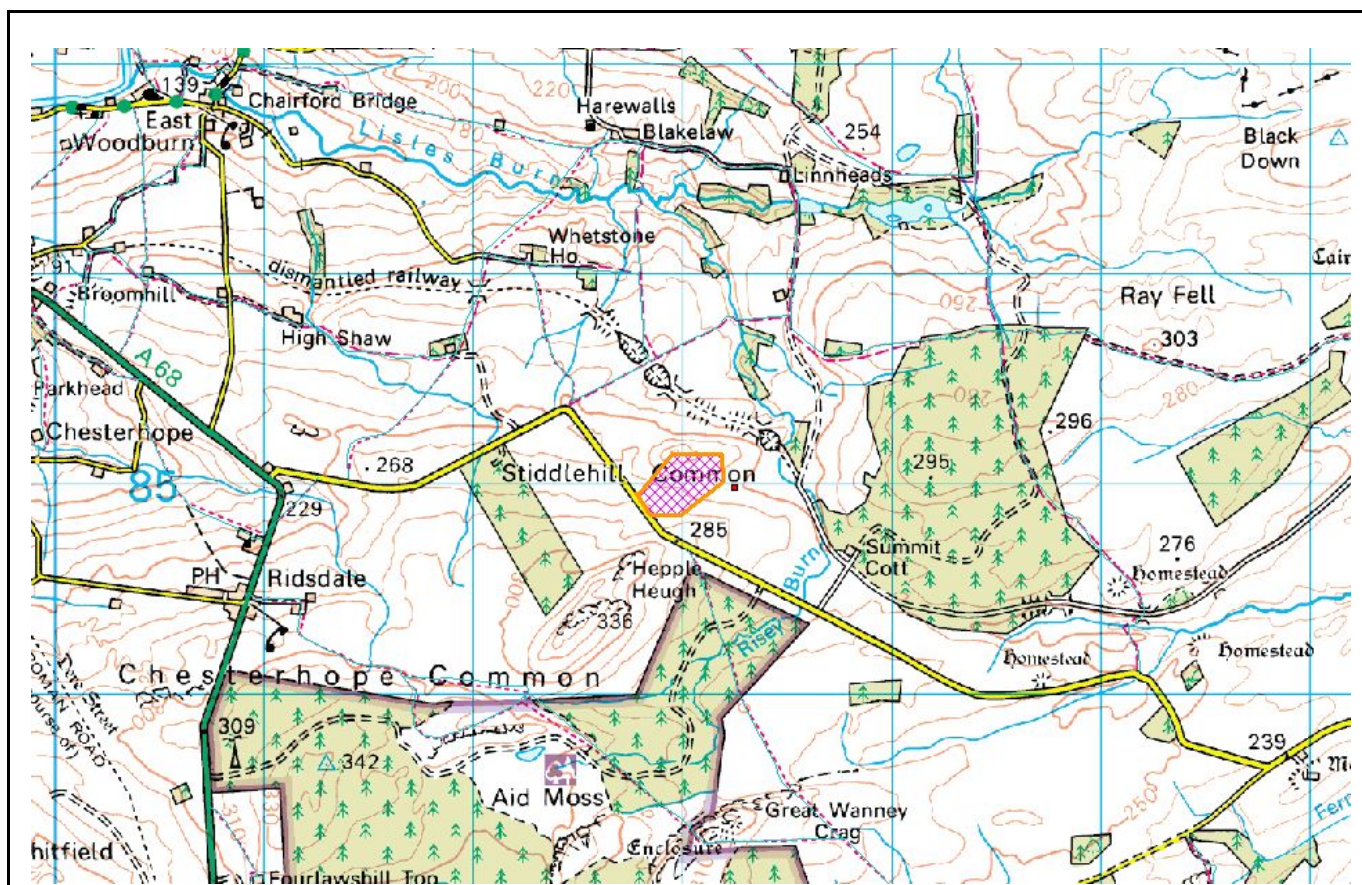




# Northumberland County Council

Strategic Planning Committee, 4 June 2019

<b>Application No:</b>	19/00247/FUL		
<b>Proposal:</b>	Construction of a publicly accessible landmark, commissioned to commemorate Queen Elizabeth II and the Commonwealth.		
<b>Site Address</b>	Land At Cold Law, Kirkwhelpington, Northumberland		
<b>Applicant:</b>	Viscount T Devonport The Ray Estate Office, Lynnheads Barn, West Woodburn, Hexham NE48 2TU	<b>Agent:</b>	Ms W Fabian Codlaw Dene, Hexham, NE46 4HG
<b>Ward</b>	Bellingham	<b>Parish</b>	Corsenside
<b>Valid Date:</b>	24 January 2019	<b>Expiry Date:</b>	25 April 2019
<b>Case Officer Details:</b>	Name: Mrs Katherine Robbie Job Title: Senior Planning Officer Tel No: 01670 622633 Email: <a href="mailto:katherine.robby@northumberland.gov.uk">katherine.robby@northumberland.gov.uk</a>		



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**Recommendation:** That this application be GRANTED permission

## 1. Introduction

1.1 Under the terms of the current Scheme of Delegation this planning application is to be determined by the Strategic Planning Committee as it is a proposal which is considered to be of strategic importance.

