



Appeal Decision

Inquiry held on 9 – 12 and 18 – 19 March 2021

Site visits made on 16 February and 14 April 2021

by Phillip J G Ware BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 November 2021

Appeal Ref: APP/P2935/W/20/3244389

Land at Cold Law, Kirkwhelpington, Northumberland

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Viscount T Devonport against the decision of Northumberland County Council.
 - The application Ref 19/00247/FUL, dated 22 January 2019, was refused by notice dated 10 July 2019.
 - The development proposed is “a publicly accessible landmark, commissioned to commemorate Queen Elizabeth II and the commonwealth”.
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Decision

1. The appeal is allowed and planning permission is granted for a publicly accessible landmark, commissioned to commemorate Queen Elizabeth II and the commonwealth on land at Cold Law, Kirkwhelpington, Northumberland in accordance with the terms of the application, Ref 19/00247/FUL, dated 22 January 2019, subject to the conditions set out in the Schedule to this decision.

Procedural matters

2. As noted above, I undertook an unaccompanied site visit before the virtual Inquiry at the request of the parties. I then undertook a more lengthy unaccompanied visit after the Inquiry, during which I followed the route (with viewpoints) agreed by all parties.
3. Keep The Wannies Wild (KTWW) is a local group with almost 2,000 members, which was formed following the Council’s first consideration of the proposal. (the name of the group stems from the local name of the area – the Wannies or Wanneys - referring to the nearby ridge.)
4. A planning obligation was concluded between the appellant and the Council on 1 April, and the terms were discussed at the Inquiry. I deal below with the provisions of the obligation.
5. After the refusal of planning permission a second application for the same development was submitted to the Council, accompanied by additional/revised reports. This application was withdrawn in September 2020 and has not been appealed and is not before me.

6. In July 2021 the government published a revised National Planning Policy Framework (the Framework). This replaced the version which was current at the time of the Inquiry and the parties were given the opportunity to comment on it. I have taken these comments into account and all subsequent references relate to the new version.
7. It should be noted that the description of the proposal includes references to matters – specifically the commemorative function of the proposal – which are not acts of development. I have not taken account of these matters.

Main issue

8. There is one main issue in this case. That is the effect of the proposal on the character and appearance of the rural area.

Reasons

The site, surrounding area and the proposal

9. The site is in open countryside and is around 9.5 hectares in extent. It largely comprises Cold Law, a small hill lying close to the C195 road which runs between major roads close to Ridsdale and Knowesgate. The site and the surrounding area is largely open grassland, much of which was in use for grazing at the time of my visits. Of note are the surrounding crags and hills, most especially Hepple Heugh to the south.
10. The proposed landmark, fully described in the appellant's evidence and other documents, is intended to appear as though a thin slice had been taken from the upper parts of the hill, in a north-south direction. The raised section of the monument would match this slice and the form of the hill. The landmark would be formed in Corten steel and would rise to 55m from the hilltop – overall it would equal the summit of Hepple Heugh. There would be a car parking area and footpaths around the landmark.

Development plan and other policy

11. The development plan includes the Tynedale Local Development Framework Core Strategy (2007) (CS) and the Tynedale District Local Plan (2000) (LP).
12. The only local policy to which reference was made in the reason for refusal was CS policy NE1. This CS policy deals with the protection and enhancement of the character and quality of the landscape and the relationship between development and the natural environment. The reason for refusal also cited the Framework (now paragraph 174) which also deals with the enhancement of the natural and local environment.
13. The Statement of Common Ground (SOCG), signed by the Council and the appellant, lists other development plan policies which are stated to be applicable to the appeal. These cover principles for the built environment, the general location of development, design criteria, economic development, and tourism development in the open countryside. I will return below to those policies which I consider to be relevant to the issues in this case.
14. The parties agreed that the draft Northumberland Local Plan (DLP) (2019) is a material consideration in that it indicates the strategic and spatial priorities of the Council. The SOCG signed by the appellant and the Council lists other policies in the draft which are considered to be material. The Council considers

that considerable weight should be attached to these policies. Given the stage which this emerging plan has reached I consider that this is an overstatement of the weight which can reasonably be attached to these policies as they have yet to be examined and there may be objections. I have accordingly given them limited weight.

The effect on the character and appearance of the rural area

15. The appeal site itself is a low hill which, though typical of the area, is relatively undistinguished. The landscape around the hill is generally open and relatively tranquil, featuring a simple landform dominated by higher craggy outcrops. It is generally open and, on my visits to the area, possesses some sense of isolation. Although the area immediately around the appeal site is less remote and more influenced by man-made features than other more dramatically isolated areas in the wider surroundings, it is nevertheless an attractive area.
16. That said the area has no statutory status or specific identification in the development plan. For that reason, it is clearly not a 'valued landscape' in relation to national policy in the Framework. Aside from the way in which national policy applies to this proposal, this conclusion is also of some significance in relation to the Council's approach to the landscape sensitivity of the area.
17. A significant amount of Inquiry time was taken up with discussions regarding the Landscape Character Assessments (LCA) and the detailed implications of the proposal for each of the three Landscape Character Types (LCT) whose boundaries meet very close to the appeal site. Many of the key characteristics of these types are present in the vicinity of the appeal site to varying degrees. In particular the generally flat topped long ridges with steep scarp faces, coniferous forestry and limited habitation are represented in the area around the site.
18. That said, LCT 8(g), within which the appeal site lies, identifies it as forming the southern extremity of the area with "less dramatic topographic features than areas further north, although there are still notable craggy outcrops such as Great Wanney and Little Wanney Craggs used by rock climbers".
19. An important point to make is that the Landscape Character Assessments date from around 20 years ago, and could not take account of the subsequent development of 34 wind turbines at Ray and Green Rigg. Although they are physically distinct from the appeal site, and though I appreciate that they are relatively temporary structures, they (and other man-made features) have partly eroded any sense of remoteness. (Whilst noting that remoteness was not identified as a characteristic landscape feature in any event.)
20. Given the age of the LCAs, it is notable that one of the Council's witnesses accepted that he had applied the LCAs for the area as if nothing had changed in the following 20 years. Whilst many landscape changes take decades or longer to become apparent, the omission of the arrival of the turbines is unusual to say the least and casts some doubt on the Council's approach.
21. I turn now to the sensitivity of the landscape. Again much time was taken in debating this matter. The appellant, in terms of baseline sensitivity, has stated that the landscape could reasonably be argued to be 'medium' in Landscape and Visual Impact Assessment terms because of the presence of

manmade structures and influences, particularly including the turbines. However the appellant explained that a precautionary 'high' sensitivity rating had been adopted due to the presence of the National Park some distance away and the generally open character of the area. Whilst I appreciate the reasons for this precautionary approach, from the evidence before me and the detailed site visit, I would not rate the baseline sensitivity as more than medium. The magnitude of change and level of effect are correspondingly reduced.

