

Application No: 21/02173/FUL Author: Jackie Palmer
Date valid: 11 October 2021 ☎: 0191 643 6336
Target: 10 January 2022 Ward: Killingworth
decision date:

Application type: full planning application

Location: Land To The West, Bellway Industrial Estate, Benton

Proposal: Construction of an underpass, works to public rights of way, construction of soft and hard landscaping, surface and subsurface drainage, utilities and other services, boundary treatment and other associated works

Applicant: Northumberland County Council, County Hall Morpeth NE61 2EF

Agent: SLC Property, Miss Alannah Healey 72 B-Box Studios Newcastle NE2 1AN

RECOMMENDATION: Application Permitted

INFORMATION

1.0 Summary Of Key Issues & Conclusions

Summary of Main Issues

1.1 The main issues for consideration relate to:

The principle of a new underpass in this location;

Its impact on the local environment and biodiversity including on existing planting, habitat and wildlife; and

Its impact on residential amenities in terms of noise and visual impact during construction and operational phases.

2.0 Description of the Site

2.1 The existing Northumberland railway line (formerly called Ashington Blyth and Tyne line) passes through North Tyneside, running east of Backworth Village, curving south west to bisect Northumberland Park, running parallel with the metro line for a distance to Benton and then continuing south-west through the Borough and into Newcastle.

2.2 The railway line runs parallel with the metro line within a wooded corridor stretching from Palmersville and south west to Benton. It switches from single to double track within this section. Close to the point where the railway line passes under the metro line near Bellway Industrial Estate, before it curves around the Proctor and Gamble site and continues south into Newcastle, there is an established pedestrian level crossing, providing a safe route over the double track (known as a footpath wicket). The route forms part of a public right of way

which links the residential area of Ashcroft Drive, Forest Hall with the Bellway Industrial Estate and through to Whitley Road (the A191). The route of the right of way to the level crossing extends from Whitley Road in the south, passing between Proctor and Gamble to the west and a car dealership to the east and continues north, beyond the built extent of Proctor and Gamble where it runs between open land to the west (potential employment expansion land) and the industrial estate to the east. Once over the railway line, the route passes through a wooded corridor which extends between the metro and railway lines where the path curves steeply down into a small underpass, approximately 2m wide, located under the metro line. The path exits into open land located between Ashcroft Drive to the west and Meadway to the north and east where it joins the adopted highway on Elsdon Drive.

2.3 The application site relates to land adjacent to the railway line including the wooded area between the metro and railway lines and the open field to the north of the established Proctor and Gamble development, comprising 4 hectares of land in total. It also includes a construction access route which will run from Whitley Road in the south, along the western boundary of Proctor and Gamble to the open field.

3.0 Description of application

3.1 The application seeks permission to replace the existing level crossing with a new pedestrian underpass. The works will comprise the construction of a 4m wide shared pedestrian and cycle path concrete box underpass with 3m wide ramped approaches within an engineered cutting. The box underpass will extend for 10m under the railway. It will have 45 degree splayed retaining walls at each end. Fencing will be installed to restrict unauthorised access to the railway above. A set of stairs will be provided from the path up to the railway corridor and to an informal path which runs around the existing field parallel to the railway.

3.2 The scheme will require the re-alignment of the existing path to align with the position of the new underpass which is approximately 20m to the west of the existing level crossing. As the railway and footpath are currently at the same level, significant regrading works are required to achieve appropriate gradients within and on the route to the underpass. This will necessitate the regrading of the open land on the south side of the line from a point just north of the Proctor and Gamble fence line north to the track for a width of around 8m either side of the path. Some areas of planting will need to be removed to facilitate the works.

3.3 It will also entail the regrading of the wooded land to the north side where regrading works will extend to some 12m in width either side of the path. The route will be aligned to meet the path which runs through the existing metro line underpass. Maintenance steps will be provided to access the railway line from the path. New fencing will restrict access to the railway. More extensive areas of existing planting will have to be removed on the north side of the line. Altogether, tree removal will include two individual trees, two tree groups and part of two woodland groups. Some of the trees to be removed have been classed as being of moderate quality.

3.4 As part of the development an area of land is identified for replacement broadleaved woodland and hedgerow planting on part of the existing open field.

3.5 Land to be used to provide a site compound and the construction traffic access route will be reinstated to its current agricultural use.