## 1. Description of Proposal

2.1 Planning permission is sought for the construction of a landmark sculpture and associated development on land at Cold Law, north of the C195 road which links the A696 at Knowesgate with the A68 at Ridsdale.

1.2 The landmark would be sited on the summit of Cold Law on the Ray Estate. The site is currently open grazing land, with some areas of marshy ground. The site lies to the north of Hepple Heugh, which is 336m AOD. The proposed structure would be of equal height to the top of this point.

1.3 The proposed landmark would consist of a thin slice cut north to south through the uppermost bedrock of Cold Law, with a steel structure tilted and elevated at the north end which would point to the sun at its zenith on midsummer's day and would be approximately 56 metres in height. The upper curve of the structure would match the topographical form of the hill, following its curved profile. The under surface would be flat. The side profile of the structure would have angled lateral fins, between the upper and lower flanges which have been designed to change in pitch and frequency along its length. It would be fabricated from Corten steel which would weather to a red/orange finish. It is intended that the structure would incorporate a modest reflective element, the precise detail of which would be agreed at a later stage.

1.4 In addition to the sculpture, the proposal also includes a visitor car park which would link the sculpture by a curved surfaced footpath incorporating a view of the structure at a point along its length.

1.5 The sites lies in open countryside within an area of open access land, approximately 5km east of the boundary with Northumberland National Park.

## 2. Planning History

There is no planning history for the site.

## 3. Consultee Responses

Corsenside Parish Council	Wish to register their <b>objection</b> to the proposed landmark.  Councillors are aware of substantial local objection to the erecting of such a monument and were very concerned at an apparent lack of adequate consultation with the local populace. Indeed, some
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locals, who would be living within a couple of miles of the proposed structure, were completely unaware of its proposal and others thought that it was in Kirkwhelpington, some 8.5 miles away, as Kirkwhelpington is stated on the planning application. A map showing the parish boundaries confirms Cold Law, the location for the proposed feature, lies within the parish of Corsenside and the villages of Ridsdale, East Woodburn and West Woodburn lie within a 2.5 radius of Cold Law with Ridsdale, in particular, being a mere 1.4 miles away.

It was felt that the proposed monument was very much out of keeping with the local area and the local vernacular. The proposed building material, steel, which will be left to rust, does not fit in with this landscape at all and will appear as particularly alien to its surroundings.

Its size is also of great concern being a very large and overbearing industrial feature which would tower above the local landscape and completely dominate a now rural area. The proposed location is very close to Northumberland National Park, from many points of which, this monument would be visible, as would be presumably from sections of Hadrian's Wall, a World Heritage site. The proposed monument would impose itself on people rather than be a structure that can be sought out of choice.

Councillors also felt that the existing road infrastructure was insufficient to cope with the extra traffic which visitors to this structure could generate. The road leading to the proposed monument is unclassified and is narrow and twisting with blind summits and tight bend, is of poor condition and has a very narrow, single track, bridge at its eastern end and dangerous junctions at either end where it joins the A696 but particularly at the junction with the A68 where there are very poor sight lines for emerging traffic or for northbound traffic turning into the junction from the A68. There are additional hazards and safety considerations associated with slow moving agricultural traffic on this road and occasional escapee livestock. Councillors noted that a parking space within the new proposed car park to accommodate a coach and felt that such vehicles would be entirely unsuitable for the approach road for the reasons stated above and would present a significant additional risk to other road users on such a narrow and twisting road with soft verges or no verges at all to allow opposing traffic to pass such wide vehicles.

