

TRANSPORT AND WORKS ACT 1992
TRANSPORT AND WORKS (APPLICATIONS AND OBJECTIONS PROCEDURE)
(ENGLAND AND WALES) RULES 2006

NORTHUMBERLAND LINE

PROOF OF EVIDENCE OF JEFFREY WILLIAM BOYD
ON BEHALF OF THE BERNICIA GROUP (OBJ 25)

12 OCTOBER 2021

1. **Introduction and scope of evidence**

- 1.1. My name is Jeffrey William Boyd.
- 1.2. I have a degree in Estate Management and was elected to professional member of the Royal Institution of Chartered Surveyors in 2003.
- 1.3. I have worked for the Bernicia Group ("Bernicia") since 2007 as Assistant Director of Development.
- 1.4. Prior to joining Bernicia, I worked at Wansbeck District Council as an Estate Surveyor; and at Bissett Kenning & Newiss as a Chartered Surveyor.
- 1.5. I am experienced in the development of new homes, delivering large and small regeneration schemes, land and contract negotiation, valuations and viability appraisals, land acquisitions, and in the construction of buildings both residential and commercial.
- 1.6. Examples of work I have recently been involved with include:
- 1.6.1. £9.5million development of 60-unit affordable housing development in Cramlington, Northumberland, comprising a 48 unit flatted development sheltered housing accommodation for the elderly, together with 8 bungalows and 4 flats;
- 1.6.2. the development of a 104-unit elderly persons village at the site of the former Ashington Hospital, south of John Street, Ashington at a total development cost of £13million.
- 1.7. My day to day work involves planning, resourcing and delivering Bernicia's housebuilding development programme of circa 150-200 units per annum; overseeing the building of new homes; identification of sites; appraisal and assessment of opportunities, both financial and social; and securing planning compliance.
- 1.8. My evidence provides background to Bernicia purpose and activities and addresses impacts of the proposed Northumberland Line Order ("the Order") on Bernicia's properties at Ashington and Bedlington. The principal focus is on Bedlington. My evidence should be read in conjunction with that provided by Richard Hinton of Apex Acoustics. My evidence is accompanied by appendices numbered JWB1 – JWB19

bound separately. To avoid unnecessary duplication of the AECOM Noise Impact Report I cross-refer in respect of that document to appendix A of Mr Hinton's proof.

- 1.9. More specifically the proof addresses the following:
 - 1.9.1. The not for profit nature of the Bernicia Group
 - 1.9.2. The Northumberland Line proposals at Ashington
 - 1.9.3. The Northumberland Line proposals at Bedlington Station including:
 - 1.9.3.1. Current position at Sleekburn House
 - 1.9.3.2. Order and planning application proposals
 - 1.9.3.3. Resident profiles and concerns
 - 1.9.3.4. Construction impacts
 - 1.9.3.5. Operational impacts
 - 1.9.3.6. Proposed Mitigation
 - 1.9.3.7. Human Rights and Public Sector Equality Duty
- 1.10. I wish to state at the outset my grave concern that the Northumberland Line project which has been publicly identified by the Secretary of State for Transport, Grant Shapps, as part of the Government's "levelling up" agenda is being rushed through without due consideration of impacts on Bernicia's residents. Bernicia has previously made clear in its Statement of Case its concerns that those impacts will "fall between the cracks".
- 1.11. The assessment of noise, light and potentially other impacts in particular of huge concern:
 - 1.11.1. The operational impacts are considered to be unacceptable.
 - 1.11.2. The construction works impacts will be massive. They have simply not been modelled or assessed.

- 1.12. The noise assessments that are understood to be relevant to the Order and planning application are out of synch with each other as set out in Ward Hadaway's letter of 8 October 2021 (See Appendix JWB01).
- 1.13. Where information has been provided that has been so late in the day that it is not possible to provide a response to it in evidence by the 12 October 2021 deadline for submission of proofs. The manner in which the information has been provided has been, at the very least, slow and inconsistent and has necessitated considerable extra work for Bernicia and its advisers in corresponding with and chasing up NCC's advisers. Much of that should have been unnecessary. It has of itself frustrated both proper consultation and public engagement in the wider sense and more specifically the rights of those whose interests are sought to be acquired.
- 1.14. Furthermore, the revelation in AECOM's email of 7 October to Bernicia's compensation surveyors, Sanderson Weatherall (SW) that the Order and the planning application for Bedlington Station have been prepared on different and inconsistent mapping bases is little short of astounding.
- 1.15. It is understood that the position of Sleekburn House has been wrongly mapped for planning purposes. The implications are obvious in terms of the accuracy of the Order plans and the basis of noise and other impact assessments undertaken as well as the opportunity for landowners and the public at large to be properly consulted on an informed basis. The credibility of the project has been severely damaged in this respect.
- 1.16. It also remains to be seen whether the wider scheme suffers from the consequences of inconsistencies between mapping bases.
- 1.17. It should be noted that the land-take included in the Order as originally presented and submitted has been demonstrated to be excessive. Formal proposed modifications to the Order containing amendments to land-take are awaited.
- 1.18. Bernicia therefore reserves its right to submit further evidence if and when NCC's position becomes clearer.