22. The Council's approach to sensitivity and effect place both into the highest category. I have to say that I find this approach difficult to follow in both respects because, put simply, it leaves nowhere to go. If the site were in a valued landscape, such as a National Park, the sensitivity of the landscape would still be the same, and if the proposal were far more intrusive, the magnitude of the effect could be no higher than that of the current proposal. In essence I find that the Council was over-stating these matters, and that this apparent overstatement diminishes the weight to be applied to the evidence.
23. Turning to the effect on landscape, I have carefully considered the approach of all parties, and in particular I am impressed by the appellant's approach. This was to quantify each effect with the magnitude of change and deal with the level of effect in an objective manner, absent any assumption that change would be positive or negative. The change is quite appropriately recognised as negative or positive, depending on the viewer.
24. The proposal is intended as a piece of public art in the form of a landmark, intended to be recognised as such and enjoyed by some. Cultural landmarks are identified in the Northumberland Land Use Impact Study as being something that can enhance the landscape – as a general principle this is probably relatively uncontroversial. The question is whether this landmark harms or enhances the landscape in principle. The particular design of the proposal is a matter I will return to below.
25. There has been much criticism not only of the principle of a landmark in this location but particularly its height. The landmark is an innovative concept and is intended to be seen – a much reduced scale could diminish its impact almost to the point of irrelevance. It was clearly intended to reflect Hepple Heugh and the Queen Victoria Cairn, and a desire to reflect landscape features is an appropriate response to the surrounding area. The wind turbines are at a greater distance, and they appear to have played a much more limited effect in the selection of the height of the landmark.
26. Obviously a man-made landmark could not directly mirror the predominant natural landmarks, the crags and outcrops, but its dramatic nature would align itself closely with its surroundings. The Council accepted that, as a principle, having a landmark in the landscape could be a positive factor. In addition, the slim form of the landmark means it would only occupy a narrow part of the compass and would not physically impede views of the natural landscape.
27. There have been numerous suggestions that the proposal would draw visitors and thereby reduce the feeling of remoteness in the area. I can appreciate this concern, although it is very difficult to assess the number of people who might be specifically drawn to the area by the landmark. In any event, I consider that the remoteness of the area has been overstated by some, as the

area is already affected by the presence of the turbines and other man-made features.

28. The effect on the National Park deserves brief mention. During the course of the application the National Park Authority (NPA) specifically requested that an additional viewpoint (VP14) be assessed. I visited this location during my visit and, like the NPA and the Council, I am satisfied that there would be no adverse impact on the National Park or views from or into it.
29. I now turn more briefly to the visual effect on receptors. It is important to note that this matter did not feature in the Council's reason for refusal, although it has been raised by others and is a matter which I would have wanted to consider in any event. I gained the greatest assistance in this respect from the agreed walking/driving routes produced by the parties.
30. From some very limited locations close to the site, the views of the landmark would be very clear – for example walkers using the road past the site to go from one footpath to another. From such locations the views of the landmark would be notable and slightly adverse – but much depends on individual perception, the transient nature of many receptors and the very limited width of the landmark in the overall wide panorama. I do not consider the visual effect on receptors comes close to representing such harm that the proposal should be dismissed.
31. Before concluding on this overall issue, there are four matters related to the Council's evidence which were raised at the Inquiry and which I need to address.
32. Firstly, there was a clear suggestion in the Council's written evidence that the scheme had been considered, at least in part, on the basis that the proposal involves lighting. It clearly does not do so (aside from infrared) and this misapprehension is likely to have coloured the evidence at some stages in the process.
33. Secondly, it was clear from the Council's evidence that there was a criticism of the design of the landmark against its own design objectives. However the detailed design of the piece was not part of the reason for refusal and is an inappropriate start point for landscape assessment, as seems to have happened.
34. Thirdly, as referenced above, the manner in which the LCAs were used by the Council weakens the position of the authority.
35. Finally it was asserted for the Council at the Inquiry that the review of the appellant's assessment which was undertaken by those advising the Council at an earlier stage was deficient. However, in detailed questioning, no particular deficiencies were identified and it seems to me that this criticism was merely an attempt to distance the Council's position on appeal from the professional advice it had received at an earlier stage.
36. Taken together these four matters reduce the weight which I have accorded to the Council's landscape evidence.
37. Drawing all matters to a close, for the above reasons I consider the proposal meets national policy as set out in the Framework. This seeks development which is sympathetic to its landscape setting, whilst not preventing or

discouraging appropriate innovation or change. National policy provides that decisions should contribute to and enhance the natural environment in a number of ways, including recognising the intrinsic character and beauty of the countryside. The proposed landmark would make a contribution to the character of the area.

