

**STATEMENT OF CASE OF MALHOTRA COMMERCIAL PROPERTIES LTD (THE OBJECTOR)**

**TO**

**THE TRANSPORT AND WORKS ACT 1990 – TWA0/157. PLOTS 323 AND 324 THE NORTHUMBERLAND LINE ORDER.**

**Introduction**

We write in our capacity as Chartered Surveyors acting for Malhotra Commercial Properties Ltd of Malhotra House, 50 Grey Street, Newcastle Upon Tyne, NE1 6AE.

This Statement of Case is submitted in addition to the letter of 7 July 2021 submitted by the Objector to the Secretary of State for Transport objecting to the aforementioned application.

This Statement of Case is submitted in accordance with the Transport and Works (Inquiry Procedure) Rules 2004 SI 2018 Rule 7 (3).

**1. Relevant interests within the boundary of the Order**

<b>Number on Plan</b>	<b>Extent and Description of the Land or Property</b>	<b>Freehold Owners</b>	<b>Tenants / Occupiers</b>
323	152m <sup>2</sup> of hedgerow situated to the west of John Street, Ashington, Northumberland	Malhotra Commercial Property Ltd	Unoccupied
324	4,652m <sup>2</sup> of grass and scrubland situated to the east of Kenilworth, Ashington, Northumberland	Malhotra Commercial Property Ltd	Unoccupied

- 1.1. Malhotra Commercial Properties Ltd is part of Malhotra Plc with interest in the care sector, leisure and property.
- 1.2. The Objector's site (Plots 323 and 324) was occupied by the former Essendene Care Home until its demolition in approximately 2008.
- 1.3. The Objector has advanced proposals for the development of a new purpose-built care home on the site. Their architects, Space Group, have over the last 4 years developed a number of layout options for a care home. This work culminated in 2020 with the submission of a planning application (reference 20/04423/OUT) for the following development:  
  
*"Outline application seeking approval for access for construction of 2 storey 58 bed care home and associated but physically separate single 2 storey 12 bedroom specialist unit with associated parking and hard and soft landscaping"*
- 1.4. The planning application remains outstanding. It is the intention of the objector to retain the site's most recent use as a care home.

- 1.5. The construction of the care home represents £8.4 million of inward investment to the community and will create certainty jobs during the construction period and 25 permanent jobs.
- 1.6. The Objector's proposed development will increase housing supply and diversify the housing mix in the Northumberland County Council administrative area as well as providing a key facility for the community.

## 2. Grounds for objection to the inclusion of Plots 323 and 324 in the Transport and Works Act Order

- 2.1. The Objector supports the strategic aims of the scheme and wishes to see south east Northumberland and Ashington prosper acknowledging the benefits listed at paragraph 3.4 of the NCC's Statement of Aims.
- 2.2. Plots 323 and 324 are peripheral to the scheme and should not be included in the Compulsory Purchase Order as the land is not necessary to achieve the aims of the scheme and in many respects its inclusion contradicts the objectives of the scheme.
- 2.3. The Transport Assessment used to support the planning application for Ashington Station is dated January 2020. There is no demand study prepared in a post Covid world to corroborate demand from end users for car parking.
- 2.4. The Objector shall, by reference to guidance published by Network Rail and the office of Rail and Road demonstrate that accessible travel policies may be achieved without the inclusion of Plots 323 and 324.
- 2.5. The Objector shall by reference to the Rail Industry Guidance demonstrate that the acquiring authority have by misinterpreting the category of station exaggerated the car parking requirements.

