic benefits, as assessed in the two economic impact studies (D.5 and I.3.1 Appendix 1) depend on the visitor numbers provided by Ethical Partnership (D.3 and I.3.1 Appendix 2). Those are based on 'comparable developments' but Mr Creedy agreed in cross examination that there is nothing just like the Elizabeth Landmark, the attractions listed only have some of its characteristics. The estimates for the appeal proposal are based on an 'ambition' that in turn depends on tourism marketing. Now that events are to be ruled out (but only if controlled through planning conditions), the estimated visitor numbers are even less reliable.

The appellant thinks the visitor numbers would be 'just right' – not too many, not too few. But the reports are based on speculation. Even when tourism attractions have been up and running, as in the examples given, it is said to be difficult to find out how much expenditure they have brought to their locality when many other factors are at play and particularly when there is no direct spending at the attraction itself.

The economic impact assessments then input these questionable visitor numbers so, whatever methods they use to manipulate them, their outputs are only as good as their inputs. The Inspector can choose to believe either or both of the two economic impact assessments or indeed believe neither of them. The vast disparity between their findings might give him pause for thought. We say that little weight should be accorded to this evidence, it is not convincing.

The appellants take little notice of our case that the existing sustainable tourism offer would be harmed by the appeal proposal. They state that they have engaged with local business owners but cannot name any of them. But we have provided first hand evidence from business owners who believe it would be harmful and interested persons who spoke on the first inquiry day confirmed that in respect, not only of their own businesses but other accommodation providers they network with. As regards Covid, they did not believe that the local tourism economy was 'devastated' and the evidence was of a bounce back in demand for holiday accommodation of which there is much in the Wannies and neighbouring areas. The intrusive and lengthy construction activities would be a blight, coming at exactly the time when the lifting of Covid restrictions would offer greater opportunities for existing businesses.

Existing visitors making longer stays and enjoying quiet countryside pursuits would be replaced by day trippers who might buy a cup of coffee or even lunch at a local pub but have no reason to stay on in the area. We ask the Inspector to find that economic benefits from tourism should not be accorded significant positive weight in the planning balance.

The second suggested benefit is ecological improvements. Whilst accepting that the S106 agreement would provide net gains for biodiversity, KTWW does not agree that these would be of a scale that exceeds what would anyway be expected through NPPF paragraph 170 (d). Whilst the development would comply, it would not provide extra benefit to weigh against the harm to landscape character.

New evidence in the form of a document from Natural England (CD M.34) was produced on the last full inquiry day. This has 50 pages and it was not possible to read more than a little of it in the time available. It also deals with technical matters on which KTWW would need to obtain specialist advice to be able to respond. It is not satisfactory for the appellant's e mail to refer only to page 30, the document has to be read as a whole. This raises questions of natural justice and KTWW asks that the Inspector gives no weight to this document nor to any answers given by Mr Creedy beyond the material in his proof paragraph 8.5.3.

The third suggested benefit is social and this brings in the question of the community engagement that has been carried out.

KTWW accepts that, in principle, the range of exercises in Ethical Partnership's *Statement of Community Engagement* (CD D.4) is greater than might be generally required or expected of an applicant. However, we consider that they have been poorly carried out and ineffective in engaging the public as follows:

- The 34 days of exhibitions elicited only 43 comments, twice as many against as in favour. But what was being asked was to judge a competition between 3 designs, not to judge the appeal scheme against its landscape impact.
- Newspaper articles do not demonstrate support, merely that press releases have been issued with interesting photographs.
- The webpage and Facebook page have been moribund for over a year with public comments blocked
- The first tranche of 47 letters submitted in a bundle by Ethical Partnership came from an unknown source, according to Mr Creedy's answer in cross examination. He suggested that the 'copy-and-paste' letters should be given the same weight as those that were individually written but we disagree.
- The 15 late letters that came in Mr Creedy's Appendix 4 (CD I.3.1) also seem to have been garnered from an unknown source. Many of them do not make relevant comments.
- Mr Jarrett agreed in cross examination that the telephone/email questionnaire had been outsourced to a third party who had selected the sample from the 'YouGov' database. But the listing of their postcodes from Appendix C of the report shows that only four out of the 251 respondents lived within the four postcodes of NE 19, 20, 46 and 48. Those are the postcodes local to the appeal site and the location of 93 out of 126 of the objectors to the appeal application. The questionnaire therefore sampled a completely different set of people, the largest responses being from the urban areas of Blyth, Morpeth, Bedlington, Cramlington, Ashington Whitley Bay and County Durham. Whatever information the respondents were shown, it could not have included the very recent visualisations demonstrating more accurately the visual effect of the development. It is not known if any of the respondents had ever seen the Wannies area and, as landscape context is so important in this case, their answers cannot be relied upon at all.