38. The only local policy to which reference was made in the single reason for refusal was CS policy NE1. The general approach of this policy is to protect and enhance the character and quality of the landscape. There was agreement at the Inquiry that this means that the test is if there is unacceptable harm, the policy would be breached. In this case, I find that the proposal would at least protect the character and quality of the landscape, and the policy is therefore not offended, and there would certainly not be unacceptable harm.
39. The LP includes a general policy (GD2) which deals generally with the need to respect the positive characteristics of the natural environment, and requires that design should be appropriate to the character of the site and its surroundings. This adds little to CS policy NE1, which is presumably why the Council did not refer to it in the reason for refusal, and my response is the same. Similarly emerging DLP policy QOP 1 and ENV3, dealing with design principles and the landscape, set out a similar approach. DLP policy ENV 4 (to which I will return in dealing with dark skies) adds specific consideration of tranquillity and the quiet enjoyment of the landscape. In this respect, although the proposal would have some effect on the countryside, this change would not in itself be harmful. An isolated piece of public art in a generally rural environment would not detract from the enjoyment of the landscape.
40. I consider that there would be some landscape and visual effects, but the proposal would be of an appropriate form and scale, which could be accommodated within the local and wider landscape context. My conclusion is that there would be no harm, let alone unacceptable harm, to the character and appearance of the rural area.

Other matters - public art, design and materials

41. Whatever the view taken of this location for a piece of art, it is clear that the development plan supports the principle of providing public art at CS policy BE1. In addition, as explained and agreed at the Inquiry, the Council has a generally positive approach towards public art. The proposal would self-evidently add to the artistic offer of the region and would provide a social benefit in this respect, and I give this moderate weight in the planning balance. (That said, I appreciate that the attraction of visitors is regarded by some as unwelcome.)
42. The appropriateness of the proposal to its surroundings is dealt with above, but the design itself was also the subject of limited criticism by some making representations. This was in the context of CS policy BE1 and LP policy GD2, which seek high quality design.
43. The point was made that the concept of a landmark on the appeal site was fixed by the appellant before the artist was instructed. It is also true that the absence of any planning or landscape input at that stage is unusual and perhaps not best practice. However what matters is the suitability of the site

and the quality of the eventual design, not necessarily the process by which the site was chosen.

44. The evidence related to the evolution of the specific design was very carefully described by the appellant's witnesses. It was not countered by any expert design evidence. The landmark is designed to be dramatic and eye-catching, and its slender form and shape were carefully explained to meet the design objectives. It is true that neither the design, not the materials chosen – especially the use of Corten steel - will be universally welcomed. But that is an almost inevitable consequence of the production of a piece of public art, and it was explained by the appellant that other initially controversial schemes have subsequently received widespread acclaim.
45. Overall, the detailed and largely uncontested evidence demonstrates that the design is of a high quality. The views of those who do not appreciate the design come nowhere close to a reason for dismissing the appeal. The proposal would not conflict with the design policies summarised above, and the detail of the design is a factor carrying some limited weight in the balance.

Other matters – tourism and economic effects

46. The Inquiry heard views and opinions as to the current strength of the tourist economy in the area, the number of tourists which the appeal scheme would generate and whether this would be a benefit to the area or would harm it. Opinions on all these matters differed markedly and the inputs into the assessments accordingly varied enormously – leading inevitably to widely differing outputs.
47. Turning to the policy context, it is first important to note that there was no objection in the reason for refusal based on the economy or tourism, nor any reference to relevant policies.
48. The Framework supports sustainable rural tourism. The Council and the appellant agreed that CS policy EDT1 and the supporting text are relevant to the proposal. These set out the principle that the Council aims to support a buoyant and diverse local economy and that sustainable tourism is particularly important. The policy positively allows for new tourist development where appropriate to increase the range, quality and type of facilities available to tourists.
49. LP policy TM4 supports small scale new build tourist development in the open countryside outside designated areas, subject to a number of criteria – one of which relates to landscape matters. I have already given my view on landscape effects, and I consider that the proposal can reasonably be considered as small scale.
50. DLP policy ECN15 similarly promotes Northumberland as a destination for tourists and visitors, while recognising the need to sustain and conserve the environment. Given my conclusion on the effect of the proposal on the area, I consider that by introducing a significant piece of public art, this criterion would be met.
51. The general approach of these development plan and emerging policies is echoed in (amongst other documents) the Council's Economic Strategy (2019-2024) which includes tourism development as an area for growth, and the Economic Impact Report (2020).

52. The inquiry heard a number of strongly voiced opinions to the effect that the local tourist economy was in decline or stable, and that the proposal would or would not support local facilities. Whatever the 'correct' view, the consultation and Inquiry took place in the depths of a global pandemic, and the existing position is very untypical. What is clear however is that there is currently a limited range of accommodation and facilities in the area around the site to take advantage of any additional expenditure – but this must be regarded as a benefit, however limited.
53. I have carefully considered the other projects referred to me by parties as potentially comparable developments, in particular those suggested by the appellants. However as the Inquiry progressed it became increasingly clear that there is nothing even partially comparable to the proposal in terms of location, purpose, other attractions in the area, and policy. The appellants agreed with this assessment during the inquiry, and the 'comparables' are of little assistance.
54. I have also taken note of the argument that the existing sustainable tourism offer in the area would be harmed by the proposal. However, whilst I fully appreciate that the appeal scheme would introduce a new feature in the area, I am not persuaded by the limited evidence that the existing facilities would be harmed. For those who found it to be an unattractive feature which would diminish the area, there is a wide range of other locations locally where the effect of the landmark would not be felt. The suggestion by one Parish Council that national and international tourism should be restricted is wholly at odds with national and local policy.
55. The proposal would doubtless be an unusual and visited point of interest in the area. As such it complies with the development plan and other policies supporting the tourist economy. The assessments of the impact vary so significantly, mainly due to the variable visitor number assumptions, that they are frankly of very limited value. However that does not detract from the fact that the appeal scheme is consistent with policy, and this weighs significantly in favour of the proposal.

Other matter - heritage

56. In terms of archaeology, a matter dealt with by LP policy BE28, the appellant submitted a Desk Based Assessment and an Archaeological Visual Impact Assessment. These documents were not substantially contested by any party, and were accepted by the Council. It is clear to me that the site does not lie within an area of high archaeological potential and it is unlikely that there are any below ground features.
57. There was some evidence as to the effect of the proposal on other features in the area. I note that the setting of the Scheduled Monument on Great Wanney Crag had been the subject of detailed consideration by Historic England in terms of its visual effect. The effect of the proposal on the setting of this asset, already affected by the turbines, would be minimal and leave the asset and its setting undisturbed.
58. I have given particular attention to the evidence related to tri-radial cairns in the wider area. These appear to be a matter of some controversy both in terms of their existence, chronology and function. However, on balance, it appears that such features do exist in the appellant's wider estate, as indicated

by the appellant. However the important point is that the cairns are at a considerable distance from the appeal site, and there is no persuasive evidence that they or their setting would be affected by the proposal.