## 3. AECOM Transport Assessment - Critical Appraisal.

### 3.1. Page 92

- 3.1.1. ***"AECOM has undertaken demand and revenue forecasting to inform the reopening of the railway line to passenger services. A key element of this work is forecasting the passengers that will use each station and how these passengers will access the station. This work therefore gives a good indication as to the level of car parking provision that is needed at each station."***

There is no detailed explanation illustrating the manner in which the demand and revenue forecasting has been undertaken. Based upon a review of the Transport Assessment, prepared by Aecom to accompany the planning application for the station, 275 car parking spaces are to be provided. The Assessment advises at page 24 that Aecom has undertaken a demand and revenue forecasts to determine the level of car parking provision required at the station. This exercise confirmed that just 186 spaces are required for the station itself, whilst 113 spaces are currently available on part of the application site, functioning as a town centre car park. The capacity for linked or shared trips between the town centre car park and the railway station does not appear to have been explored and, to this end, there is a possibility that provision has effectively been double counted. In addition,

no clarity is provided on the pricing strategy for the new/existing car parking. Notwithstanding this, the data relied upon to undertake the demand and revenue forecast also predates the Covid 19 pandemic therefore is unreliable and does not reflect the actual use of the amenity. Further evidence is therefore required justifying the need for the proposed levels of car parking.

### 3.2. Page 94

- 3.2.1. ***“The new transport white paper provides little guidance on the provision of carparking spaces. The document states that local authorities are free to set their own parking policy and challenges for the local area however, as part of any carparking provision, local authorities are encouraged to provide electric charging points within the development.”***

It is not clear what amenities will be incorporated within the proposed car park and whether they will satisfy the recommendations of the Transport White Paper. For example, Malhotra Group’s current planning application confirms the land in question suffers from poor rates of surface water infiltration. On this basis, the outline planning application for a care home includes plentiful areas of landscaping in order to reduce run-off rates. From flooding and drainage perspective, it is difficult to foresee how the extent of hard surfacing proposed as part of the car park for the proposed new Ashington Station could achieve similar results without extensive storage capacity (tanks) being provided.

- 3.2.2. ***The National Planning Policy framework “the NPPF states that development should be focused on locations which are, or can be made, sustainable, through limiting the need to travel and offering a genuine choice of transport mode. Recognition is given to the role this can play in reducing congestion and emissions and improving air quality and public health. In the case of the Northumberland Line, providing carparks at each station means that for many people, new railway to access their place of work or leisure, becomes a real alternative to a car.”***

This is a generic statement; what demand studies have been undertaken in a post Covid world to confirm that there is an inherent demand from car users to use the station for either travel to work or leisure? Without a clear understanding of this demand it is not possible to predict the car parking needs.

- 3.2.3. ***“The local plan for Northumberland provides the needs for Northumberland for a 20 year period to 2036”. “Given the nature of the Northumberland Line scheme no minimum or maximum parking standards are provided by Northumberland County Council in the local plan”.***

The approach adopted in the Local Plan confirms that it is not possible to accurately predict demand for car parking 20 years hence.

### 3.3. Page 95 – Demand Forecasting

- 3.3.1. ***“The rail demand generated by the Northumberland Line has been forecast using a spreadsheet-based mode choice model”. “The estimation of car parking size at each station depends directly on outputs from this model.”***

The modelling is highly sensitive to assumptions and variation of input and has been undertaken using pre Covid 19 data.

The carpark estimation modelling described at page 95 and the assumptions adopted are incorrect. In particular, the use of data drawn from existing stations is flawed as it fails to have regard to the characteristics and use of the proposed stations and the fact that Ashington is a terminus station.

### 3.4. Page 96 – Results

#### 3.4.1. ***“Ashington Station is estimated to require a car park with between 80 and 180 spaces by 2039.”***

The prediction for demand is 18 years in the future, represents a huge variation (80 to 180 spaces) and is based on modelling using averaging from stations which are not necessarily comparable with Ashington Station. In addition, the 275 spaces provided as part of the planning application seeks to replicate the existing 113 spaces in the current town centre car park, with no apparent evidence regarding the extent to which the spaces must be provided as part of the station development itself. The variation in these assumptions must be explained in order to properly understand whether or not the acquisition of the Objector’s site is indeed required.

Section 4. Demand Forecasting of Appendix E ‘Northumberland Line Car Parking Requirements’ Technical Note of the Transport Assessment uses an average figure for the percentage of people who use a car to access station that park at the station car park. This figure is 53% and is an average value from ‘a number of stations across the North East’ (42%) and Morpeth station (64%). The authority is asked to:

- define which stations are included in the North East average.
- Justify why these stations have been selected.
- Justify why Morpeth been selected given that this station is vastly different to that proposed at Ashington, offering routes direct the London King’s Cross and Edinburgh Waverley.
- Explain why the North East average figure (42%) was not used?