	<p>Furthermore, councillors were concerned at the lack of amenities to support any increase in visitor numbers. Corsenside Parish is a small rural location with no car parks in the villages or facilities such as public toilets, to accommodate larger numbers of visitors.</p> <p>Councillors were concerned that this could lead to visitors having no choice but to toilet in public places with the associated unpleasantness of such activity and the potential health risks from human waste left in the environment. Much concern was also expressed at the potential for litter and subsequently blown far and wide from what is a very exposed and windswept location. This would further detract from the natural beauty of the area and have the possibility of environmental damage and health risks to local livestock and wildlife from such windblown debris.</p> <p>Councillors also noted that that the MOD in its response to the planning application have outlined a requirement for a red light on the on the highest possible point of the feature. A sensible precaution, one would assume for the benefit of the significant number of low flying aircraft in these parts. There was great concern however, that such a light would further accentuate the intrusiveness of the proposed monument, rendering it visible at all times of the day and night and having an unwelcome impact upon our dark skies environment, being, as we are, on the edge of the third International Dark Skies Park, which we are proud, as a parish, to support.</p> <p>Residents have shown concern that they have specifically chosen to live in Corsenside as they want the peace, quiet and undisturbed natural landscape which this area offers.</p>
County Archaeologist	<p>While located within a wider archaeological landscape, the assessments carried out in connection with this application have demonstrated that the proposed development is unlikely to have a direct (physical) impact on below ground archaeological remains or an indirect (visual) impact on the setting of the scheduled monuments in the wider area. As a result I have <b>no objections</b> to this application from an archaeological perspective and no further archaeological work is required in connection with this scheme.</p>
County Ecologist	<p><b>No objection</b> to the proposal subject to a number of planning conditions being imposed and a legal agreement being completed.</p>

Public Protection	<b>No comments</b> to make on this application.
Lead Local Flood Authority (LLFA)	<b>No objection</b> subject to conditions requiring a detailed drainage strategy, the adoption and maintenance of SuDs features and the details of watercourse crossings to be agreed.
Civil Aviation Authority	No response received.
Newcastle International Airport	<p>The proposed development would not have an adverse impact on the safe operation of aircraft operating from Newcastle Airport, it is considered that the scheme would not have a unacceptably detrimental impact on the Airport's radar or wide area multilateration (WAM) system and therefore the safe operation of aircraft from Newcastle Airport. Therefore NIA offers <b>no objection</b> to the scheme.</p> <p>Although not a planning issue the applicant would need to apply to have the development marked on aeronautical charts as a hazard. There is no mandatory requirement for a structure of 55m to have obstacle lighting.</p>
Northumberland National Park - Planning Department	Northumberland National Park Authority has considered the above proposal, and raises <b>no objection</b> . However a condition controlling any lighting on the site is recommended due to the sites location in relation to the Northumberland Dark Skies Park.
Ministry Of Defence	The Ministry of Defence has <b>no safeguarding objections</b> to this proposal. In the interests of air safety the MOD requests that this structure is fitted with aviation warning lighting. The structure should be fitted with a minimum intensity 25 candela omni directional flashing red light or equivalent infra-red light fitted at the highest practicable point of the structure,
National Air Traffic Services (NATS)	The proposed development has been examined from a technical safeguarding aspect and does not conflict with our safeguarding criteria. Accordingly, NATS (En Route) Public Limited Company ("NERL") has <b>no safeguarding objection</b> to the proposal.
Highways	Conditions are required to ensure acceptability of the proposal.

Countryside/ Rights Of Way	There are no rights of way implications involved in this development, therefore <b>no comments</b> to make on the application
Tourism, Leisure & Culture	No response received.
Natural England	No response received.
Historic England	<p>Historic England has <b>no objection</b> to the application on heritage grounds.</p> <p>Historic England has considered carefully the potential impact of this proposal on the designated heritage assets that lie within our statutory remit. All of these are protected as scheduled monuments</p> <ul style="list-style-type: none"> <li>● three prehistoric settlements near Ferneyrigg</li> <li>● Ridsdale Ironworks</li> <li>● Risingham Roman Fort and the Roman camp at Fourlaws</li> <li>● prehistoric settlement at Great Wanney Crag</li> </ul> <p>In each case although the proposal development is likely to be visible from these sites, because of its location and the relationship of the scheduled site to its surrounding landscape, this visibility will not amount to harm to their settings. We have therefore concluded that this proposal will not lead to harm to those heritage assets within our remit.</p>

#### 4. Public Responses

##### Neighbour Notification

Number of Neighbours Notified	90
Number of Objections	29
Number of Support	1
Number of General Comments	0

##### Notices

A General site notice was posted on site on 7th February 2019

A press notice was placed in the Hexham Courant on 7th February 2019

##### Summary of Responses:

29 letters of objection have been received to this application on the following grounds :

The proposal is inappropriate for its location both in terms of size and design  
Unacceptable impact on the landscape including Northumberland National  
Park and Hadrians Wall World Heritage Site  
Unacceptable impact on ecology  
Inadequate local facilities to cater for visitors  
Unacceptable traffic and highway safety impact  
Waste of public money  
Out of proportion with its location  
Unacceptable impact of construction on highways and the environment]  
Communities affected have not been consulted properly  
The wind farms have already damaged the landscape and this would further  
add damage  
Litter from visitors will damage the environment  
Visitors will disturb the tranquillity of the environment  
Not the right commemoration for the Queen  
The monument would dwarf the nearby turbines  
The location of the proposal has been incorrectly described

One letter of support has been received with no reasons for support stated.