59. On that basis, I conclude that these assets and their settings would be minimally affected at very most. The proposal would therefore not conflict with LP policy BE28 or DLP policy ENV7, and this matter is neutral in the planning balance.

Other matter – ecology

60. There are a policies in the LP and DLP related to a range of nature conservation and species issues. Within that context the effect of the proposal on ecological interests can be taken quite briefly, as there is broad agreement between the main parties as to the impact and benefits. The only significant debate is the weight which can be ascribed to the matter – I return to this below.
61. The appellant submitted an appraisal of the ecological value of the site including the wider area beyond the redline, including a Phase 1 Habitat Survey. This work concluded that provided the avoidance, mitigation and enhancement strategies were implemented, any adverse effects would be of only local significance and that there would be a longer term net biodiversity gain. This work was subsequently updated leading to a similar conclusion – specifically related to the rewetting of 60 hectares of bog. This was agreed to represent a biodiversity net gain.
62. Overall, I agree that the proposal, bearing in mind the mitigation/benefit package, would not conflict with relevant policies dealing with a range of sites, habitats and species.
63. In terms of weight, the Council accepts, in the light of the further information that the proposal will result in net biodiversity benefit but the authority considers that this should attract limited weight in the planning balance. The position of KTWW is different in that, whilst accepting that the proposal would provide biodiversity benefits, the group does not agree that these would be of a scale that exceeds direct mitigation and would be expected as a result of national policy.
64. The policy approach is to protect and, when possible, provide a biodiversity net gain. There is no dispute over this in the case of the appeal scheme. However in my view the biodiversity proposal goes beyond mitigation necessitated as a result of the development, and represents an extensive package to which some limited weight can be attached in the planning balance.

Other matter – parking and highway safety

65. The extent of the parking provision is dependent on the extent to which the landmark would attract car borne visitors and the duration of stays. This is an unknown in this very unusual type of development. However there is nothing which convinces me that the proposed parking is an under or overprovision.
66. In terms of the effect of vehicles, I fully appreciate that many of the roads in the area are of limited width and that there are occasional difficulties in terms of vehicles passing. The Transport Statement submitted by the appellant provides that the proposal would not cause a severe or adverse impact on the surrounding road network. This is reflected in the Statement of Common

Ground, and the proposal is in line with a range of development plan and emerging policies.

67. The question of highway safety was not a reason for refusal and there is nothing which persuades me that permission should be refused on the basis of an unacceptable impact on highway safety. This matter is neutral in the planning balance.

Other matter – sustainable construction

68. CS policy BE1 provides that sustainable construction techniques should be encouraged. At this stage the details of the construction techniques cannot be assessed, but there is no reason to suppose that this encouragement would not be taken up when the details are being considered by the appellant.
69. Although not an issue for the Council, KTWW objected to the proposal on the basis of a 'carbon objection'. However the persuasive evidence of the appellant is that the re-wetting of the moorland within the wider area would assist in improving the sequestration of carbon within the upland bog habitats.
70. Whether the overall development could be regarded as an exemplar of carbon neutral development, as suggested by the appellant, is another matter. However there is no policy making this a requirement, and this matter is neutral in the balance.

Other matter – dark skies

71. DLP policy ENV4 addresses the impact of the proposal on dark skies in the open countryside.
72. During the construction of the landmark there is nothing to suggest that the working would extend into the hours of darkness and this could be prevented by a condition related to lighting. Some of the Council's early documentation appeared to be based on the assumption that the landmark would be illuminated. However the proposal does not include any visible lighting, as was confirmed on a number of occasions by the appellant, and this could be secured by a condition.
73. The Council appeared at one point to consider that the infra-red aircraft warning light would impinge on the darkness of the area, and the witness apparently held to this view even after the role of infra-red lighting was explained. This is clearly a misunderstanding, and the necessary aircraft lighting would not impact on the dark skies of the area.
74. Overall, this aspect of the proposal complies with policy and is neutral in the planning balance.

Planning obligation and conditions

75. An obligation between the appellant and the Council, dated 1 April 2020 has been submitted. This largely deals with the submission of a Conservation Management Plan dealing with off-site ecology. In particular it covers an area of around 60 hectares of degraded bog habitat and grazing land. This is in line with policy related to biodiversity, as referenced above. The obligation meets the requirements of Regulation 122 of the Community Infrastructure Regulations and the advice in the Framework and I give it limited weight to the extent that the provisions go beyond mitigation.

76. There was a discussion, without prejudice, by all parties at the Inquiry concerning conditions. Subject to minor changes I have accepted the conditions as agreed, for the reasons summarised in the schedule.
77. Without prejudice to their position, KTWW submitted a number of additional conditions for consideration some of which I do not accept:
- A condition dealing with the provision of access and parking. This is already covered by the agreed conditions and is unnecessary.
 - Conditions aimed at preventing the use of the car park after dusk. Whilst I can understand the reasoning behind this suggestion, there is no policy justification for these conditions, which would run counter to the importance of encouraging public access to the area.
 - Two conditions related to the restriction of permitted development rights. However no exceptional circumstances have been put forward to restrict these rights and many of the activities and structures which would be affected would be controlled under other legislation – such as that relating to outdoor events.
78. However there are two other conditions put forward by KTWW which I consider are necessary and meet the other tests of conditions:
- A condition preventing illumination of any part of the site without the approval of the Council related to the principle and details. Given the undeveloped nature of the area and the general lack of illumination I consider this is reasonable and necessary.
 - A condition preventing sound amplification at any part of the site without the approval of the Council related to the principle and details. Again, given the undeveloped nature of the area I consider this would be reasonable and necessary. I have considered the appellant's concern about this condition and, whilst I accept that it would technically apply to in-car entertainment, I consider it could reasonably be enforced.