2. **Bernicia Group**

- 2.1. Bernicia is a not for profit registered provider (RP) of social housing registered with and regulated by the Regulator of Social Housing, which solely operates in the North

East of England. Bernicia's primary purpose is to invest in homes, services and people in order to make a positive impact on the communities of the North East.

- 2.2. In that context Bernicia appreciates the needs of the wider community and of course acknowledges the positive contribution that public transport such as the proposed Northumberland Line can make. But that must not be at an unacceptable cost to amenity, living standards and health. Bernicia has a duty of care to its residents and as a responsible landlord it must have an active regard to such needs. It is that duty and concern which has led to its objection to the above Order.
- 2.3. Bernicia owns and manages 14,000 quality affordable homes, across a wide range property types and tenures. These include homes for single people, couples, families, the elderly, and for residents requiring specialist supported accommodation, across a variety of affordable home tenures including social and affordable rent.
- 2.4. Bernicia is, at its heart, a social landlord and its overriding objective is to help people in need of housing, it builds, rents out, sells and manages homes. It provides estate and facilities management to over 60,000 customers and employs over 550 people. It is one of the largest providers in its field in the North East of England as measured from the Scottish border in the north, to Teesside in the south, and to the Durham Dales in the west.
- 2.5. Bernicia works with the local community to devise plans to develop community assets, provide employment and training opportunities, and also has a range of products and services to support financial and social inclusion. Services and activities are provided to promote health and wellbeing, tackle isolation and loneliness and support independence.
- 2.6. Bernicia's business strategy follows its vision of "housing people, helping people". Bernicia believes that a good home is both a basic need and the starting point for making many other things possible.

3. **Ashington**

- 3.1. The Cheviots is Bernicia's flagship development. It was completed in December 2016 following the grant of planning permission in October 2014. It comprises ninety-five dwellings for the over 60's including 40 two-bedroom apartments at Hatchmeadow, 55 two-bedroom bungalows for elderly residents or those who require level access accommodation. A location plan is attached at Appendix JWB3.

- 3.2. The flats at Hatchmeadow situated over 2 storeys and are for affordable rent and thirty-four of the bungalows are for affordable rent and 21 were sold on shared ownership terms. The bungalows at 1-23 (odd nos) Featherwood Drive directly back onto the proposed works and are all affordable rented properties.
- 3.3. 14 of the apartments at Hatchmeadow overlook the existing railway line and 12 of the bungalows on Featherwood Drive back onto the existing footpath which runs parallel to the existing railway line. Photographs of the Cheviots development can be found at Appendix JWB04.
- 3.4. Sheet 24 of the Order (Core Document APP-10) shows the originally proposed land sought to be included. Plot 318 in the Order is shaded pink and envisages the outright acquisition up to the façade of the building or building line of Hatchmeadow.
- 3.5. Plots 316 and 317 shaded pink on the Order Plan envisages the outright acquisition of land up to the rear fence line of 1 to 23 Featherwood Drive (odds only)
- 3.6. The Order also includes additional plots owned by Bernicia being Plot 312, 313, 319 and 319e shaded green which the Applicant seeks to take temporary possession over.
- 3.7. SW were provided with an amended plan by the Applicants agents, SLC, on 3 September which proposed a revision to the Order although, as with Bedlington, no formal modification has been proposed as at the date of preparation of this evidence. The amended plan is at Appendix JWB5
- 3.8. The proposed amendments reduce the area of land shaded pink significantly and including the areas immediately adjacent to Hatchmeadow and 1 to 23 (odd nos only) Featherwood Drive and now appears the Applicant is seeking temporary possession over.
- 3.9. The proposals seek to replace the existing Hospital Level Crossing with an underpass which will be situated slightly further to the north of the existing crossing and directly to the rear of the bungalows known as 17 and 19 Featherwood Drive.
- 3.10. Bernicia have serious concerns that the introduction of an underpass will create a magnet for antisocial behaviour and noise disturbance which will cause worry and distress to Bernicia's residents.
- 3.11. It is understood that some of the residents raised their concerns with the Council at a meeting on 1st July 2021.

- 3.12. Whilst Bernicia remains concerned at the proposals at Ashington, Bernicia is even more concerned at the proposals for Bedlington Station.

4. **Bedlington**

- 4.1. My evidence below and the evidence of Bernicia's Noise Expert, Apex Acoustics therefore focuses principally on the impacts on the residents of Sleekburn House.

Current position at Sleekburn House

- 4.2. Sleekburn House is located to the north of Station Road in Bedlington Station and its northeasterly boundary is immediately adjacent to the existing railway line with the nearest track being circa 11 metres from the façade of Sleekburn House. A location plan is attached at Appendix JWB6.
- 4.3. The existing fence line is between circa 5 metres at its closest point and 6 metres at its furthest point from the façade of Sleekburn House. In front of the existing fence is soft landscaping comprising trees and shrubs. Secluded gardens are situated between the façade of Sleekburn House and the soft landscaping. The existing fence is not visible from Sleekburn House as it is hidden by the soft landscaping.
- 4.4. Sleekburn House is a 2 storey premises comprising 29 no. one bedroom flats, 15 of which face the existing railway line with 7 being situated on the ground floor and 8 being situated on the first floor. All of these flats benefit from large top opening windows which currently look out onto the secluded gardens and soft landscaping which is popular with songbirds.
- 4.5. A plan showing Bernicia's ownership and proximity to the existing railway can be found at Appendix JWB7 and a plan showing the internal layout of Sleekburn House can be found at Appendix JWB8 along with a plan showing the internal layout of an individual flat which fronts onto the railways line (Appendix JWB9). The residents bedroom and living room face onto the railway line.

