

DAVID COOPER

CLOSING STATEMENT

NORTHUMBERLAND INQUIRY

I am going to adopt my opening statement in the format that it was handed in as is stated in the opening.

1. The client generally welcomes the reintroduction of the passenger service between Ashington and Newcastle Central, subject only to the plots of land that is owned by my clients being omitted from the Order on the basis that they are not necessary, that there is no compelling reason for their adoption, there is no certainty as to their financial viability and there is no good reason for taking away my client's rights against the wishes in relation to the carparking at the station.
2. The council's planning witness has already conceded that the scheme can proceed without the necessity of my client's land being compulsorily acquired.
3. It has already been conceded in the planning objection that has been put forward by the acquiring authority that the purpose of this carpark is for the station as well as future shopping centre needs. It is my view that this is an illegitimate process for producing a Transport Works Order and a Compulsory Purchase Order that follow through when there is a dual reason and not a primary single reason for making the Order. The Malhotra site is not allocated or safeguarded as a car park for a station in the Development Plan. The emerging local plan (Northumberland Local Plan) makes a commitment to identify sites for stations and station infrastructure through an SPD. The sponsoring authority has acknowledged that no progress has been made in the last three years- as the council as promoter has decided to go via the planning application route. The proper planning route should have been through promotion once the location was identified through an SPD. There has been sufficient time to deliver via this route.
4. All of the acquiring authority's witnesses rely on figures presented by "*somebody else*" and that "*somebody else*" was not available at the Inquiry for cross-examinations and so the figures that were presented had to be taken at face value and in many cases one would have needed to have a proper assessment of the criteria and parameters that were used, in order to come to these conclusions. None of the witnesses were able to speak for those witnesses and their opinions, but merely to opine that they were the recipient of that information. As was stated in the opening, it is a prerequisite that the applicant has a duty to the Secretary of State to do the required due diligence and research, in order that it can prove that exceptional powers, and that's what they are, are used to curtail a landowner of his or her normal rights and economic activity associated with their land ownage. In my submission the applicant has clearly failed in this process, there is no compelling reason and there is no necessity for this land to be acquired.
5. What we don't know is as follows:

- a. The total capacity of the car parks operated by NCC in the area. The occupancy pre or during Covid or whether they are occupied long or short term or whether they were even considered before deciding to compulsorily acquire my client's land. How many carparking spaces are underutilised in the area, where they are and to what extent they are occupied.
 - b. We don't know what the cost or indeed that any timetable for managing this carpark that is being proposed or securing it and dealing with the CCTV cameras etc.
 - c. We don't know how often the trains are going to come, we are told possibly twice an hour. We don't know how long the lengthy carriages are going to be. We know that they are going to be diesel for a period of time which is unsatisfactory, and we know that it is never going to be electrified because it is too expensive. So, we are left with the hope and prayer that somebody will come up with a solution for battery power electrification by 2025/2026.
6. This site was previously a care home. My client has owned the site for 13 years and he is adamant that he wishes to build a care home on the site and an application has been with the authority for 12 months and is still not determined. Whether or not this is some form of deliberate conspiracy is really not for this Inquiry and is not an allegation I am making. What I am saying is it has taken far too long to determine this application. Under the NPPF we are entitled to our planning consent unless there is substantial reasons for the Secretary of State not granting it. The site is not safeguarded for any purpose, it is not in the green belt, it is not in an area of outstanding natural beauty of great landscape value and it is not a site of serious scientific interest.
 7. We have agreed to an extension for the determination of this application, but even after one year it still hasn't been determined. We are told in the planning evidence that "alternative sites would be available in Ashington" (subject to planning) but we don't own them and haven't been told where they are, whether and when they will be available and whether or not there is an operator with any experience to build and run one of these care homes. My client is an operator with immense experience of designing, constructing and operating specialist care homes, as you have heard, having developed many in the past and he has every imminent intention of building another one in order to provide the community a major benefit. We have not been asked through the planning determination process to justify the need for the care home proposal. The only outstanding issue is acknowledged by the planning authority to be drainage details.
 8. When doing a normal balancing exercise between a carpark and a care home, the balance should clearly be in favour of the care home, particularly as it is a previous use.
 9. The projected occupancy figures in support of the provision of the carpark are extraordinary vague and based on numerous spurious assumptions, the sensitivity to change we have not been able to test. At the most there are 188 spaces that might be needed on some form of analysis by the year 2038. This appears to be based upon the analysis that they are not being charged for. I do not consider the proposition being put forward that in 15 years' time that this is the right reason for looking at any carparking needs for today. We fully accept that you have to look for a reasonable period of time, of say 2 to 5 years, but not 18 years. None of the predictions have really taken into account the post Covid scenario as can be seen by the

tables and admitted by the witnesses. They have taken the view that it is not possible to predict with any accuracy how many people are going to stay at home and not go to the office and what the major transport is likely to be. CPOs should not be used for a speculative scheme, the railway itself is fully accepted, the carpark is nothing more than speculative in terms of its numbers.