Planning balance and conclusion

79. This appeal has raised strong feelings on both sides, and I have taken careful note of the views expressed by the range of residents and others who appeared at the Inquiry and those who have made their views known in writing. It has been suggested by some that the consultation undertaken by the appellant has been inadequate. I do not share that view, as the consultation which has been undertaken goes considerably beyond what was required and I am satisfied that everyone who wished to do so has had the opportunity to make their views known.
80. Drawing the strands together, although I consider that there would be some minor landscape and visual effects, the proposal would be of an appropriate form and scale which could be accommodated within the local and wider landscape context. There would therefore be no harm, let alone unacceptable harm, to the character and appearance of the rural area.
81. Added to this, the proposal would accord with tourism policy, which carries significant weight, and provides a social benefit which carries moderate weight. The design of the proposal, a contentious factor, has been carefully explained

by the appellant's witnesses and carries some limited weight in the balance. The biodiversity package also attracts some limited weight in the planning balance. The other matters discussed above are essentially neutral.

82. For the reasons given above I conclude that the appeal should be allowed.

P. J. G. Ware

Inspector

Land at Cold Law, Kirkwhelpington, Northumberland
Schedule of conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall not be carried out otherwise than in accordance with the following plans and documents:
 - 18028.901 Rev P1 Proposed General Arrangement dated 11.05.18
 - 18028.902 Rev P1 Foundation Proposal dated 11.05.18
 - 1131_011 Proposed Layout Plan dated 02.01.18
 - 1131_012 Proposed Layout Plan - Construction dated 02.01.18
 - 1131_100 Landscape Strategy dated 02.01.18
 - 1131_101 Landscape Strategy - Car Park Area dated 16.01.19
 - 1131_111 Existing and Proposed Sections -Landmark and Viewing Area dated 18.01.19
 - 1131_110 Existing and Proposed Sections - Site Wide dated 18.01.19
 - 2542C/514 Rev A Indicative Surface Water Drainage Plan dated 16/01/19
 - 2542C-510 REV B Construction Details dated 15 March 2019
 - JN1784 DWG-0005 Rev C Swept Path Analysis Coach
 - JN1748 DWG-0007 Rev C Swept Path Analysis Refuse Vehicle
 - JN1748 DWG-0009 Site Access Arrangements
 - JN1748 DWG-0010 Rev B Swept Path Analysis Refuse collection
 - Outline Surface Water Drainage Strategy
Shadbolt Civil & Structural Issue 1 dated
January 2019 Ecological Appraisal E3
Ecology Ltd dated January 2019

Reason: In the interests of certainty and to ensure that the development is carried out in accordance with the approved plans.

3. The development shall be undertaken in accordance with the recommendations and mitigation documented in the report, "Ecological Appraisal, Elizabeth Landmark, Ray Estate, dated January 2019, by E3 Ecology, including the following:
 - Vegetation clearance will be undertaken outside of the bird nesting season (March to August inclusive) unless a checking survey by a suitably experienced ornithologist confirms the absence of active nests.
 - Soil stripping will not be undertaken whilst reptiles are hibernating, during November to February.
 - An ecological clerk of works shall be present on-site to provide advice during site clearance, SuDS construction, construction of areas of temporary and permanent hard standing, and habitat creation post construction.
 - Any excavations left open overnight will have a means of escape for mammals that may become trapped in the form of a ramp at least 300mm in width and angled no greater than 45°.

Reason: To avoid harm to protected and priority species and habitats.

4. Notwithstanding the details hereby approved, prior to the commencement of development:

- details and the specification of the final finish of the sculpture; and
- samples of all materials, colours and finishes to be used on all external surfaces

shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

Reason: in the interests of visual amenity of the area.

5. Development shall not commence until a Construction Method Statement (CMS) has been submitted to and approved in writing by the Local Planning Authority. The approved CMS shall be adhered to throughout the construction period. The CMS shall, where applicable, provide for:

- details of temporary traffic management measures, temporary access, routes and vehicles
- vehicle cleaning facilities
- the parking of vehicles of site operatives and visitors
- the loading and unloading of plant and materials
- storage of plant and materials used in constructing the development

Reason: In the interests of highway safety.

6. Prior to commencement of development a detailed drainage strategy which includes full details of the swale and SuDS basin shall be submitted and approved by the Local Planning Authority. The development shall not be carried out otherwise than in accordance with the approved scheme.

Reason: To ensure effective disposal of surface water.

7. Prior to the commencement of development, the details of each boardwalk at the point where it crosses a watercourse shall be submitted to and agreed in writing by the Local Planning Authority. Each boardwalk shall be constructed in accordance with the approved details and thereafter maintained for the lifetime of the development.

Reason: To ensure that the proposed works do not have an unacceptable impact on land drainage.

8. No development shall commence until a method statement to avoid harm to reptiles has been submitted to and approved in writing by the Local Planning Authority. The method statement shall detail measures to be taken to reduce the risk of potential harm to reptiles which may use the area. All areas with a risk of supporting reptiles shall be identified by the project ecologist and shall only be cleared in strict accordance with the approved method statement. Thereafter the development shall be carried out in accordance with the approved method statement.

Reason: To avoid harm to protected species.

9. No development shall be undertaken until a construction environmental management plan (CEMP) has been submitted and approved in writing by the Local Planning Authority. The CEMP shall detail the following:

- Measures to reduce the risk of pollution to the nearby watercourses;
- Measures to be taken in the event of a pollution incident; and
- Responsible persons and lines of communication

The approved CEMP shall be adhered to and implemented throughout the construction period.

Reason: To ensure that watercourses are not polluted or contaminated.