The above is a summary of the comments. The full written text is available on  
our website at:

<http://publicaccess.northumberland.gov.uk/online-applications//applicationDetails.do?activeTab=summary&keyVal=PLSNGVQSLKC00>

## **6. Planning Policy**

### **6.1 Development Plan Policy**

Tynedale Local Development Framework Core Strategy (2007)(TLDFCS)

BE1 Principles for the built environment  
GD1 General location of development  
GD4 Principles for transport and accessibility  
GD5 Minimising flood risk  
NE1 Principles for the natural environment  
EDT1 Principles for economic development

Tynedale District Local Plan (2000) (TDLP)

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

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

## 6.2 National Planning Policy

National Planning Policy Framework (NPPF) (2019)  
National Planning Policy Guidance (NPPG) (2014, as amended)

## 7. **Appraisal**

- 7.1 The main issues for consideration in the determination of this application are:
- Principle of development
  - Impact on the landscape
  - Impact on ecology
  - Impact on heritage assets
  - Highway safety
  - Flooding issues

### The Principle of Development

- 7.2 The site is located within the open countryside where TLDFCS Policy GD1 permits the re-use of existing buildings unless such development is covered by other Development Plan policies. TLDFCS Policy BE1 promotes the development of public art within the Tynedale area. Policy NE1 seeks to protect the character and quality of the landscape. Policy EDT1 recognises the importance of tourism to the former Tynedale District and allows new tourist development where appropriate in order to increase the range, quality and type of facilities available to tourists. The NPPF promotes sustainable rural tourism and leisure developments which respect the character of the countryside.
- 7.3 Subject to detailed assessment as set out below the proposal is in line with these policies and is therefore considered acceptable in principle.

### Impact on the Landscape

- 7.4 TLDFCS Policy BE1 and TDLP Policy GD2 both seek to ensure that new development is of a high quality design that is appropriate for its surroundings. TLDFCS Policy NE1 seeks to protect the character and quality of the landscape.
- 7.5 The site is located in Landscape Character Type 8 Outcrop Hills and Escarpments and lies within Landscape Character Area 8g Sweethope and



Blackdown. Key characteristics of this Area include distinctive scarp hills with rocky outcrops, open, relatively remote, areas of uninterrupted sweeping moorland and historic features particularly concentrations of settlements, cup and ring marked. The hills are a distinctive feature of the Northumberland landscape, and have valuable landscape features which remain in good condition. The approach for this landscape should be to manage development, while maintaining the distinctive landform and moorland areas.

- 7.6 In considering this application the impact of the proposal and the potential effects on the landscape character from receptors (which range from close proximity to the proposal up to a distance of 6km) have been taken into account and the application has been submitted with a Landscape and Visual Impact Assessment (LVIA). Viewpoints have been selected which test the visibility of the proposed landmark from different directions, distances and receptor types. Effects during construction and at completion have been assessed.
- 7.7 The LVIA states that the proposed landmark would be tall as it is intended to be noticed and seen from long distances, however the slender form of the structure means that from most aspects it would occupy a narrow part of the view and would not disrupt views over the landscape, and its curved form derived from the topography of Cold Law, helps the feature “to sit well in the landscape context whilst still performing as a deliberate focus for views”. Whilst the proposal would add a modern landmark to the landscape, it would remain open in character and the history of the area will remain available for interpretation. The site itself and Cold Law have not been identified as an area of particular historic or archaeological interest. There is not considered to be any adverse impact on Northumberland National Park which lies 5km to the west of the site or on Hadrian’s Wall World Heritage Site (approximately 12km to the south of the site).
- 7.8 The LVIA concludes that the proposal would have a minor/moderate impact on the landscape which would not be considered to be significant. The Council has commissioned its own independent review of the LVIA submitted by the applicant which concludes that the submission is robust and reaches reasonable conclusions. It is therefore considered that the proposal would not result in unacceptable effects on the landscape character or visual amenity in accordance with the requirements of the NPPF or TLDFCS Policy BE1 and NE1 and TDLP Policy GD2.

### Impact on Ecology

- 7.9 Policy NE1 of the TLDFCS and policies NE19, 20, 26 and 27 of the TDLP seek to protect nature conservation interests from unacceptable development.
- 7.10 The NPPF makes it clear that aside from purely mitigating against the harm that a development may cause to biodiversity the definition of sustainable development includes biodiversity enhancement. Paragraph 8 of the NPPF states that the planning system should, “contribute to protecting and enhancing our natural environment; including making effective use of land, helping to improve biodiversity...”. In addition paragraph 170 states that, “Planning policies and decisions should contribute to and enhance the natural

and local environment by: minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;”. Accordingly biodiversity enhancement over and above mitigation has been proposed as part of the scheme.