3.6 There will be some temporary stopping up of rights of way during construction and the permanent diversion of the right of way will be required for the new underpass and realigned route to access it. This is described in more detail below.

3.7 Lighting of the underpass is not proposed. The applicant considers given the short length of the underpass, its width and wide wingwalls will provide natural light and forward visibility. The existing metro underpass is also unlit.

3.8 The proposal forms part of a wider scheme to re-introduce direct passenger train services between Ashington and Newcastle city centre (Manors station) which will see the introduction of six new stations along the length of the line, with one, at Northumberland Park being in North Tyneside. The aim of the wider scheme is to improve accessibility and connectivity in South East Northumberland – which is the most densely populated part of Northumberland but is not served by any passenger rail services – and encourage a modal shift away from the private car, in particular among commuters, towards rail services. The service, which will operate half hourly, will offer a passenger journey time of around 35 minutes from Ashington to Newcastle compared with 60 mins in a car.

3.9 The scheme is promoted by Northumberland County Council who is the applicant for this proposal.

3.10 By way of background, there are 22 level crossings along the length of the full route. Five are in North Tyneside. The safety of all the current level crossings has been assessed by Network Rail. The existing railway line is used only by freight trains at present and the introduction of additional passenger services will increase the frequency of train movements and as such the risk of accidents and fatalities, at level crossings along the route of the line. Crossings have been assessed to consider either their closure or upgrading. Initial assessments indicated that the crossing here should be closed but, in recognising this would entail a significant detour (some 2.7km), it was accepted that closure was not an acceptable outcome on what is a well used route.

3.11 The provision of a miniature stop light crossing (MSL) was also considered but for technical operational reasons, relating to the increased likelihood of freight trains held at signals in this location straddling the level crossing, meant this was also not an option which could be pursued. The only option was grade separation of the crossing and line.

3.12 There has been extensive discussion, including community engagement, on the scheme. Originally a footbridge was considered as a means to replace the level crossing. It did not however prove possible to progress this as an option because it could not deliver a route which would be as accessible to pedestrians and cyclists as the current crossing. The requirement for ramps of a suitable gradient required a significant land take and would have resulted in a bridge of a

significant height. The option of an underpass was considered to provide improved accessibility with less visual intrusion than a ramped bridge.

4.0 Relevant Planning History

20/01022/SCREIA – EIA screening opinion for the development of six new train stations and the associated upgrading of existing rail infrastructure and engineering works and the reintroduction of passenger train services – various locations including works in North Tyneside – No EIA required 19/11/20

Adjoining land

18/00133/FUL – change of use of land to storage and distribution, formation of hard standing, 2.4m fencing and landscape bund and planting – land at Bellway IE – refused 4/4/18 but allowed on appeal 15/10/18

5.0 Development Plan

North Tyneside Local Plan (2017)

6.0 Government Policies

National Planning Policy Framework (NPPF) (July 2021)

National Planning Practice Guidance (NPPG)

Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in the determination of all applications. It requires Local Planning Authorities (LPAs) to apply a presumption in favour of sustainable development in determining development proposals. Due weight should still be attached to Development Plan policies according to the degree to which any policy is consistent with the NPPF.

PLANNING OFFICERS REPORT

7.0 Detailed Planning Considerations

7.1 The main issues for consideration relate to:

- The principle of a new underpass in this location;
- Its impact on the local environment and biodiversity including on existing planting, habitat and wildlife; and
- Its impact on residential amenities in terms of noise and visual impact during construction and operational phases.

8.0 Principle of Development

8.1 The Local Plan (LP) was adopted in July 2017 to guide development in the period up to 2032. The council acknowledges that the policies contained within the LP predate the publication of the revised NPPF however, it is clear from paragraph 219 of the NPPF that "... existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)." The Council considers that the LP policies set out in this report are consistent with the NPPF and can be afforded significant weight.

8.2 Paragraph 7 of NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development.

8.3 Paragraph 8 of NPPF states that a social objective is one of the three overarching objectives of the planning system and that amongst other matters it should seek to support a sufficient number and range of homes to meet present and future needs which support communities' health, social and cultural well-being.

