

NORTHUMBERLAND LINE ORDER

NORTHUMBERLAND PARK – SITE SPECIFIC NOTE

29 NOVEMBER 2021

1. SUMMARY

- 1.1 On Friday 12 November, the inquiry heard details of the objections by the residents of Fenwick Close (OBJ-16) and Mr Chris Scorer (OBJ-18). Their objections relate to the impacts of the Northumberland Line Scheme to properties in the vicinity of the proposed Northumberland Park station. Fenwick Close is situated on the north-western side of the railway behind the proposed site of the new platform at the station.
- 1.2 Planning permission for Northumberland Park station (ref: 21/00299/FUL) was granted by North Tyneside Council ('NTC') on 14 September 2021 subject to conditions.¹ The proposed TWA Order seeks a power of temporary possession over plot 50 and authorises a temporary worksite on that land to facilitate the construction of the station.
- 1.3 This note sets out details of the mitigation proposals and compensation provisions relevant to Fenwick Close, and responds to the question raised by the inspector on the anticipated maximum construction period at Northumberland Park. It sets out the provisions in the Outline Construction Environmental Management Plan ('CEMP')², submitted with the planning application, that aim to mitigate the impacts to local properties (particularly Fenwick Close); relevant extracts of the Officer's Recommendation Report³ for the application, and the information that has been provided to the Fenwick Close residents by the Applicant regarding compensation.

2. CEMP PROVISIONS

- 2.1 The Contractor (Morgan Sindall) will be responsible for producing the final CEMP in accordance with the requirements set out in the outline CEMP. Production of the final CEMP is a condition of the planning permission to be agreed with and approved by NTC before commencement of development (condition 3). The CEMP will therefore evolve and is subject to refinement, amendment and expansion as necessary.
- 2.2 When granting permission for the application, the NTC planning committee considered the CEMP and other conditions to the planning application sufficient to mitigate the effects of the construction and operation of the station. The provisions in the CEMP relating to the key concerns of the Fenwick Close residents are summarised as follows:
- 2.2.1 The Contractor will prepare a procedure for local community liaison with regards to construction activities, and regular community engagement will take place largely via a site-based Community Liaison Officer (see section 2.6 of the CEMP);
- 2.2.2 A programme of training will be set up to enable all site personnel to be aware of the potential risk to the environment during the construction period and an Environmental Manager will be appointed (see section 3);
- 2.2.3 A Construction Traffic Management Plan (CTMP) will be prepared as part of the final CEMP that outlines a range of measures to minimise potential traffic impacts arising from the construction associated with the planning application. The CTMP is secured via condition 3 of the planning permission;

¹ The Decision Notice is Appendix B to Alannah Healey's proof of evidence (APP-W4-3).

² The Outline CEMP has been submitted to the inquiry as document INQ-19.

³ The Officer's Recommendation Report is Appendix A to Alannah Healey's proof of evidence (APP-W4-3).

- 2.2.4 The Contractor's environmental management system will include procedures for implementing the requirements of the CEMP with respect to noise and vibration (see section 7);
- 2.2.5 Appropriate measures will be put in place to safeguard biodiversity during construction, including pre-construction surveys and habitat management (see section 11); and
- 2.2.6 Measures relating to reducing potential impacts on landscape and visual resource, including in relation to tree removal and replacement planting (see section 12).

3. OPERATIONAL NOISE - OFFICER'S RECOMMENDATION REPORT AND CONDITIONS

- 3.1 Subject to the recommended conditions, the Officer's Recommendation Report concluded that the planning application is compliant with national and local planning policy relating to operational noise from increased frequency of train and PA noise (see p.27).

- 3.2 The Report stated the following in relation to operational noise from trains:

"The noise impact due to the operation of the development has been assessed by predicting the likely daytime ambient sound levels at nearby sensitive receptors. At most receptors, the change in the ambient sound levels is assessed as an impact of low magnitude, however at R1 (31 to 36 Fenwick Close) and R6 (6 Backworth Court), impacts of medium magnitude are predicted. The predicted external ambient sound levels are anticipated to exceed the criterion from the WHO guidelines by up to 4 dB at the upper floors of nearby properties. The mitigation measure⁴ will ensure gardens met the WHO community noise levels for external spaces for moderate annoyance." (p.13)

- 3.3 The following condition relating to construction and operational noise was accepted by the NTC planning committee:

"5. Prior to the commencement of any phase of the development, in accordance with the Noise and Vibration Impact Assessment (AECOM November 2020) and the outline Construction Environmental Management Plan (CEMP) (SLC Property January 2021) a detailed construction noise and vibration assessment, which is in accordance with BS5228 for that phase must be submitted to and approved in writing by the Local Planning Authority. As set out in section 7 of the Noise and Vibration Impact Assessment the plan shall detail the construction works and methodologies, measures for the control and reduction of noise emissions associated with the construction works, including the use of permanent acoustic fencing or the temporary use of acoustic screens during construction, a communication scheme setting out the steps which will be taken to give notice to residents of night time working and a process for responding to complaints, details of predicted noise levels at the nearest sensitive receptors for the phase. The works on each phase shall be carried out in accordance with the approved plan for that phase. On approval the applicant will be required to carry out noise monitoring to validate noise levels. All complaints and noise monitoring results must be made available to the Local Planning Authority on request within 7 working days."