- 7.11 The site comprises an upland mosaic of habitats including grassland and heathland habitats. It seems likely that degraded bog habitat is also present. The site is also likely to support upland wader and raptor species, as well as birds such as meadow pipit and skylark.
- 7.12 The proposal includes a habitat mitigation scheme which would reduce grazing pressure, create low nutrient substrates, introduce native tree and shrub planting and the re-wetting of degraded bog land over a 60ha area to increase the naturalness of the setting of the proposed sculpture, over and above the mitigation measures required as a result of the works being carried out.
- 7.13 Whilst the development would result in the loss of certain existing habitats, these are small scale losses which would be offset by the habitat creation and enhancement that is proposed to be delivered with the scheme. Bird habitats are likely to be improved in diversity and quality in the long term, therefore the County Ecologist has raised no objections to the proposal subject to conditions and a Section 39 Agreement under the Wildlife and Countryside Act to ensure the deliverability and long term management of the mitigation measures proposed.
- 7.14 On balance given consideration to all of the risks and impacts and the mitigation and enhancement, the development has potential to enhance the biodiversity of the site and local area and is therefore in accordance with TDLP policies NE19, 20, 21, 26 and 27 and requirement of the NPPF in this respect.

#### Impact on Heritage Assets

- 7.15 Section 66 of the Planning (Listed Building and Conservation Areas) Act (1990) (as amended) requires Local Planning Authorities when considering proposals for development which may affect a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72 requires that special attention be paid to the desirability of preserving and enhancing the character or appearance of conservation areas when considering development in a conservation area.
- 7.16 NPPF Section 16 states that when considering the impact of a proposed development on the significance of a designated heritage asset great weight should be given to the asset’s conservation. Paragraphs 193 -196 set out the degree of ‘harm’ that may be caused by development that potentially affects the setting and significance of heritage assets.
- 7.17 The proposed development is located in a wider archaeological landscape containing known archaeological sites of prehistoric and later date. The site is

located approximately 1.5km north of the scheduled hillfort on Great Wanney Crag, approximately 2km north-west of the easternmost of three scheduled Romano-British farmsteads and around 1.8km east of Ridsdale Ironworks.

- 7.18 Various known prehistoric sites are located in the wider landscape, a number of which were identified during intrusive archaeological investigation associated with Ray Windfarm to the east of this site or during detailed walkover surveys. These features included Neolithic rock art, Bronze Age possible burial cairns, clearance cairns, Iron Age enclosures, and hut circles.
- 7.19 The proposed landmark is located on the top of Cold Law which is a prominent landform in the landscape. Raised ground such as this has been known to be utilised archaeologically due to its prominence and visibility within the landscape.
- 7.20 The site has been the subject of a detailed desk-based assessment and an archaeological evaluation. The archaeological evaluation confirmed that there was no evidence of archaeological activity in areas impacted by the proposed development.
- 7.21 While located within a wider archaeological landscape, the assessments carried out in connection with this application have demonstrated that the proposed development is unlikely to have a direct (physical) impact on below ground archaeological remains or an indirect (visual) impact on the setting of the scheduled monuments in the wider area. As a result I have no objections to this application from an archaeological perspective and no further archaeological work was required in connection with this scheme
- 7.22 The proposed development is not located within the setting of Listed Buildings nor within a conservation area and therefore no harm has been identified in this respect.
- 7.23 Historic England has been consulted on the application and raise no objections. The County Archaeologist initially requested further information as to the potential for archaeological features being present at the site. Following investigations by the applicant, is satisfied that no archaeological features are present at the site and no further investigation work is necessary.
- 7.24 The proposal is therefore considered in line with advice in the National Planning Policy Framework (NPPF) and is considered to be in accordance with TDLP Policy BE28.

### Highway Safety

- 7.25 Policy GD4 of the TLDFCS sets out the principles for transport and accessibility. Policy GD4 of the TDLP sets out the criteria relating to transport provision for all types of development. Policy GD6 of the TDLP relates to the car parking standards outside the built-up areas of Hexham, Haltwhistle, Prudhoe and Corbridge. Paragraph 110 of the NPPF has similar characteristics to Policy GD4 of the TDLP and relates to sustainable transport measures, safe and sustainable access and limiting significant impacts of development.