10. Prior to the commencement of development details of a landscape and biodiversity management plan (LBMP) shall be submitted to and be approved in writing by the Local Planning Authority. The contents of the LBMP shall include details of the following:

- Aims and objectives for the plan.
- The method of use of rock arisings to create species rich grasslands including whin grassland as a priority.
- Native grass seed mixtures and tree/shrub species to be planted.
- The creation of refugia for reptiles.
- Details of grazing, not exceeding 0.5 livestock units per hectare and being suspended during May-July where species rich grassland habitats are the target vegetation.
- Two barn owl boxes to be provided, including type, location, orientation and height.
- A programme for implementation and a work schedule, including an annual work plan.
- Methods of drains blocking and maintenance.
- Information regarding the provision of access for visitors.
- Details of the body responsible for the implementation of the plan.
- Details of ongoing ecological monitoring and management measures.

Thereafter, the LBMP shall be implemented in accordance with the approved details.

Reason: To maintain and protect the landscape value of the area and to enhance the biodiversity value of the site.

11. Prior to the commencement of development an Ecological Enhancement Plan (EEP) shall be submitted to and be approved in writing by the local planning authority. The EEP shall include details of the following:

- Aims and objectives for the plan.
- Identification of ditches that are to be blocked.
- Methods of drainage ditch blocking and ongoing maintenance of blocked ditches.

- Details of conservation grazing.
- A programme for implementation and a work schedule, including an annual work plan.
- Provision for review of the EEP every 5 years for the lifetime of the development.
- Details of the body responsible for the implementation of the plan.
- Details of ongoing ecological monitoring and management measures.

Thereafter, the EEP shall be implemented in accordance with the approved details.

Reason: To conserve and enhance the biodiversity of the area.

12. Development shall not commence until details of all hard and soft landscaping, including (but not limited to):

- planting,
- earthworks,
- boundary treatments and means of enclosure,
- retaining structures,
- seating,
- interpretation boards, and
- waymarkers

are submitted to and agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details and shall be completed within three months after the erection of the sculpture (or, in the case of planting, by the end of the first planting season following the erection of the sculpture).

All approved hard and soft landscaping shall be maintained for the lifetime of the development.

Reason: To safeguard the visual amenities of the area.

13. Development shall not commence until a waste management plan for the site is submitted to and agreed in writing by the Local Planning Authority. Thereafter, the waste management plan shall be implemented in accordance with the approved details and maintained for the lifetime of the development.

Reason: To safeguard the visual amenities of the area.

14. The car parking area indicated on the approved plans, including any disabled car parking spaces and marked parking bays, shall be brought into use before the completion of the sculpture. Thereafter, the car parking area shall be retained in accordance with the approved plans and shall not be used for any purpose other than the parking of vehicles associated with the development.

Reason: In the interests of highway safety.

15. The means of vehicular access shall be constructed in accordance with the approved plans before the completion of the sculpture. Thereafter, the access

shall be retained in accordance with the approved plans and shall not be used for any purpose other than as an access associated with the development.

Reason: In the interests of highway safety.

16. Details of the cycle parking shown on the approved plans shall be submitted to and agreed in writing by the Local Planning Authority and implemented before the completion of the sculpture.

Thereafter, the cycle parking shall be implemented and retained in accordance with the approved plans and shall not be used for any purpose other than the parking of cycles associated with the development.

Reason: In the interests of highway safety and so as to encourage sustainable development.

17. Details of surface water drainage to manage run off shall be submitted to and approved by the Local Planning Authority and implemented before the completion of the sculpture.

The approved surface water drainage scheme shall be implemented in accordance with the approved details before the sculpture is completed and thereafter maintained in accordance with the approved details.

Reason: In order to prevent surface water runoff in the interests of the amenity of the area.

18. A scheme for the provision of SuDS features shall be submitted to and agreed in writing by the Local Planning Authority, and implemented before the completion of the sculpture. The scheme shall include proposals for the future maintenance and adoption of the SuDS features for the lifetime of the development.

The approved scheme shall thereafter be maintained for the lifetime of the development.

Reason: To ensure that a satisfactory scheme for the disposal of surface water.

19. MOD-accredited infrared warning lighting with an optimized flash pattern of 60 flashes per minute of 200ms to 500ms duration shall be installed at the highest practicable point on the sculpture. The sculpture shall be erected with this lighting installed and the lighting shall remain operational for the lifetime of the development.

Reason: In the interest of aviation safety.

20. No lighting of any type, fixed or movable, shall be used or installed within the appeal site unless detailed specifications have been submitted to and approved by the Local Planning Authority.

Reason: In order to ensure that there is no harmful effect on the character of the area.

21. No means of sound amplification shall be used within the appeal site unless detailed specifications have been submitted to and approved by the Local Planning Authority.

Reason: In order to ensure that there is no harmful effect on the character of the area.

APPEARANCES

NORTHUMBERLAND COUNTY COUNCIL

Simon Pickles of Counsel, instructed by the Solicitor to the Council

He called:	
Gordon Halliday MA MPhil MRTPI	Planning Consultant
David Stokoe CMLI MA MA	Principal Consultant, Wood Group UK Ltd
Katherine Robbie (Conditions/s106 session)	Senior planning officer

THE APPELLANT

James Strachan QC, instructed by Clyde and Co

He called:	
Simon Hitchens	Artist
Matthew Jarratt	Arts Consultant
Ros Southern BA (Hons) MPHIL CMLI	Director, Southern Green
Allen Creedy MRTPI FIEMA	Director, ethical partnership
Ian Ginbey (Conditions/s106 session)	Clyde and Co

KEEP THE WANNIES WILD

Jean Jones and Anne Palmer, who both acted as advocates

They called:	
Jean Jones MA BSc DipTP	Retired planner
Anne Palmer LLB LLM	Retired solicitor
Written submission by Emma Anderson BA(Hons)	

INTERESTED PERSONS

Susan Dobson	Local resident
Dr Ian Roberts	Redesdale Society
Steve Blake	Local resident
Simon Litchfield	Secretary of the British Mountaineering Council
Carl Hamilton	Corsenside Parish Council
Mary Ann Rodgers	Local resident
Sam Kellie	First and Last Brewery
Jeffrey Watson	County Councillor – speaking as an individual
Mike Clark	Local resident
John Swanson	Local resident
Neil Milburn	Local resident