8.4 Paragraph 11 of NPPF introduces a presumption in favour of sustainable development, which amongst other matters states that decision takers should approve development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies or the policies which are most important are out-of-date grant planning permission, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

8.5 NPPF sets out objectives relating to the promotion of sustainable transport which includes, among others, realising opportunities from existing and proposed infrastructure and promoting walking, cycling and the use of public transport. It states that "the planning system should actively manage patterns of growth in support of these objectives" and that "significant 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 modes. This can help to reduce congestion and emissions, and improve air quality and public health." It notes that opportunities to maximise sustainable transport solutions vary between urban and rural areas and that this should be taken into account in both plan-making and decision-making. To do this, policies should be aligned with those of other transport infrastructure providers and routes which could be critical in delivering infrastructure to widen transport choice should be identified and protected. In decision making, opportunities to promote sustainable transport modes should be taken up.

8.6 Whilst this application is for a new underpass to replace an existing pedestrian level crossing, the requirement to construct the underpass arises as a direct requirement of the wider scheme to re-instate passenger rail services on the existing line from Ashington to Newcastle. That project is a long standing ambition of Northumberland County Council, Newcastle City Council and North Tyneside Council and as such is itself referenced in the North Tyneside Local Plan. A range of regional bodies support the scheme and support for the scheme is set out in the Strategic Economic Plan published by the NE Local Economic Partnership and it is identified as a strategic transport priority by Transport for the North and NECA.

8.7 The Local Plan notes that the re-instatement of passenger services on the Northumberland Line is seen as a key driver for delivering growth in South East Northumberland, the most densely populated part of Northumberland, providing access to employment and attracting investment. The line is existing and has continued to accommodate freight rail traffic since passenger services ceased in the mid 1960s and the Local Plan seeks to safeguard the route for the future.

Policy S7.3 Transport seeks to ensure an integrated approach to sustainable travel taking into account travel patterns based on existing demand and planned economic and housing growth. In line with national policy, it sets out a clear objective to deliver a modal shift to more sustainable modes of transport. In relation to public transport the policy states that the Council will “support its partners who seek to provide a comprehensive, integrated, safe, accessible and efficient public transport network capable of supporting development proposals and future levels of growth”. In order to retain and protect essential infrastructure which will facilitate sustainable passenger and freight movements it seeks to prevent development which would obstruct or constrain the use of existing or former railway lines and the Ashington – Blyth – Tyne Railway is identified as one of the infrastructure schemes to be protected from development and its route is safeguarded on the proposals map.

8.8 In more general terms, policy S1.1 – Spatial Strategy for Sustainable Development seeks to ensure that, among other matters, infrastructure is provided which reduces the need to travel and responds to climate change. This includes the provision of a range of sustainable means of transport. The wider Northumberland line scheme seeks to encourage a modal shift in the use of public transport and the provision of the underpass ensures that a well-used walking route is retained and available for continued use.

8.9 The land on which the south ramp will be constructed and on which ecological mitigation measures will be provided is currently allocated as reserved employment land. Policy S2.2 is relevant and seeks to identify land for future employment use so as to support the delivery of the Council’s strategy for economic prosperity and job growth. It includes some 8.5ha of land at Proctor and Gamble. Policy S2.3 goes on to identify the circumstances when development on employment land which is not for employment uses will be permitted. In this case the underpass would require only a small area of land which is located to the edge of the employment land. The off-site mitigation, which supports both the underpass proposal and the scheme for the new station already approved, will take up a larger area but is to the rear of the site, visually obscured by the existing Proctor and Gamble buildings, and in an area which is likely to be already constrained for full development given proximity to the operational railway and metro lines and residential areas beyond. As set out above, the wider Northumberland Line project will deliver significant benefits in terms of driving growth and investment in the area and the underpass will maintain a local walking route. The extent of the loss of the land is not significant and would not result in an excessive reduction in the supply of employment land. Once operational, the underpass would not result in any adverse impact on the amenity and operation of neighbouring properties and businesses. Members should also appropriately balance this loss against the wider benefits of delivering the wider Northumberland Line project.

8.10 In terms of the underpass, its location is both directly informed and constrained by the alignment of the existing railway line as well as the metro line and the existence of the definitive public right of way. Beyond LP policy to safeguard the route of the railway, there is no specific LP policy or allocation for works at this location.

8.11 In the context of national planning policy and Local Plan policy, the principle of the use of the Northumberland Line is clearly supported, with policy offering support for routes to be re-opened for passenger travel. It will deliver economic benefits and provide alternative means of transport between Northumberland and Newcastle. The construction of the underpass will ensure that an established right of way is maintained for safe future use. Officer advice is that the proposal is considered acceptable in principle.