- 7.26 The site is located at Cold Law Hill on the Ray Estate, between Ridsdale and Kirkwhelpington. To the southwest of the site is the C195, a single lane carriageway road that runs east from Knowesgate on the A696 to the North of Ridsdale on the A68. The road is subject to the national speed limit with no footways or street lighting on either side of the carriageway. The nearest public transport consists of two bus services operating on the A68, it is not envisaged that visitors will attend the site by public transport as there is no pedestrian routes linking the proposed site to the A68.
- 7.27 Parking provision at visitor attractions around the County have been assessed and compared. Main attraction sites such as Northumberlandia and Kielder were excluded as they offered other facilities such as visitor centres, toilets and picnic benches. Thus, the remaining 34 sites assessed have an average of 17 car parking spaces.
- 7.28 The proposed development includes a new vehicle access together with parking and footpaths, which lead to the summit and a viewing platform. The car park facilitates coach access, with accessible and cycle parking also included in the proposed landscape arrangements. The proposed arrangements provides a total of 28 car parking spaces, one coach space, two disabled spaces and cycle spaces.
- 7.29 The County Highways Authority have been consulted on the application are satisfied that the highway network in this location is adequate to cope with the levels of traffic proposed by the development and the car parking provision is adequate based on expected visitor numbers and compared with car parking at comparable attractions in the county.
- 7.30 The Highways Authority have not raised any concerns regarding the suitability of the local highway network for visitors to access the site once the sculpture is constructed, however, has raised concerns regarding the junction at Ridsdale off the A68 for the delivery of parts of the structure. Further submissions are therefore required by the applicant to ensure that construction traffic would not have an unacceptable impact on the highway network. This can be covered by condition and submitted at a later date.
- 7.31 The proposed arrangements for both access and car parking at the site are considered acceptable, in line with the requirements of both TDLP Policy GD4 and the requirements of the NPPF.

### Flooding Issues

- 7.32 Chapter 14 of the NPPF is concerned with flood risk. Paragraphs 163 states that when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Chapter 15 of the NPPF is concerned with conserving and enhancing the natural environment. Paragraph 170 states that when making a decision on a planning application then new and existing development should be prevented from contributing to, being put a risk from, or being adversely affected by unacceptable levels of water pollution.

- 7.33 The Local Lead Flood Authority have been consulted on the proposal and have raised no objections subject to conditions relating to detailed drainage and the maintenance of SuDS features during the lifetime of the development.

### Other Matters

#### *Location of the Development*

- 7.34 Some of the objections refer to the location of the development being referred to as Kirkwhelpington which is some distance from the site. The application was submitted with no address stated (the applicant quoted grid references to identify the location). As the site has no postal address, a Unique Property Reference Number (UPRN) is generated by the Council's Land Gazetteer Team which was provided to the Planning Department. This address was generated as Kirkwhelpington. Site notices were placed at the site as required by planning regulations and the applicant has held a number of pre-application events in the locality publicising the proposal.

#### *Local Facilities and litter*

- 7.35 The Parish Council and other objections have raised the issue of lack of local facilities in the area to cope with visitors to the landmark. It is not considered that the number of anticipated visitors to the site would generate the undue pressure of local facilities and many similar tourist attractions have no facilities. The landmark has been designed as a landscape feature and no food or beverage facilities are proposed at the site. The intention of the applicant is to encourage visitors to support local facilities when visiting the site. It is worth noting that any building at the site to provide additional facilities for visitors would create an additional landscape impact and would not be encouraged. Litter generated at site would be a matter for the landowner to control and it has been demonstrated that the site is accessible by a refuse collection vehicle.

#### *Equality Duty*

- 7.36 The County Council has a duty to have regard to the impact of any proposal on those people with characteristics protected by the Equality Act. Officers have had due regard to Sec 149(1) (a) and (b) of the Equality Act 2010 and considered the information provided by the applicant, together with the responses from consultees and other parties, and determined that the proposal would have no material impact on individuals or identifiable groups with protected characteristics. Accordingly, no changes to the proposal were required to make it acceptable in this regard.

#### *Crime and Disorder Act Implications*

- 7.37 These proposals have no implications in relation to crime and disorder.

#### *Human Rights Act Implications*

- 7.38 The Human Rights Act requires the County Council to take into account the rights of the public under the European Convention on Human Rights and

prevents the Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic wellbeing of the country. Article 1 of protocol 1 provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.

- 7.39 For an interference with these rights to be justifiable the interference (and the means employed) needs to be proportionate to the aims sought to be realised. The main body of this report identifies the extent to which there is any identifiable interference with these rights. The Planning Considerations identified are also relevant in deciding whether any interference is proportionate. Case law has been decided which indicates that certain development does interfere with an individual's rights under Human Rights legislation. This application has been considered in the light of statute and case law and the interference is not considered to be disproportionate.
- 7.40 Officers are also aware of Article 6, the focus of which (for the purpose of this decision) is the determination of an individual's civil rights and obligations. Article 6 provides that in the determination of these rights, an individual is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal. Article 6 has been subject to a great deal of case law. It has been decided that for planning matters the decision making process as a whole, which includes the right of review by the High Court, complied with Article 6.