10. I should say as an aside that there is planning permission on the carpark application for only 167 carparking spaces and so the 188 spaces deemed required for 2039 would require the acquiring authority to go back to the planners and ask for more. The promoters and the Council have accepted in their evidence and in granting permission for the car park that the approved scheme will deliver a lower number of spaces than that required under the “worst case” scenario for the station car park. It appears that all the assumptions are made on the worst case scenario at a future date and we say this is very likely to be a huge exaggeration of demand required. If, as the authority says, they are proposing to look at the charging regime in 12 months’ time the cost of travel is clearly going to be a serious factor, as is the security of the cars, and the ability to find a carparking space available for all these travellers and so, the figures are highly speculative and very probably on the exaggerated side. It is quite wrong to take my client’s land for some future prospective carparking in 18 years’ time which has not got planning permission.
11. I am bewildered that it is necessary to do what is virtually a full blown survey on the site at this stage to assess land suitability. Surely this should have been done at an earlier stage? What happens if it shows that the site is unsuitable for a further carpark or furthermore that it is going to cost so much money to construct it that it would be cheaper to do a multistorey carpark option? We simply don’t know, the 3 week survey that we only received notification on the 25 October 2021 via a letter titled “Right to Enter and Survey Land – housing and Planning Act 2016, which was then planned to commence on the 10th November 2021, but it appears it hasn’t even started and yet the Inquiry has been going for 2 weeks.
12. I refer to Richard Farr’s evidence in relation to the demand from paragraph 9.1 onwards on page 10 to page 11.
13. As a final summary, the CPO should only be made where there is a compelling case in public interest and the acquiring authority must be able to demonstrate their sufficient compelling reason for the powers to be sought at this time the authority clearly failed to do so. The authority needs to demonstrate conclusively there is a demand for the quantum of carparking proposed, this is critical to understanding whether it is a compelling case to acquire the objector’s site but the evidence is currently lacking.
14. To include plots 323 and 324 fails the test that balance has to be struck between the competing interests of my client and the community as a whole. The community benefit of a care home which employs 80 people clearly in my view outweighs the necessity of providing a carpark when the general policy is to try to compel people not to use their vehicles, to use public transport, to use bicycles and to walk. This seems to achieve just the opposite. It is not even restricted to those who use or will use the line for commuting purposes. The carpark, at least for the first 12 months and probably for ever, will be open to all.

15. Without going into detail, the Crichel Down Rules create further problems to my client if the site is not used for the purpose of which it is required, see Richard Farr paragraph 10.8. As does any period when the powers are confirmed but not implemented as this site would not qualify for forced purchase under the Blight Rules.
16. It is not apparent to me that there is any coordination of the team of experts produced by the acquiring authority. They seem to have all have their individual expertise, but without a Spartacus to lead them!
17. A further argument from the acquiring authority is that because they have planning permission for the Ashington Station, subject to a whole list of conditions which they haven't compiled with. That in itself gives a compelling case and a necessity for a Compulsory Purchase Order of course and that is putting the cart before the horse and it is an extremely arrogant argument which doesn't hold water. Each one of these conditions has to be looked at independently and the consent is only of any worth if they can implement them and they can only implement them if they can legitimately obtain the Compulsory Purchase Order, which in my view in relation to our site they cannot.
18. Now to deal with the evidence of Mr Coates, who also admitted that the scheme could proceed without the car park being acquired. He conceded that the modelling, although following normal parameters was nothing like accurate and nor could it be, it had a vast range of differentials attached to it. None of the arithmetic was provided which gave us any clue as to how the table percentages, i.e. table 2 and table 3, were calculated or what the input was in order to get to those conclusions. As he says at the end, the demand for carpark spaces of each of the proposed new stations on the Northumberland Line is to be determined through the application of factors and assumptions for the rail passenger demand forecast that informed the schemes business case. I repeat again, I think the Inspector needs to see that business case and so do I before any satisfactory conclusion can be made other than him taking the view from the evidence, which I urge him to do, is to refuse the CPO application on my client's side.
19. Furthermore, I would say that I am not happy that the negotiations that had taken place with my client, were either speedy, open and transparent as to the proposed purchase of my client's land Negotiation which were stopped abruptly 3 weeks ago on the basis that there was no realistic chance of ever agreeing a settlement. We were never told of course exactly what the parameters were being used for the valuation process, in particular our witness has confirmed that we shall be in a special situation given that the care home is a special use and not a general use and therefore has a different valuation process than the norm. I appreciate that this Inquiry is not for valuation purposes but it does have a code of conduct which I think has only been adopted in the letter and not the spirit. In full I urge you to take into account kindly for my client's objection.
20. Conclusion
 - i. That this CPO, this Transport Works Order, followed by CPO powers should never have been issued against my client's land. It failed all the necessary tests to take away from an involuntary person, their Human Rights in a democracy, to use their land.

- ii. The evidence produced by the authority was incomplete and relied upon third parties who were not here to give any proof of the figures that they supplied to their fellow team-mates. I urge you to confirm the Order as far as the railway is concerned and reject the Order as far as my client's carpark is concerned and to recommend to the Secretary if Sate accordingly.

David Cooper

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Dated: 18 November 2021

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