Order proposals

- 4.6. The Order is predicated on the basis that it is necessary for NCC to acquire land and rights for the proposed Northumberland Line. As noted above the land take included in the Order as originally and presently submitted is excessive. Formal proposed modifications to the Order containing amendments to land-take are awaited. Moreover, I am advised that the compulsory acquisition contained within the Order itself requires

justification on the basis that there is a compelling case in the public interest. Given the adverse impacts of the proposed Line on the residents of Sleekburn House, it cannot be said that a compelling case has been demonstrated.

- 4.7. Sleekburn House is contained within Sheet 20 of the Order (Core Document APP-10) shows the originally proposed land to be included in the Order. Plot 269 in the Order is shaded pink and envisages the outright acquisition up to the façade of the building or building line of Sleekburn House.
- 4.8. Plots 270 to 274 shaded pink on the Order Plan comprise land which currently forms part of the rear gardens of 24 to 33 Blenheim Drive and the Order seeks to acquire this land permanently.
- 4.9. Plot 281 shaded green on the Order plan currently forms part of the rear gardens of 14 to 23 Blenheim Drive. NCC seeks to take temporary possession of this land.
- 4.10. SW were provided with an amended plan by the Applicant's agents, SLC, on 3 September 2021 (Appendix JWB11) which proposed a revision to the Order. However, at the date of preparation of this evidence no such formal proposed modification has been forthcoming. It is understood it will be submitted on 12 October along with NCC's evidence.
- 4.11. A further plan was issued on 22 September 2021 which provided non-material amendments and clarified some queries which Bernicia's compensation surveyors had raised. The amended 22 September plan is at Appendix JWB12. It reduces the area of land shaded pink and introduces an area of land shaded orange over which the Applicant seeks temporary access to the rear of Sleekburn House.
- 4.12. The 22 September plan also shows the location of the existing fence which is proposed to be removed and the revised proposed location of a new fence. Bernicia was awaiting a further plan to show the existing fence, the originally proposed fence and the revised location of the proposed fence to understand the impacts.
- 4.13. The plan also shows a proposed reduction in land shaded pink to the rear of 14 to 33 Blenheim Drive and introduces an area of land shaded orange which the Applicant seeks to have temporary access over land which currently comprises part of the rear gardens of 14 – 33 Blenheim Drive.
- 4.14. Both Bernicia's compensation surveyors and legal advisers requested a revised plan which showed the location of the existing fence, the originally proposed location of the

new fence and the proposed revised location of the fence but not until 7 October were Bernicia's compensation surveyors advised that the proposed fence line had not changed but the implied change was due to inconsistencies with the mapping data used by the Applicants advisers.

- 4.15. It is still not clear whether the location of this proposed fence is the location used by Applicant's advisers, to undertake the Sleekburn House Daylight Assessment dated December 2020.
- 4.16. These inconsistencies has in turn led to confusion and has meant that Bernicia's Light Expert has not been able to review the Applicants Daylight Assessment nor has it been able to undertake its own assessment of the potential impacts of the scheme on the daylight at Sleekburn House. Bernicia therefore expressly reserves its position in respect of submission of such evidence.

Sleekburn House – residents' profile and concerns

- 4.17. Sleekburn House is the sole sheltered housing scheme in Bedlington Station.
- 4.18. It serves the needs of people who can and wish to live independently but require extra security, on-site management and communal facilities including mobility scooter storage and assisted bathing.
- 4.19. Bernicia's tenants occupy their flats on an assured tenancy and pay a social rent. A social rent is a low-cost rent and aimed at those who cannot afford to access market housing. Generally, the tenants do not have any other housing options as they are unable to afford (rent or buy) a home on the open market.
- 4.20. Typically, properties are allocated to those aged over 55 years with an assessed medical need. Age criteria will be relaxed to accommodate younger people with physical or learning disabilities.
- 4.21. The current age profile of Sleekburn House tenants ranges from 49 years to 93 years, averaging out at circa 74 years. However, 71% are aged 75 years and older. All current tenants are single person households.
- 4.22. It is estimated that at least 57% of current tenants have a care package. Care packages range from weekly visits up to 4 times per day. 70% of those with care packages have a key safe fitted, which is an indication of limited mobility and confinement to the home.