## **8. Conclusions**

- 8.1 This is an unusual proposal which does not lend itself easily to a conventional site-based evaluation of impact. The wider public benefits of a major new landmark public art feature need to be seen in light of the strategic importance attached to place-based tourism in Northumberland. The *Discover Our Land* campaign (launched 2019) aims to capitalise on the inertia of the visitor economy and build upon successes such as Northumberland being named the 'Best UK Holiday Destination' in the British Travel Awards 2018.
- 8.2 To further raise the profile of the County and, specifically, stimulate additional overnight tourism, linked attractions and points of interest need to be promoted. Given the tourism offer of Northumberland is dependent upon the quality of its natural and heritage based environment, this must be on a sensitive basis.
- 8.3 With the exception of Corsenside Parish Council, consultee responses triangulate to suggest that the proposals will not cause harm which would outweigh the wider public benefit identified above. It is important to note that the Northumberland National Park has not stated that the scheme would undermine any of the special statutory purposes of the park designation, including promotion of opportunities for the understanding and enjoyment of the special qualities of the Park. If the National Park had reached a different conclusion it could be argued that the overall net benefit of the proposal to tourism and the visitor economy would have been reduced.

8.4 Notwithstanding the observations and conclusions set out in paras 8.1 to 8.3, it is considered that the principle of the construction of a landmark sculpture in this location is acceptable, and subject to relevant conditions, would be appropriate in the specific landscape context and location. Specifically it is confirmed that landscape impact, impact on ecology and heritage assets, highway safety and flood risk have all been taken into account and assessed on an individual and cumulative basis and been found to be acceptable. The application is therefore considered to be in accordance with both local planning policies and the requirements of the NPPF.

## 9. Recommendation

That this application be GRANTED permission subject to the following:

### Conditions/Reason

01. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

02. The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans and documents . The approved plans and documents for this development are:

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  
2532C-510 REV Construction Details Dated  
JN1784 DWG-0005 Swept Path Analysis Coach  
JN1748 DWG-0007 Swept Path Analysis Refuse Vehicle  
JN1748 DWG-0009 Site Access Arrangements  
JN1748 DWG-0010 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: To ensure that the approved development is carried out in complete accordance with the approved plans.

03. Notwithstanding the details submitted prior to the commencement of development details and the specification of the final finish (including any reflective finishes) of the sculpture 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 and to ensure that the proposed development does not have an adverse effect upon the appearance of the area in accordance with policies NE1 and BE1 of the Tynedale LDF Core Strategy

04. Development shall not commence until samples of all materials, colours and finishes to be used on all external surfaces have been made available for inspection and are subsequently approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

Reason: To safeguard the visual amenities of the area and to ensure that the proposed development does not have an adverse effect upon the appearance of the area in accordance with policies NE1 and BE1 of the Tynedale LDF Core Strategy

### Highways

05. Development shall not commence until a Construction Method Statement, together with supporting plan has been submitted to and approved in writing by the Local Planning Authority. The approved Construction Method Statement shall be adhered to throughout the construction period. The Construction Method Statement and plan shall, where applicable, provide for:
- i. details of temporary traffic management measures, temporary access, routes and vehicles;
  - ii. vehicle cleaning facilities;
  - iii. the parking of vehicles of site operatives and visitors;
  - iv. the loading and unloading of plant and materials;
  - v. storage of plant and materials used in constructing the development

Reason: In the interests of highway safety, in accordance with the National Planning Policy Framework.

06. The development shall not be brought into use until the car parking area indicated on the approved plans, including any disabled car parking spaces contained therein, has been marked out in parking bays. 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, in accordance with the National Planning Policy Framework

07. The development shall not be brought into use until a means of vehicular access has been constructed in accordance with the approved plans.

Reason: In the interests of highway safety, in accordance with the National Planning Policy Framework



08. The development shall not be brought into use until cycle parking shown on the approved plans has been implemented. Thereafter, the cycle parking shall be retained in accordance with the approved plans and shall be kept available for the parking of cycles at all times.

Reason: In the interests of highway safety, and sustainable development, in accordance with the National Planning Policy Framework

09. Prior to the development being brought into use, details of surface water drainage to manage run off from private land have been submitted to and approved by the Local Planning Authority. The approved surface water drainage scheme shall be implemented in accordance with the approved details before the development is brought into use and thereafter maintained in accordance with the approved details.

Reason: In order to prevent surface water run off in the interests of the amenity of the area and to ensure suitable drainage has been investigated for the development and implemented, in accordance with the National Planning Policy Framework.