9.0 Impact on local environment

9.1 Issues to consider relate to the impact of the development on ecology and landscaping and on local amenities in terms of both the construction and operational aspects of the development in terms of visual impact, noise and vibration and air quality.

9.2 Ecology and Landscaping

9.3 An environmental role is one of the three dimensions of sustainable development according to NPPF, which seeks to protect and enhance our natural environment.

9.4 Paragraph 174 of the NPPF states that the planning policies and decisions should contribute to and enhance the natural and local environment. Amongst other matters, this includes minimising the impacts of biodiversity and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

9.5 Paragraph 179 of the NPPF states that when determining planning applications LPA's should aim to protect and enhance biodiversity and geodiversity by following the principles set out in paragraph 180 which includes, amongst other matters, if significant harm cannot be avoided, adequately mitigated, or as a last resort, compensated from the planning permission should be refused.

9.6 Paragraph 131 of the NPPF states "Trees make an important contribution to the character and quality of urban environments and can also help to mitigate climate change" and that opportunities should be taken to incorporate trees elsewhere into developments, secure measures to ensure the long-term maintenance of newly planted trees and that existing trees are retained wherever possible.

9.7 LP policy S5.1 'Strategic Green Infrastructure' seeks the protection, enhancement, extension and creation of green infrastructure in appropriate locations to support the delivery of the green infrastructure strategy. Policy S5.4 Biodiversity and Geodiversity seeks to protect, create, enhance and manage sites within the borough relative to their significance.

9.8 LP policy DM5.5 'Managing effects on Biodiversity and Geodiversity', amongst other matters, seeks to protect the biodiversity and geodiversity value of land, protected and priority species and buildings and minimise fragmentation of habitats and wildlife links. Proposals should maximise opportunities to create, restore, enhance, manage and connect natural habitat. Net gains to biodiversity should be considered, unless otherwise shown to be inappropriate. Proposals that are likely to significantly affect nationally or locally designated sites,

protected species, or priority species and habitats (as identified in the BAP), identified within the most up to date Green Infrastructure Strategy, would only be permitted where: the benefits of the proposal clearly demonstrably outweigh any adverse impacts, applications are accompanied by the appropriate ecological surveys that are carried out to industry guidelines, and for all adverse impacts of the development appropriate on site mitigation measures, reinstatement of features, or, as a last resort, off site compensation to enhance or create habitats must form part of the proposals. This must be accompanied by a management plan and monitoring schedule, as agreed by the Council.

9.9 The site is within a wildlife corridor. LP Policy DM5.7 'Wildlife Corridors' states: "Development proposals within a wildlife corridor must protect and enhance the quality and connectivity of the wildlife corridor. All new developments are required to take account of and incorporate existing wildlife links into their plans at the design stage. Developments should seek to create new links and habitats to reconnect isolated sites and facilitate species movement." Policy DM5.9 'Trees, Woodland and Hedgerows' is also relevant and seeks to protect these features where this does not degrade other important habitats.

9.10 The Council's Biodiversity officer has reviewed the application and supporting documents. Habitat on the application site comprises predominately arable land but with woodland planting, with semi-mature and mature mainly broadleaved planting, semi-improved neutral grassland and scrub in the area adjacent to the railway and metro lines. Assessments of species likely to be present on the site revealed the limited presence of any key species other than more common bird species.

9.11 Objectors raise concerns about the loss of existing planting to accommodate the works. The development will result in the loss of some existing semi-mature and mature planting on land adjacent to the railway line in order to allow the regrading works to form the embankment slopes for access to the underpass. The most significant trees on the site are in two main groups between the railway and metro lines, which flank the path leading to the metro underpass. These have been assessed by the applicant as being of moderate quality. Some of the trees are identified as Deciduous Woodland in the Priority Habitat Inventory.

9.12 To accommodate the development two individual trees, two groups of trees (classified as of low quality) and part of the two woodland groups, classed as being of moderate quality, will need to be removed. The removal of one further, poor quality tree, is also proposed given its condition. The group of trees to the north-east corner of the Proctor and Gamble expansion land and two individual trees adjacent to this group will need to be felled, along with a smaller group of trees at the approach to the metro underpass. Part of the two woodland groups extending to the east and west of the existing footpath will need to be cleared for the regrading works. The final extent of removal will be determined when work starts but the developer has indicated that they will seek to retain existing trees on the periphery of the construction site, particularly the most significant, where this is possible. On completion of the underpass, new security fencing will be positioned to avoid significant trees where possible.