### 3.5. Page 98

#### 3.5.1. ***Identifying a single carpark size value.***

The assumptions and modelling set out on page 98 shall be reviewed in detail and it will be demonstrated that the sensitivity of such a model is such as to draw into question whether powers of compulsory acquisition should be used to deliver land in private ownership based on such hypothetical modelling.

3.6. Page 99

- 3.6.1. ***“As the scheme is further defined and more information becomes available, the size of the carparks can be revisited, with the number of spaces reduced if required.”***

It is not clear over what time frame further definition and information will become available. The authority has implemented their powers of compulsory acquisition based on evidence which their consultants clearly state is a worst-case scenario and could well be an exaggeration of demand. The use of the “worst case value” is not justifiable as grounds for implementing powers of compulsory acquisition. Over the short term, the Objector would be open to negotiations regarding the use of all or part of their site for part of the construction of the Northumberland Line project. However, the lack of evidence regarding the longer term need for the site does not justify compulsory acquisition.

- 3.6.2. ***Ashington Station worst case 186 spaces, average 142 spaces, selected value 136. There is little difference in the table between the average and selected values carpark size. In each case they represent a circa 25% reduction on the worst-case values. However, it must be recognised that the worst-case scenarios could materialise and therefore if the size of the carpark under a worst case scenario can be accommodated within the available land and budget for the scheme the design of the carpark should be progressed to this number.***

- 3.7. The authority's consultants acknowledge that the car park should only be progressed by reference to the worst-case values if the land to accommodate it is available and budget exists. There is no recommendation by the consultants that the objector's plots are essential to the scheme. It is asserted that the inclusion of the plots in the order arises from a failure to communicate between the authority and their consultants, that there has been no attempt by the authority to work with the objector and the inclusion of the plots may be motivated by commercial gain or cost saving rather the wider objectives of the scheme.

- 3.7.1. ***It is proposed that the carpark for Ashington Station is located on the site of an existing carpark which serves the town centre area of Ashington. The existing carpark has 113 spaces and is well used.***

The authority have not provided proof of their assertion that the existing car park is well used. Therefore, it is unclear whether all of these spaces must be provided as part of the stationary development.

- 3.7.2. ***The proposed Ashington Station is in the centre of Ashington and should be accessible by sustainable modes of transport. It is recognised however, that public transport links to the station could be improved to complement the benefit of the Northumberland Line. Given that 299 carparking spaces cannot be accommodated within the land or the available land even with the***

***purchase of the Malhotra land it is recommended that focus is given to improving public transport links to the station. Improved public transport links should help address any shortfall in supply of carparking spaces, regardless of the status of the Malhotra Lane.***

The authority is asked to demonstrate what improvements are to be introduced to the public transport links and how the cost of these improvements will be met from the budget.

- 3.7.3. “Following a discussion between the Northumberland Line Design Team and Northumberland County Council it was agreed that the Malhotra land should be purchased subject to agreeing a suitable price.”**

This report was published in January 2020. The acquiring authority did not make an offer to purchase the site until 10 August 2021. This delay offends the principles set out in the Ministry of Housing, Communities and Local Government, Guidance on Compulsory Purchase Process and Crichel Down Rules July 2019.

- 3.7.4. “A design for a surface access car park with 275 spaces should therefore be progressed. This is subject to the outputs from traffic assessment work which will demonstrate whether the highway network can accommodate this increase in demand.”**

From the evidence submitted by the authority it is not clear whether this assessment been undertaken, and whether the highway network is fit for purpose?