What is clear is that the appellant, artist and curator did not engage directly with the local community, for example the Parish Councils, residents, the Redesdale Society or the 'Revitalising Redesdale' project. They preferred online research, low-key exhibitions and phone calls by third parties to people in distant urban areas. Although Mr Creedy's firm produced the *Statement of Community Engagement* he did not seem to know much about what was in it. The results of their exercises flew in the

face of all other consultation: the responses to NCC's notifications, the Hexham Courant poll with 86% opposition, the objections from five Parish Councils and the views of the relatives of Sir Charles Parsons. The expressions of support are few, shallow and unconvincing. In summary, the community engagement, so lavishly described by the appellant's team, has been singularly ineffective.

KTWW accepts that some visitors might find the EL a positive experience but according to the Visitor Strategies (D.3 and I.3.1 Appendix 2) 82% of them would be day trippers, leaving the area to go home after viewing it. It would not matter to them whether they found it enjoyable or not, they need not come back. On the other hand, those living in the local area are overwhelmingly opposed to it and some are upset and even distraught at the prospect. These are the people who would find this massive structure intruding into their everyday lives and dominating their outlook every time they went out and about in their shared landscape.

This is not what the NPPF is seeking when it talks in paragraph 8 b) about supporting communities. There are two different communities involved here, the local one is well-defined, the visiting community is unknown. In my opinion the Inspector should put greater weight on the well-being of the local community which would be living with the consequences of his decision. Even taking account of any educational or cultural aspects, the development would be extremely negative socially.

So to the fourth suggested benefit, sustainable development and the presumption in favour of it from paragraph 11 of the NPPF. KTWW does not consider that this proposal should benefit from that presumption. The group's evidence has already questioned the economic and social benefits. It is clear that the large amounts of steel and concrete used for the sculpture would create a large carbon footprint. In addition there are the emissions in perpetuity, from the vehicles of visitors As they will have no contact with the management of the landmark there is no provision for them even to be asked to pay to offset their emissions.

Although there would be some net gain for biodiversity, that would not excuse the ongoing significant carbon footprint of this development and KTWW asks the Inspector to find that it would not be environmentally sustainable. Taking the three aspects of sustainable development together, we consider that the appeal proposal should not benefit from the NPPF's presumption in favour.

My closing comments ask the Inspector to cast his mind back to the eloquent speakers from differing walks of life who contributed to the opening day of this inquiry. Unlike the four speakers in favour, they did not just repeat the case already set out, they all had their individual, relevant, first-hand evidence to give.

There was Susan Dobson, a mountain artist from Hexham, who was so determined to express her concerns that she spoke during a hospital trip. Then Dr Ian Roberts, the learned chair of the Redesdale Society from Rochester. Having been involved with the restoration of Armstrong's ironworks engine house, he speaks with authority. There were the two climbers, Steve and Simon from Hexham and Newcastle, who find the area so special and take care to look after it. There was Carl Hamilton from Ridsdale, Chair of Corsenside Parish Council that democratically represents the residents in the vicinity of Cold Law. There was Mary Ann Rogers, a long-established artist from West Woodburn who draws inspiration from the Wannies and attracts visitors to her gallery who rave about the stunning landscape. If the Elizabeth Landmark were built, how could she explain that she failed to stop it. There was Sam Kellie who owns the microbrewery in Elsdon, another business owner who feels the appeal proposal would be damaging. And Anne Palmer from Kirkwhelpington who took a full part in the inquiry and gave convincing evidence from her own first-hand experience.

The appellant's ambitions for the local community to provide anecdotes or Commonwealth poets to write text now appear limp in the light of the overwhelming opposition. The rosy picture of strangers meeting up at celebratory events is fading. Lord Devonport has offered the local community a present – a free sculpture – but they do not want his gift thank you. He perhaps cannot understand that point of view but it is real and valid.

We ask the Inspector to go out and enjoy his site visits in this beautiful area, bearing in mind all our cogent arguments, and to make his decision to dismiss this appeal.