- 4.23. This type of accommodation is particularly attractive to those who want additional security and 'at home' facilities and services. The majority of residents spend a large proportion of their time at home and unlike those who work, do not leave their home for the majority of the day.
- 4.24. As at October 2021, 5 tenants who are housebound due to ill health and disabilities live in Sleekburn House.
- 4.25. These tenants enjoy the external surroundings which their accommodation currently looks out onto. Should this be removed and replaced with the stark façade of a solid barrier/fence, then there are concerns that the impact on amenity would in turn adversely affect the mental health of tenants. Were that to occur then there will be no alternative but for them to move which could be to residential care or other sheltered accommodation, away from the Bedlington Station area.
- 4.26. Activities are provided on site to help tackle loneliness and isolation and tenants particularly enjoy participation both indoors and outdoors in the garden areas. Therefore, the peace and quiet enjoyment of both homes and communal areas is extremely important and valued by tenants, their families and visitors.
- 4.27. In addition, the amount of time people spend on the premises, either in their homes or outdoors has in recent months increased as a result of the pandemic. Whilst there may be in due course a return to something approaching pre-COVID "normality", on either basis residents spend the majority of their time at Sleekburn House.
- 4.28. There is a relatively small amount of rail traffic on the adjacent line at present It is acknowledged that currently there are 11 passbys in a 24 hour period during the week and 12 passbys in a 24 hour period between 06.08 and 21.37 passing by Sleekburn House.
- 4.29. The significant intensification of use of the line and the adverse physical factors which flow from the use of the railway line including noise, dust, light and vibration could well result in the living conditions of the residents becoming unbearable.
- 4.30. One of the existing tenant's family members, who provides daily care has already expressed concerns about the scheme proposals. The tenant faces the railway and spends the majority of their time watching the birds and wildlife in the trees and shrubs outside their window.

- 4.31. The family are concerned that whilst the scheme is being constructed and after the scheme has been completed, the increased noise and disturbance will result in a significant reduction in birds and wildlife at Sleekburn which is so important to Bernicia to maintain the well-being of its residents.
- 4.32. The existing residents do not have the choice / ability to relocate and therefore could be left in an intolerable position with no-where to go which could result in their mental and physical wellbeing deteriorating quickly. They may not qualify for residential care accommodation. They will turn to Bernicia for a solution and may ask to be re-housed.
- 4.33. Bernicia's existing portfolio is in high demand with waiting lists and Bernicia does not have surplus accommodation it can relocate its residents to.
- 4.34. It is entirely possible that as residents move into care homes or die, Bernicia are not able to re-let the flats which front onto the railway line which will result in a loss of revenue for Bernicia which will adversely impact on the overall viability and sustainability both from a financial and social aspect.
- 4.35. Bernicia has modelled the impact of the scheme could have on the viability of Sleekburn House and that if the void rate increases to 20%, which includes vacant flats and prolonged re-let time, then in effect Sleekburn House becomes non-viable.

Construction Impacts

- 4.36. I understand that NCC is proposing that noise mitigation will be provided by the erection of a noise acoustic barrier. However, that barrier is to be constructed as part of the scheme and is intended to mitigate operational noise produced by use of the Line and station.
- 4.37. No mitigation for construction works has presently been proposed let alone assessed. It is understood that it is proposed to be dealt with by way of planning condition. I am advised that approach is inappropriate for the reasons set out in Ward Hadaway's letter of 8 October (Appendix JWB01).
- 4.38. NCC has made contradictory or ambiguous statements about the overall length of construction and working hours. Invariably the construction work process will be extensive and will have significant impacts upon residents.
- 4.39. It is understood that the Applicant is seeking to remove the existing fence and the soft landscaping and is seeking to obtain temporary access to land along a circa 2 metres

wide strip that at its closest point will be between 1.55 metres and 3.25 metres away from the façade of Sleekburn House. Whilst it is understood that the Applicant intends to undertake works primarily from the railway line side, the Applicant has not provided clarity as to either the frequency nor the precise reason why it requires access to Bernicia's land on a temporary basis.

- 4.40. It is not known whether it is the Applicant's intention to construct a temporary fence along the side of the temporary access land nearest to Sleekburn House nor whether it would be a solid barrier or a Paladin fence. But such provision is common practice during construction works and if a temporary fence is proposed, this fence could be as a minimum, 1.55 metres and at its maximum no more than 3.25 metres away from some of the residents' windows which raises serious concerns.
- 4.41. There appear to be inconsistencies as to when the work adjacent to Sleekburn House will be undertaken. AECOM's Noise Impact Assessment (Appendix A of Richard Hinton's proof) states at section 6.1 Construction Noise and Vibration (page 26 of the report) that works will take place between the hours of 22.00 Thursday to 05.00 Monday over a 79-hour programme for around 4 months.
- 4.42. A memo from AECOM on 26 July 2021 (Appendix JWB13) states that (construction) activities could take place during the day time and night time with the highest noise activities taking place between the hours of 07.00 to 19.00 on Fridays and 7.00 to 13.00 on Saturdays but it recognised that it was not apparent whether BS 5228-1 threshold noise values would be exceeded.
- 4.43. It is understood that works which are to be undertaken on the Order land shaded pink will take place at a minimum distance of circa 4 metres from the residents' windows.
- 4.44. These works will include site clearance and earthworks and excavation including the use of excavators and dump trucks which according to the AECOM Noise Impact Assessment (at its section 6.1 as above) is likely to generate the highest noise levels including excavation.
- 4.45. Works are also to include platform civils works, construction of a new access road and car park, landscaping and finishing. Much of the railway track will be renewed involving replacement of existing railway and sleepers and new platforms. It is understood that no demolition of existing buildings on the platforms are proposed but it is understood that adjacent premises known as Bridge House are to be demolished as part of the scheme