Reason: To ensure that the development is designed to mitigate the identified construction and operational noise and vibration impacts to protect residential amenity having regard to policy DM5.19 of the North Tyneside Local Plan (2017) and National Planning Policy Framework."

- 3.4 The Officer considered that PA noise impact will require mitigation at source as well as acoustic fencing. The following condition was recommended and accepted by the NTC planning committee:

"29. Prior to any help points of other amplified public announcement system becoming operational, full details of the system shall be submitted to and approved in writing by the Local Planning Authority."

⁴ Acoustic fencing and any other measures set out in the plan required under condition 5 that relate to the operational period. It is noted that the *Noise and Vibration Impact Assessment* (Aecom 2020), an approved document under the station planning permission, makes reference to a 2.4m noise barrier that will be put in place during the construction period and will remain when the railway is operational.

Such details shall include the measures to be used to limit noise levels from any system when it is in use. Thereafter the system shall be installed in accordance with the approved details.

Reason: To protect residential amenity and manage noise levels at the nearest sensitive receptors in accordance with policy DM5.19 of the North Tyneside Local Plan (2017)."

4. **MAXIMUM CONSTRUCTION TIMETABLE**

4.1 The current high-level programme for the works at Northumberland Park prepared by the Contractor is appended to this note as **Annex 1**.

4.2 It is anticipated that the main construction works will take place during a period of 10 months from December 2022 to September 2023, though the type and intensity of activities will vary considerably during this period. The most disruptive activities are anticipated to take place between February and early June 2023.

5. **COMPENSATION**

5.1 The attached note (**Annex 2**) has been provided to the residents of Fenwick Close by the Applicant's advisors to inform them of their ability to claim compensation for losses suffered during the construction period and the operational phase.

5.2 Article 19(5) of the draft TWA Order provides that compensation is payable for any loss or damage arising from the exercise of the temporary possession powers under the Order. Article 20(4) provides that compensation is payable for any loss or damage arising from the exercise of temporary rights of access powers under the Order. These provisions would cover any loss of rental income suffered by the Fenwick Close flat owners provided they could evidence this loss of income was caused by the temporary occupation of the land.

Pinsent Masons LLP

29 November 2021

Annex 1

Latest construction timetable for Northumberland Park station

		Detailed Working Plan (WP2-Rev3)																																
Northumberland Park																																		
		2022												2023																				
		August		September		October		November		December		January		February		March		April		May		June		July		August		September		October		November		
Northumberland Park Station					Mob	Environmental Works							De-Veg	Clear	Mob	Mine Grouting																		
Northumberland Park Lift Shaft																																		

Annex 2

Compensation information provided to Fenwick Close residents

We understand there are concerns amongst residents about negative impacts caused by the Northumberland Line project and how residents can practically claim for compensation relating to those impacts.

As per the FAQ's previously provided there are two opportunities for residents of Fenwick Close to claim compensation for impacts caused by the scheme and these are as follows.

1. For temporary disruption during construction

The owners and occupiers of any land or property that is occupied temporarily by the Council during construction would be entitled to compensation for any loss or damage caused by the temporary occupation.

For example this could be the financial loss incurred by an investment owner who is unable to let their property whilst the works are ongoing. Losses in that instance might include rental income that might otherwise be received or overheads such as Council Tax or utility bill charges that might have been passed on to a tenant.

Claims should be made in writing to the Council's property advisor (see details below) and should include evidence to support the claim. In the example above, this could include some or all of the following.

- Emails/letters from letting agents confirming they are unable to let your property due to the temporary use of land at Fenwick Close. Properties must have been marketed without success for 2 months prior to a claim being made.
- Copies of bank statements showing rental income prior to works starting.
- Copies of bills/invoices for Council Tax, household utilities, etc. that would otherwise be paid by an occupying tenant.

A further reason for a claim may arise if you run a business from your property and you are unable to operate that business effectively due to disruption caused by the temporary works. In that instance you should provide documented evidence that your business has suffered a loss as a result of the works which, depending on the nature of the business, may include supporting written evidence from clients stating that you have been unable to operate effectively as a result of the works.

The decision whether to accept your claim will be reviewed on a case by case basis and will be established on the quality of the evidence submitted. We recommend you provide as much detail as possible to prove a loss has been incurred. A claimant also has a duty to mitigate against losses incurred, so you may not be eligible to make a claim if, for example, you have marketed your property above the market rental rate for the area.

2. For disruption when works are complete

Part 1 of the Land Compensation Act 1973 provides for compensation to be paid where the value of a property is depreciated by certain factors arising from the use of certain 'public works', such as a railway. Those certain factors are generally noise, vibration, smell, fumes, smoke and artificial lighting. There are various specialist firms that deal with these claims, known as Part 1 claims, and we recommend that you seek advice to determine whether you may be eligible for compensation, which can be claimed a year after the passenger service has been in operation. An advisor can confirm whether you have a viable claim under Part 1 and if that's the case, it's likely that the Council will cover their reasonable costs, so you are not left out of

pocket. If you would like to access specialist advice on compulsory purchase, please use the Royal Institution of Chartered Surveyors' (RICS) 'Find A Surveyor' tool, which is available online at www.ricsfirms.com.

If you have any further queries on these matters, please do not hesitate to contact the Council's property advisor, Russell Mills on 07384 832058 or russell.mills@slcproperty.co.uk.