- 3.7.5. “Northumberland County Council will work with public transport providers to improve bus links to the proposed Ashington Station. This will help address the shortfall in carpark supply to accommodate the worst-case parking demand. Should it not be possible to purchase the Malhotra land further work will be undertaken to improve access to Ashington Station through sustainable modes of transport. However, at this point, the deck solution for a carpark may need to be revisited.”**

Clearly there is uncertainty in the minds of the authority as to the level of demand, the manner in which the sustainable modes of transport may be improved and whether there is justification in purchasing the objectors land rather than implementing a redesign of the carparking provision within the boundaries of their existing ownership.

At no stage in the Transport Assessment is mention made as to whether there will be a charge to park within the proposed car park. There is extensive free on street parking in the vicinity of the site and any imposition of charge will result in a significant reduction in the use of the proposed car park. Section 4. Demand Forecasting of Appendix E ‘Northumberland Line Car Parking Requirements’ Technical Note of the Transport Assessment not address the issue of charging and its effect on demand.

- 3.7.6. The authority have not proved demand for parking. There is a probability that the plots will be found to be surplus and the authority shall dispose of the land. The**

Objector has the right to buy the plots back under the Crichel Down Rules however, the purchase must be at market value in a “scheme world”. The Objector will receive compensation equivalent to market value in a no scheme world but must pay market value in a scheme world which is likely to have increased due to the presence of the transport hub simply to allow them to build the long planned care home facility.

#### **4. Post C19 implications**

- 4.1. The Chartered Institute of Personnel and Development published ‘COVID-19: Returning to the Workplace’ on the 9<sup>th</sup> August 2021. This echoes the government advice that a gradual return to offices is recommended, with each workplace deciding what mitigation is needed to prevent the risk of the virus spreading. These precautions will ultimately mean that less people are using the office.
- 4.2. The traditional office workplace has changed. This is highlighted in a University of Strathclyde survey which reports that fewer than one in ten office workers wants to return to the office full time when COVID-19 restrictions are eased. The ‘Covid-19 and Working from Home Survey’ additionally states that 78% of the 3,000 respondents said they would prefer to work in the office only two days or less (per week). Section 4. Demand Forecasting of Appendix E ‘Northumberland Line Car Parking Requirements’ Technical Note of the Transport Assessment is based on historic and outdated information and should not be accepted as true forecast. Elsewhere in the region, Network Rail has recently provided a more up-to-date analysis of the post Covid demand for the Newcastle Gateway Project at Central Station in order to inform the viability of (and funding for) that project moving forward.
- 4.3. Section 3.6.2 Sensitivity Tests of The Northumberland Line Strategic Outline Business Case was published in March 2019; this document should be reviewed to reflect the impact of Covid. The acquiring authority should demonstrate that the plans initially put in place are still viable.

#### **5. Summary**

- 5.1. A CPO should only be made where there is a compelling case in the public interest and the acquiring authority must be able to demonstrate that there are sufficient compelling reasons for the powers to be sought at this time. The authority have failed in this duty of proof.
- 5.2. The acquiring authority have not demonstrated that there is demand for the exact quantum of car parking to be created in this location at Ashington Station following retail and commuting habits in a post Covid economy. This is critical to understanding whether there is a compelling case to acquire the Objector’s site, but evidence is currently lacking.
- 5.3. The compulsory acquisition of this site should be revisited in line with an updated Economic Appraisal Report.
- 5.4. The inclusion of Plots 323 & 324 in the order fails the test that a balance has to be struck between the competing interests of those whose rights have been affected and the community as a whole. The acquiring authority have failed to demonstrate such a balance when including Plots 323 & 324 in the order and have disregarded the proposed use as a care home together with the inward investment employment and provision of amenity which this will bring.

- 5.5.** It is stated in the authority's evidence that it is possible to achieve the density of car parking estimated to be required without the inclusion of plots 323 & 324 and there inclusion is to achieve the most cost effective solution for the authority.
- 5.6.** The exclusion of plots 323 & 324 would neither prevent the scheme nor bring with it congestion at Ashington Station and has been included by the consultants as one of a number of options to a lack of capacity which is not proven to exist.
- 5.7.** In light of the above Malhotra Commercial Properties Ltd maintained their fundamental objection to the compulsory purchase order and wishes to exercise their right to be heard at a Public Inquiry.