- 4.46. By email dated 1 October 2021, Alannah Healey of SLC Property confirmed to Gordon Halliday of Northumberland County Council (Appendix JWB14) that the works proposed include:
- 4.46.1. 2 – 3 months demolition and site clearance
 - 4.46.2. 5 months for platforms
 - 4.46.3. 3 months for car parks
- 4.47. The email goes on to say that construction is likely to be spread over an 18-month window, but construction will not be continuous.
- 4.48. Whilst it is acknowledged that the works to the car parks are further away from Sleekburn House than the site clearance and proposed works to the platforms, there appear to be inconsistencies as to how long the works immediately adjacent to Sleekburn House are going to last.
- 4.49. In AECOM's Noise Impact Assessment December 2020, on page 37 it states (at section 6.1 thereof as above) that the construction period at the station will be 4 months between October 2022 and February 2023. However on page 37 of the report it states that the works at the station are anticipated to last around 5 months
- 4.50. In an email from Alannah Healey of SLC Property to Gordon Halliday of Northumberland County Council, on 30 September 2021 it was stated that the *'construction of the platforms are likely to be 5 months each (my emphasis) , preceded by 2 – 3 months of demolition and site preparation / clearance works' 13 months"*. In addition a further 3 months will be required to construct the car parks albeit it is acknowledged these are further away from Sleekburn House. (See Appendix JWB14)
- 4.51. The email goes on to say that *'construction is likely to be spread over an 18 month window but construction will not be continuous.'*
- 4.52. The proposed working hours, the lack of clarity as to how long Bernicia's residents will be affected by the construction works and the lack of clarity as to how the land shaded orange is to be used and fenced are clearly a cause for great concern for Bernicia.
- 4.53. The proposed works are of such nature and will be so close to Sleekburn House that invariably the level and frequency of noise generated will make it for all practical purposes uninhabitable during the proposed construction phase, including preventing

residents from sleeping at night. Indeed I am very surprised and disappointed that, given the age profile of the residents and the effects of construction, NCC has not to date assessed the options in respect of relocation of residents. That is particularly relevant given the application of the Public Sector Equality Duty addressed below.

- 4.54. In addition, Bernicia have serious concerns that the fencing / barriers which may be erected will either remove any privacy the residents currently enjoy from their windows or if a solid barrier is erected, result in a significant reduced in natural light.
- 4.55. Bernicia's light expert has been unable to review these impacts as we have yet to receive details of the Applicants proposals in terms of fencing during the construction period.
- 4.56. Bernicia reserves its position on this point and may submit further evidence as and when further details are provided by the Applicant as to any temporary barrier which is proposed to be constructed or other construction works mitigation.

Operational Impacts

- 4.57. It is acknowledged that the Applicant has sought to work with Bernicia to agree mitigation measures to Sleekburn House, but that exercise has proved very frustrating in terms of the partial and late provision of information.
- 4.58. Moreover, the mitigation measures assume that the residents close their windows and keep their windows closed. The residents currently enjoy the ability to open their windows as is evidenced in the photographs at Appendix JWB10 and Bernicia does not consider that it is acceptable that the reasonableness of any mitigation measures is based on the principle that a resident must keep their window closed. This is particularly important given the age profile of residents and the amount of time they generally spend in their rooms.
- 4.59. Richard Hinton's proof addresses noise impacts from a technical perspective. From the "lived" perspective of residents, the day-to-day quality of life will be adversely impacted by the increased frequency of passing trains and more particularly from the operation of the PA system.

Increased frequency of trains

- 4.60. If the Line were to be operational then there would be a substantial increase in "train events" experienced at Sleekburn House. Train events would comprise:

- 4.60.1. 62 stops in a 24 hour period (59 between 7.00 -23.00 hours; 3 between 23.00 – 7.00)
- 4.60.2. 4 rolling stock pass-bys (1 between 7.00 and 23.00; 3 between 23.00 and 7.00)
- 4.60.3. In total 66 events in a 24 hour period; (60 between 7.00 – 23.00; 6 between 23.00 – 7.00)
- 4.61. it is understood that:
 - 4.61.1. the first train is proposed to pass by at 05.51; and
 - 4.61.2. the last train will pass by at 23.11; and
 - 4.61.3. frequency per hour between the above times is:
 - 4.61.3.1. 3 trains between 6.00 – 7.00
 - 4.61.3.2. 4 between 7.00 -20.00
 - 4.61.3.3. 3 between 20.00 – 21.00
 - 4.61.3.4. 2 between 21.00 -22.00
- 4.62. Thus a total of 62 trains will stop Bedlington Station and an additional 4 trains will pass in a 24 hour period. It is not known whether the current freight trains will continue to pass-by Bedlington Station.
- 4.63. In contrast the current operational usage of the track is of a wholly different order. As set out in AECOM's Noise Impact Assessment, currently there are 11 pass-bys in a 24 period during the week and 12 pass-bys in a 24 hour period at weekends between the hours of 06.08 and 21.37. Residents of Sleekburn House therefore currently experience at worst 12 noise incidents from passing freight trains in a 24 hour period.
- 4.64. It is important to note that presently passing freight trains travel along the line without stopping at Bedlington Station Their noise impact is fleeting and passing and generally does not involve braking noises.
- 4.65. The proposed level of use would generate noise associated with 62 trains arriving and leaving the station, with passengers embarking and disembarking. The proposed train timetables proposes that trains will stop at the station at 11 minutes, 21 minutes, 38 minutes and 54 minute passed the hour amounting to 4 trains per hour over a 13 hour period other than the earliest and latest hours of the day as noted above.