10. The development shall not be brought into use until details of the proposed boundary treatment have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before the development is brought into use.

Reason: In the interests of visual amenity and highway safety, in accordance with the National Planning Policy Framework

### Water management

11. 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. Any scheme shall restrict flows to 5l/s unless otherwise agreed by the lead local flood authority.

Reason: To ensure effective disposal of surface water from development.

12. Prior to any formal opening details of the adoption and maintenance of all SuDS features shall be submitted to and agreed by the Local Planning Authority. A maintenance schedule and log, which includes details for all SuDS features for the lifetime of development shall be comprised within and be implemented forthwith in perpetuity.

Reason: To ensure that the scheme to disposal of surface water operates at its full potential throughout the development lifetime.

13. Prior to commencement of development, details of where each boardwalk crosses the watercourse shall be provided.

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

## Ecology

14. The development should be undertaken in strict 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:
1. 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.
  2. Soil stripping will not be undertaken whilst reptiles are hibernating, during November to February.
  3. 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.
  4. 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.

15. No development shall commence until a method statement to avoid harm to reptiles has been submitted to the LPA for written approval. 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 and development in strict accordance with the approved method statement.

Reason: to reduce the chance of harm to a protected species from the outset of the development.

16. No development shall be undertaken until a construction environmental management plan (CEMP) has been submitted and approved by the LPA. 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
  - Responsible persons and lines of communication
- The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: To ensure that a watercourse is not polluted or contaminated during development works.

17. Prior to the commencement of development details of a landscape and biodiversity management plan shall be submitted to and be approved in writing by the local planning authority. The content of the LBMP shall include details of the following:
1. Aims and objectives for the plan.
  2. The method of use of rock arisings to create species rich grasslands including whin grassland as a priority.
  3. Native grass seed mixtures and tree/shrub species to be planted.
  4. The creation of refugia for reptiles.

5. Details of grazing, not exceeding 0.5 livestock units hectare and being suspend during May-July where species rich grassland habitats are the target vegetation.
  6. The two barn owl boxes to be provided, including type, location, orientation and height.
  7. A work schedule, including an annual work plan.
  8. Methods of drains blocking and maintenance.
  9. Provision of access and information to visitors.
  10. Details of the body responsible for the implementation of the plan.
  11. Details of ongoing ecological monitoring and remedial measures.
- Once approved in writing the LBMP shall be implemented in accordance with the approved plan.

Reason: To maintain and protect the landscape value of the area and to enhance the biodiversity value of the site in accordance with the aims of the NPPF.

18. 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:
  1. Aims and objectives for the plan
  2. Identification of ditches that are to be blocked
  3. Methods of drainage ditch blocking and ongoing maintenance of blocked ditches.
  4. Details of conservation grazing.
  5. A work schedule, including an annual work plan.
  6. Provision for review of the EEP every 5 years.
  7. Details of the body responsible for the implementation of the plan.
  8. Details of ongoing ecological monitoring and remedial measures.

Once approved in writing the land shall be managed in accordance with the approved plan.

Reason: to conserve and enhance the biodiversity of the area in accordance with the aim of the NPPF.

### Lighting

19. Prior to the fixing of any external lighting within the site, including any illumination of the landmark itself, details of the external lighting shall be submitted to and agreed in writing by the Local Planning Authority. Details should include:
  - The specific location of all external lighting units;
  - Design of all lighting units;
  - Details of beam orientation and lux levels; and
  - Any proposed measures such as motion sensors and timers that will be used on lighting units

The approved lighting scheme shall be installed in accordance with the approved details and shall be maintained as such thereafter, unless removed entirely.

Reason: In order to ensure that there is no harmful effect upon the tranquillity and intrinsically dark character of the area, including the Northumberland Dark Sky Park through excessive light pollution, in accordance with paragraph 125 of the NPPF.

20. The developer / operator shall install MOD-accredited 25 candela omni-directional aviation lighting OR infrared warning lighting with an optimized flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point. The sculpture will be erected with this lighting installed and the lighting will remain operational for the lifetime of the development

Reason: In the interest of aviation safety.

### **Informatives**

Any works undertaken within the cross-sectional area of a watercourse will require a land drainage consent. This applies for any permanent and temporary works. Therefore the boardwalks over the ordinary watercourses may require consent.

Please contact the FCERM team on [fcerm@northumberland.gov.uk](mailto:fcerm@northumberland.gov.uk) for further details.

Coal Low Risk Area standing advice

A Section 39 Agreement under the Wildlife and Countryside Act is required in order to secure the long term management of the ecological enhancements proposed

**Background Papers:** Planning application file(s) 19/00247/FUL