INQUIRY DOCUMENTS

Doc 1	Addendum to Gordon Halliday's Appendix 2
Doc 2	Appellant's opening statement
Doc 3	Council's opening statement
Doc 4	KTWW's opening statement
Doc 5	Mr Clark's submission
Doc 6	Mr Milburn's submission
Doc 7	Mr Swanson's submission
Doc 8	Mr Blake's submission
Doc 9	Corsenside Parish Council's submission
Doc 10	Redesdale Society's submission
Doc 11	British Mountaineering Council's submission
Doc 12	Dr Maire West's submission
Doc 13	Mary Ann Rogers's submission
Doc 14	R & J Barretts' submission
Doc 15	Figure 5 Rev A update
Doc 16	Mr Halliday's Note on LVIA Discussions
Doc 17	Mr Hitchens's response on tri-radial cairns
Doc 18	Natural England – England's Peatland Carbon Storage and greenhouse gases: NE257 Sections 1 - 5
Doc 19	KTWW's closing submission
Doc 20	Council's closing submission
Doc 21	Appellant's closing submission

CORE DOCUMENTS

	Application documents
A1	Application Forms and Certificates
A2	Site Location Plan [Drawing Ref. 1131_001]
A3	Planning Statement (with Design & Access Statement), prepared by W Fabian [January 2019]
A4	Construction Strategy Statement, prepared by Simon Hitchens [January 2019]
A5	Construction Detail, prepared by Shadbolt Civil & Structural Engineers [Drawing Ref. 2542C/510 Rev B]
A6	Construction Details, prepared by Shadbolt Civil & Structural Engineers [Drawing Ref. 2542C/510 Rev A]
A7	Indicative Surface Water Drainage Plan, prepared by Shadbolt Civil & Structural Engineers [Drawing Ref. 2542C/514 Rev A]
A8	Outline Surface Water Drainage Strategy, prepared by Shadbolt Civil & Structural Engineers [January 2019]
A9	Preliminary Risk Assessment (Phase I GeoEnvironmental), prepared by The Shadbolt Group [June 2017]
A10	Proposed General Arrangement, prepared by Structure Workshop Engineers [Drawing Ref. 18028.901 Rev P1]
A11	Foundation Proposal, prepared by Structure Workshop Engineers [Drawing Ref. 18028.902 Rev P1]
A12	Ecological Appraisal, prepared by E3 Ecology [January 2019]
A13	Transport Statement, prepared by SAJ Transport Consultants [January 2019]
A14	Proposed site access arrangement visibility splay – vertical, prepared by SAJ Transport Consultants [Drawing Ref. JN1784-Dwg-0004]

A15	Site Access Arrangement, prepared by SAJ Transport Consultants [Drawing Ref. JN1784-Dwg-0009]
A16	Swept Path Analysis – Coach, prepared by SAJ Transport Consultants [Drawing Ref. JN1784-Dwg-0005 Rev C]
A17	Swept Path Analysis – Refuse Vehicle, prepared by SAJ Transport Consultants [Drawing Ref. JN1784-Dwg-0007 Rev C]
A18	Swept Path Analysis – Refuse Vehicle – For Information, prepared by SAJ Transport Consultants [Drawing Ref. JN1784-Dwg-0007 Rev B]
A19	Swept Path Analysis – Refuse Collection Ray Estate, prepared by SAJ Transport Consultants [Drawing Ref. JN1784-Dwg-0010 Rev B]
A20	Site Access Arrangement (Construction), prepared by SAJ Transport Consultants [Drawing Ref. JN1784-Dwg-0009 Rev C]
A21	Correspondence – Transport, prepared by SAJ Transport Consultants [26 March 2019]
A22	Desk Based Assessment and Archaeological Impact Assessment, prepared by Bamburgh Research Project [January 2019]
A23	Archaeology – Report on Trial Trench Evaluation, prepared by Bamburgh Research Project [April 2019]
A24	Copy of news articles in local press, prepared by The Journal (Newspaper) [May/August 2018]
A25	Future Community Engagement Strategy – Community Writing Strategy, prepared by Matthew Jarratt (Arts Curator) New Writing North
A26	Community Exhibitions, Feedback and Website Report, prepared by Matthew Jarratt (Arts Curator)
	Consultation responses to the application
B1	Newcastle International Airport [30 January 2019]
B2	Public Protection [31 January 2019]
B3	Lead Local Flood Authority [7 February 2019]
B4	National Air Traffic Services [7 February 2019]
B5	Northumberland National Park – Planning Department [15 February 2019]
B6	Countryside/Rights of Way [19 February 2019]
B7	Ministry of Defence [19 February 2019]
B8	County Ecologist [19 February 2019]
B9	Corsenside Parish Council [6 March 2019]
B10	Historic England [20 March 2019]
B11	Highways [16 May 2019]
B12	County Archaeologist [16 May 2019]
B13	Building Conservation [27 June 2019]
B14	Tourism, Leisure & Culture [13 June 2019]
	LPA decision documents
C1	Officer's Report presented to Planning Committee Meeting held on 4 June 2019
C2	Minutes of the Strategic Planning Committee Meeting held on 4 June 2019
C3	Addendum Report [18 June 2019]
C4	Update Report [2 July 2019]
C5	Minutes of the Strategic Planning Committee Meeting held on 2 July 2019
C6	Decision Notice [10 July 2019]
	Second application key documents
D1	Planning statement, prepared by Ethical Partnership [February 2020]
D2	Design & Access Statement (incorporating Artist's Public Art Proposal), prepared by Ethical Partnership and Simon Hitchens [February 2020]