- 4.66. Moreover of those noise incidents 50% will be at the nearest platform which is only some 6 metres from residents open windows.
- 4.67. It is further acknowledged that the noise profile of the engines intended for use are such that the individual engine noise may be distinct from present freight train noise, those freight trains run through the station rather than stop.

Public Address System (PA)

- 4.68. The new station will introduce a Public Address System which I understand will be used to advise on an approaching train minutes before its arrival and once the train has arrived at the station, and potentially as the train is about to leave the station together with other announcements as and when required .
- 4.69. Indeed I note that the AECOM Noise Impact Assessment dated December 2020 included a report prepared by Kilborn Consulting which specifically considered the System Design and Noise Impact of a PA System at Bedlington Station on the basis that there would be an announcement on average every 5 minutes for 30 seconds. That is, 12 announcements every hour.
- 4.70. If 4 trains stop at Bedlington Station every hour and there are 3 announcements associated with each train, the first being the announcement of train due to arrive in the platform, the second announcing the train when it is on the platform and the third when the train is about to leave the platform, there could be:
- 4.70.1. At least 12 announcements per hour, quite possibly more
- 4.70.2. Each lasting 30 seconds meaning cumulatively there could be 6 minutes of announcements per hour.
- 4.71. Whilst I will leave the interpretation of the detail of the AECOM Report to Apex Acoustics, I make the following non-technical observations:
- 4.71.1. A PA system by definition is intended to exceed background noise levels.
- 4.71.2. It is understood that it is the intention to provide the ability to broadcast audio along the full length of the platforms. The northbound platform is situated behind Sleekburn House and 30 – 32 Blenheim Drive and the southbound platform is to be situated partially opposite Sleekburn house and 22- 32 Blenheim Drive.

- 4.71.3. The AECOM Report recommends a larger number of evenly distributed loudspeakers set at lower power, positioning loudspeakers appropriately towards the platform area and in the opposite direction to neighboring properties. However, this is not feasible for Sleekburn House unless the loudspeakers are only situated on the east facing platform.
- 4.71.4. Kilborn Consulting in its PA Sound Design Report (contained within the AECOM report at Richard Hinton's Appendix A) has suggested that the PA system will operate over a fifteen hour period in any twenty-four hours, that is between the hours of 7.00 and 22.00 with the exception of safety critical announcements.
- 4.71.5. It is entirely possible that announcements will also be made for the 4 pass-by trains which do not stop at the station as well as the pass-by freight trains which could add potentially amount to some 200 or so announcements per day.
- 4.71.6. Bernicia requires further details on the number of announcements and the hours within which these announcement will be made.
- 4.71.7. The residents of Sleekburn House spend much of their time in their homes and will be subject to such announcements throughout their waking, and in part sleeping, day.
- 4.71.8. As all of the passenger trains which stop at Bedlington Station only travel to one end destination in each direction, clarity is sought as to whether announcements are even necessary.
- 4.71.9. The PA system appears to be higher than the height of the proposed acoustic fence with the acoustic fence proposed to be 3.5 metres from ground level of Sleekburn House and the PA system understood to be 3.7 metres from ground level of Sleekburn House.
- 4.71.10. The Kilborn Report closing comments state that:
- 'in order to meet Network Rail Standards, the noise impact assessment demonstrates that is a likelihood of adverse impact particularly during the evening period when background noise around the station is likely to be lower' and also that "given the proximity of noise sensitive properties adjacent to the proposed station, it is considered impossible to meet the*

minimum Network Rail SPL requirements whilst meeting the proposed target rating levels'

I take this to mean that it is acknowledged that the AECOM report itself acknowledges that this is a problem and in itself an unacceptable impact.

Railway Crossing barrier

- 4.72. In addition, it is inevitable that the existing railway crossing barrier will operate far more frequently than currently. I understand that the gates make an audible warning noise only when closing. This could conceivably cause an additional 66 noise incidents from the 66 trains crossing over the road. Of these 60 could occur between 7.00 – 23.00 hours and 6 between 23.00 – 7.00 hours. These are additional noise incidents and impacts which do not currently exist at Sleekburn House.
- 4.73. If the barrier were to emit a warning sound on both opening and closing then the number of noise incidents would be double the above figures.

Total additional noise incidents

- 4.74. It is therefore likely that there will be a significant potential additional cumulative number of noise incidents likely to be clearly audible to the residents of Sleekburn House which the residents do not currently experience as reflected in the below table:

	Per day	Per hour
Trains	66	Up to 4
PA	200+	13+
Level Crossing	66	Up to 4
Total	Circa 330	24

Viability / Relocation

- 4.75. Sleekburn House is presently a popular residence and is fully occupied with demand for accommodation. As noted above, in the event that Sleekburn House became in effect uninhabitable or so unpopular with residents because of the impacts of the Line then its very viability may come into question.

- 4.76. Bernicia therefore seeks assurances from NCC that in the event that were to occur, and notwithstanding any mitigation, that NCC work with Bernicia to provide an alternative site and the funds required to construct an equivalently sized sheltered accommodation facility as close as practicable to its existing location.
- 4.77. On page 42 of NCC's Statement of Case, reference is made to how the scheme is to be funded. In the Funding Statement, the Scheme, including the Order Scheme inclusive of compensation and any acquisition of blighted land is estimated to be £15,165,234. It is unclear whether this estimate includes the potential cost of re-providing an equivalent Sheltered Housing facility including the cost of acquiring the land upon which an equivalent facility may need to be constructed. NCC is requested to confirm the position.