D3	Visitor Strategy, prepared by Ethical Partnership and Simon Hitchens [February 2020]
D4	Statement of Community Engagement, prepared by Ethical Partnership [February 2020]
D5	Economic Impact Report, prepared by ERS [February 2020]
	Landscape and visual documents
E1	Landscape and Visual Impact Assessment, prepared by Southern Green Landscape Architects [January 2019]
E2	LVIA Figures (Part 1), prepared by Southern Green Landscape Architects [January 2019]
E3	LVIA Figures (Part 2), prepared by Southern Green Landscape Architects [January 2019]
E4	LVIA Figures (Part 3), prepared by Southern Green Landscape Architects [January 2019]
E5	Landscape Precedents – Car Park Surfacing and Edging, prepared by Southern Green Landscape Architects [January 2019]
E6	Concept Sketch – Car Park Indicative Sketch, prepared by Southern Green Landscape Architects [Drawing Ref. 1131_022]
E7	Existing and Proposed Sections, prepared by Southern Green Landscape Architects [Drawing Ref. 1131_110]
E8	Existing Topographical Survey, prepared by Southern Green Landscape Architects [Drawing Ref. 1131_010]
E9	Landscape Precedents – Integrated Furniture, prepared by Southern Green Landscape Architects [January 2019]
E10	Landscape Strategy – Car Park Area Plan, prepared by Southern Green Landscape Architects [Drawing Ref. 1131_101]
E11	Landscape Strategy, prepared by Southern Green Landscape Architects [Drawing Ref. 1131_100]
E12	Proposed Site Plan – Construction, prepared by Southern Green Landscape Architects [Drawing Ref. 1131_012]
E13	Proposed Layout Plan, prepared by Southern Green Landscape Architects [Drawing Ref. 1131_011]
E14	Existing and Proposed Section – Landmark & Viewing Area, prepared by Southern Green Landscape Architects [Drawing Ref. 1131_111]
E15	LVIA Review prepared by Stephenson Halliday [May 2019]
	Landscape and visual documents (Second application)
F1	Technical note: Queen Elizabeth Landmark, Cold Law: LVIA Review, prepared by Wood PLC [27 May 2020]
F2	Elizabeth Landmark LVIA Review Response, prepared by ethical partnership [7 August 2020]
F3	Annotated reply to Elizabeth Landmark LVIA Review Response prepared by ethical partnership, prepared by Wood PLC [undated]
	Policy documents
G1	The Tynedale Local Development Framework Core Strategy as adopted by the Council in October 2007
G2	The Tynedale District Local Plan 2000 Saved Policies as adopted by the Council in October 2007
G3	National Planning Policy Framework [February 2019]
G4	The Northumberland Local Plan Pre-submission Draft (Regulation 19) [January 2019]

G5	Northumberland Local Plan Schedule of Proposed Minor Modifications to the Publication Draft Plan (Regulation 19) [May 2019]
G6	Policy 20 of the Northumberland National Park Core Strategy and Development Policies as adopted in March 2009
G7	Northumberland Landscape Character Assessment – Part A: Landscape Classification
G8	Northumberland Landscape Character Assessment – Part B: The Changing Landscape
G9	Northumberland Key Land Use Impact Study Part C Landscape Sensitivity to Key Land Uses
G10	Northumberland Key Land Use Impact Study Part D Landscapes Potentially Requiring Additional Protection
G11	Northumberland Economic Strategy 2019-2024
	Other documents
H1	Pre-Application Enquiry Response (planning reference: 18/00669/PREAPP) [16 October 2018]
H2	NCA2 Northumberland Sandstone Hills
H3	NCA5 Border Moors and Forests
H4	The Landscape Institute's Guidelines for Landscape and Visual Impact Assessment, Third Edition (GLVIA3)
	Appellant's appeal documents
I1	Appeal Form [7 January 2020]
I2	Statement of Case by the Appellant [January 2020]
I3	Proof of Evidence of Allen Creedy [February 2021]
I4	Appendices to the Proof of Evidence of Allen Creedy [February 2021]
I5	Rebuttal of Allen Creedy [February 2021]
I6	Proof of Evidence of Simon Hitchens [February 2021]
I7	Appendices to the Proof of Evidence of Simon Hitchens [February 2021]
I8	Proof of Evidence of Ros Southern [February 2021]
I9	Appendices to the Proof of Evidence of Ros Southern [February 2021]
I10	Rebuttal of Ros Southern [February 2021]
I11	Proof of Evidence of Matthew Jarratt [February 2021]
	Council's appeal documents
J1	Statement of Case by the Council
J2	Proof of Evidence Gordon Halliday
J3	Appendices to Proof of Evidence Gordon Halliday
J4	Summary of Proof of Evidence Gordon Halliday
J5	Rebuttal of Gordon Halliday
J6	Proof of Evidence of David Stokoe
J7	Appendices to Proof of Evidence David Stokoe
J8	Summary of Proof of Evidence David Stokoe
J9	Rebuttal of David Stokoe
	KTWW's appeal documents
K1	Appeal Statement by Keep the Wannies Wild and appendices [February 2020]
K2	Statement of Case by Keep the Wannies Wild and appendices 1-16 [December 2020]
K3	Proof of Evidence of Jean Jones - Landscape
K4	Appendices to Proof of Evidence Jean Jones - Landscape
K5	Summary of Proof of Evidence Jean Jones - Landscape

K6	Rebuttal of Jean Jones – Landscape
K7	Proof of Evidence Jean Jones - Planning
K8	Appendices to Proof of Evidence Jean Jones - Planning
K9	Summary of Proof of Evidence Jean Jones - Planning
K10	Rebuttal of Jean Jones – Planning
K11	Proof of Evidence of Anne Palmer
K12	Appendices to Proof of Evidence Anne Palmer
K13	Summary of Proof of Evidence Anne Palmer
K14	Proof of Evidence of Emma Anderson
K15	Appendices to Proof of Evidence Emma Anderson
K16	Summary of Proof of Evidence Emma Anderson
	Other Appeal Documents
L1	Statement of Common Ground as between the Appellant and the Council [March 2020] Section 106 Agreement between the Appellant and the Council [1 April 2020]
L2	Pre-Inquiry Conference Agenda
L3	Case Management Conference Summary Note [8 January 2021]
L4	Suggested Site Visit Itinerary
L5	Site Visit Route Plan
L6	Planning Conditions List
L7	CIL Compliance Statement
L8	Office copy entries