Proposed Mitigation

- 4.78. It is understood that NCC is proposing mitigation to address impacts.
- 4.79. This includes:
- 4.79.1. Physical works in the form of:
 - 4.79.1.1. A noise attenuating fence
 - 4.79.1.2. Enhanced ventilation
 - 4.79.2. Planning conditions to be imposed
 - 4.79.3. Assurances from NCC advanced on a confidential and without prejudice basis
- 4.80. To the extent it has been possible to do so in the time available, the Apex Acoustics evidence takes into account previously proposed mitigation measures. However, Bernicia expressly reserves its position in that regard pending the opportunity to consider the most recent plans provided by NCC and discuss the same with Bernicia's advisers.

Acoustic Fence

- 4.81. In broad terms as regards the physical works it has been understood that NCC proposes to construct a 3.5-metre-high acoustic fence / barrier which at its maximum distance is proposed to be broadly situated along the line of the existing fence

boundary for approximately 50% of the boundary in front of Sleekburn House. It then moves closer to Sleekburn House by approximately 1.4 metres from the existing fence line at which point the fence will be 4.3 metres away from the façade of Sleekburn House(see plan at Appendix JWB15) .

- 4.82. However, as these plans were only provided on 7 October 2021 (Appendix JWB16), it has not been possible to assess its impacts in the round including whether the revised location of a 3.5-metre-high acoustic barrier / fence will have a detrimental impact on light enjoyed by Sleekburn House.
- 4.83. In the proposed provision of an acoustic fence there is invariably a trade-off with impact on light received especially by ground floor homes. At the present time because of the non-provision of plans requested from NCC it has not been possible to assess light impacts. Bernicia reserves its position in that regard. As the plan showing the existing and proposed fence was only issued in CAD on 8th October, Bernicia's Light Expert has been unable to ascertain whether there will be a detrimental impact of such a fence and Bernicia has serious concerns any mitigation measures will not be sufficient to maintain the quality of living conditions the residents currently enjoy.
- 4.84. In addition, in the event that any acoustic fence were to be constructed it is essential that NCC work with Bernicia to seek to replicate the soft landscaping and secluded gardens which the residents currently enjoy at NCC's cost.

Ventilation

- 4.85. Whilst it is understood that upgrading of ventilation systems to enable windows to be closed and thereby lower noise disturbance is suggested, such mitigation assumes that the residents will be happy to close their windows and keep their windows closed.
- 4.86. The residents currently enjoy the ability to open their windows and Bernicia do not believe it is acceptable that the reasonableness of any mitigation measures is based on the principle that a residence must keep their window closed.
- 4.87. The photographs at Appendix JWB10 clearly show that the residents open their windows.
- 4.88. The residents may hang their washing up to dry in their flats and are currently able to open their windows without suffering from regular adverse noise disturbance. However post completion of the scheme, if further ventilation measures are installed, the residents could be faced with the option of either using mechanical ventilation which is

likely to create noise or open their windows which will mean the noise from the trains, PA System, passengers and barrier will be clearly audible from their homes. .

Proposed planning conditions

- 4.89. Bernicia has asked NCC for details of proposed planning conditions which will be attached to the planning decision notice but were advised on Thursday 7 October 2021 that these were not yet available.
- 4.90. Suggested draft conditions were subsequently provided by NCC's legal advisers on the afternoon of Friday 8 October, too late for them to be reviewed in the round with Bernicia's advisers and addressed in this evidence. In any event they have to date been provided on a confidential basis.
- 4.91. Bernicia asks that they be provided in open correspondence in order that they can be addressed in evidence. Again, Bernicia reserves the right to submit further evidence commenting on such conditions.
- 4.92. Moreover, it is understood that that NCC is working towards the Bedlington Station planning application being considered at its Planning Committee on 2 November 2021. However as at the date of preparation of this proof there are material inconsistencies in the noise assessment and mitigation proposals formally contained within the planning application and the position being adopted by NCC in the context of the Order. The Order is being promoted on a basis of assessment that has not been incorporated within the planning application. Bernicia expressly reserves its position until it is clear on what basis NCC is moving forward.
- 4.93. Given that at present the planning application mis-plots the location of Sleekburn House we seek immediate clarification from NCC as to:
- 4.93.1. The amendments it proposes to make to the planning application, in particular in relation to establishing the correct location of Sleekburn House
 - 4.93.2. What updating or additional noise attenuation assessment will be submitted in support of the application
 - 4.93.3. What comprises the updated position as regards proposed mitigation
 - 4.93.4. What additional public consultation will be carried out on the new material to be submitted

5. **Human Rights and Public Sector Equality Duty**

- 5.1. I am advised that the Order engages both Human Rights and the Public Sector Equality Duty.

Human Rights

- 5.2. I am advised that Articles 8(1) and 8(2) of the European Convention on Human Rights (ECHR) and Article 1 of the First Protocol of the ECHR are engaged (Appendix17).
- 5.3. The Article 8(1) right to respect for private and family life is clearly engaged.
- 5.4. Article 8(2) permits interference which is proportionate when balanced against the protection of the rights and freedoms of others. Without proper assessment of the impact on the occupants of Sleekburn House and the Cheviots ("Bernicia Residents") it is not possible for the for the Secretary of State properly to assess and balance whether the interference with residents' Article 8 rights is demonstrably necessary or proportionate.
- 5.5. Article 1 of the First Protocol of the ECHR entitles a person to peaceful enjoyment of their property. The right is therefore engaged both in respect of Bernicia Residents and Bernicia itself. Such provision does not impair the right of a state to enforce such laws as it deems necessary to control the use of property in accordance with the general interest.
- 5.6. It is submitted that the interference with residents' peaceful enjoyment of their property is not proportionate in all the circumstances.

Public Sector Equality Duty

- 5.7. I am advised that NCC is subject to the Public Sector Equality Duty (PSED) set out in section 149 of the Equality Act 2010 (EqA 2010) (Appendix JWB18).
- 5.8. The PSED requires public authorities to have "due regard" to:
- 5.8.1. The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the EqA 2010 (section 149(1)(a)).

- 5.8.2. The need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (section 149(1)(b)). This involves having due regard to the needs to:
- 5.8.2.1. remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - 5.8.2.2. take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it (section 149(4)); and
 - 5.8.2.3. encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 5.9. There are nine protected characteristics including age and disability. (The others are gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation).
- 5.10. It is not apparent that NCC, the promoting authority, has carried out an appropriate Equalities Impact Assessment (EqIA) in relation to the occupants of Sleekburn House and the Cheviots ("Bernicia Residents"). The decision of NCC's cabinet on 24 February 2021 to approve the submission of the Northumberland Line TWA Order makes no reference to an EqIA. Similarly, to date it is not apparent that any of the documents submitted by NCC in support of such application comprises or refers to a EqIA.
- 5.11. Although it is noted that consultation has taken place there does not appear to be any EqIA specifically addressing the protected characteristics of the Bernicia Residents as more fully described above. To the extent that NCC has not undertaken an EqIA addressed expressly to the Bernicia Residents it has failed to comply with the PSED.
- 5.12. The Bernicia Residents form a distinct and separate group who are more adversely affected than any other group. Their members predominantly comprise elderly individuals which constitutes a protected group. Such group, given its age profile, is also more likely to have disabilities.
- 5.13. The impacts on elderly and disabled residents are of an order distinct and separate from those affecting the population at large. It is not apparent that any separate

assessment has been made as to the age and disability profile of the Bernicia Residents as opposed to the population at large affected by the Order, nor whether the Bernicia Residents would suffer greater impacts than other homeowners or other residents who did not share the same protected characteristics. Where the promotion of a Scheme or Order may more adversely affect a protected group more than a non-protected group careful assessment is required by means of an appropriate EqIA.

- 5.14. There is a demonstrable shortage of NCC evidence concerning the precise age profile and make up of those comprising Bernicia Residents. Moreover, the negative impacts on protected groups include the effect of the impact on elderly residents many of whom are of an age where their options in respect of alternative accommodation including social housing are limited.
- 5.15. It is essential therefore that the Secretary of State considers both:
 - 5.15.1. the potentially disproportionate or at least unassessed effects of the proposals on specific protected groups under the Equality Act 2010; and
 - 5.15.2. the potential impacts on directly affected Bernicia Residents whose continued enjoyment of their home will be adversely affected and who might have to leave their homes as a result and the consequential impacts to community life.
- 5.16. The Northumberland Line process is being driven forward at considerable speed. In Bernicia's initial submissions, including its Statement of Case, it was submitted "there is a real danger that because the project is split between different processes – Planning and Transport and Works respectively – that very real and legitimate concerns will "fall between the cracks"".
- 5.17. Such concerns are amplified where matters are being driven forward so quickly. It is essential that NCC and the Secretary of State takes time to ensure that the likely effects of the Order and scheme on the Bernicia Residents likely to be affected are properly analysed, and that the analysis takes full account of the PSED and that any material effects are explained and justified.
- 5.18. Indeed I am advised that the decision-maker's engagement with PSED principles is not a tick-box exercise. Rather there is a need for a "conscious approach" and the duty must be exercised "in substance, with rigour, and with an open mind" as set out in *Bracking v Secretary of State for Work and Pensions* (Appendix JWB19). Moreover

the duty goes beyond merely gathering relevant information. It comprises assessing the risk and extent of any adverse impact and the ways in which such risk may be eliminated before the decision is taken, and not as a post-hoc exercise following a concluded decision.

- 5.19. Therefore I am further advised that in the context of an Order which contains compulsory purchase it is necessary for the promoting authority to demonstrate how the PSED has been applied from the inception of the process: what information has been gathered and updated on an iterative basis; what amendments have been made, on what basis and to what effect: and what mitigation measures have been proposed with specific regard to PSED; and the continuing relevance of the PSED on an ongoing basis.

6. **Concluding comment**

- 6.1. Bernicia will review the updated information which has only very lately been received from NCC. Bernicia awaits clarification of how NCC seeks to reconcile the divergent positions of the Order and planning application respectively. Once clarity as to NCC's position has been obtained Bernicia will submit a further statement of evidence in order to assist the Inquiry.