9.13 Vegetation removal extends to 3979m². There is limited scope to replace planting on site, so offsite mitigation is proposed on adjoining land. Mitigation planting will extend to 11775m² of native woodland and approximately 500m of hedge. The earth embankments will be seeded with a wildflower mix. Whilst the loss of mature trees is never desirable, it is unavoidable. Alternative options to provide a safe crossing were considered but would either have resulted in more significant vegetation loss or did not meet operational safety requirements. Sufficient mitigation is provided to compensate for the tree loss on this site and the station site and to provide a positive net gain in accordance with Local Plan policy. Members should also balance the tree loss against the wider benefits of the proposal to deliver the Northumberland Project and retain the existing right of way for continued safe use.

9.14 Securing the longer term management of this area is addressed by a condition. Whilst not a planning matter, it is expected that the Council will take on responsibility for maintaining this area and will seek a suitable agreement from the applicant to agree a commuted sum for long term maintenance.

9.15 From a visual perspective, the area is characteristic of a railway corridor within an urban area. Users of the current path and crossing travel through industrial and residential areas and through the wooded area between the rail and metro lines. The view for users will change as they will now walk underneath both the metro and railway lines, emerging at both ends of the crossing onto the path set between grassed embankments before travelling on through the adjacent industrial and residential areas. It is not considered that this change has any significant adverse impact on users, and certainly no impact which is not outweighed by the benefits of maintaining the established footpath and providing a safe environment to cross the railway corridor.

9.16 Viewed from ground level, the replacement planting will, once matured, ensure that the crossing is set in a landscaped setting. In this context the introduction of the underpass is not considered to have an adverse visual impact in views from the surrounding area.

9.17 Conditions are recommended to agree the final details of the planting and to provide control over the timing of works and the provision of bird and bat boxes. Subject to these conditions, officer advice is that the scheme is acceptable in terms of its impact on biodiversity and landscaping.

9.18 Impact on amenities

9.19 The site is located close to established residential properties to the north on Ashcroft Drive. The street of seven bungalows at 1-6a Ashcroft Drive are the closest properties to the railway line and are located around 32m from the development area. Houses at the southern end of Meadway Drive are approximately 51m distance.

9.20 Paragraph 174 of the NPPF states that planning policies and decisions should contribute to and enhance the natural environment by, among other measures preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Paragraph 185 of the

NPPF states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so, they should, amongst other matters, mitigate and reduce to a minimum potential adverse impact resulting from new development – and avoid noise giving rise to significant adverse impacts on health and quality of life.

9.21 The noise policy statement for England (NPSE) (2010) sets out the government's overall policy on noise. It aims to promote good health and a good quality of life by effective management of noise in the context of government policy on sustainable development. National advice seeks to define noise concerns over levels where there is expected to be no noticeable impact up to a significant observed adverse effect.

9.22 LP Policy S1.4 states that development proposals should be acceptable in terms of their impact upon local amenity for new or existing residents and businesses, adjoining premises and land uses. Policy DM5.19 'Pollution' states, amongst other matters, development that may cause pollution will be required to incorporate measures to prevent or reduce pollution so as not to cause unacceptable impacts to the environment, to people and to biodiversity. Potentially polluting development will not be sited near to sensitive areas unless satisfactory mitigation measures can be demonstrated.

9.23 Policy DM6.1 seeks to achieve high and consistent design standards and states that proposals are expected to demonstrate, among other matters, a positive relationship to neighbouring buildings and spaces; a safe environment that reduces opportunities for crime and antisocial behaviour; and a good standard of amenity for existing and future residents and users of buildings and spaces.

9.24 The Design Quality SPD, which applies to all building works, promotes the highest standards of design, which responds to its location and creates a safe and accessible environment.

9.25 Noise and Vibration

9.26 Construction works inevitably create some noise disturbance and vibration. This is a difficult location set between two operational railway lines. Due to constraints in place when working adjacent to an operational railway, some works will have to take place at night-time and over weekends when the applicant is able to take possession of the line. This will include the construction of the main underpass. Possession can be taken between 2200 & 0500 hours, Thursday – Monday.

9.27 Noise monitoring has been undertaken in nearby locations and a noise and vibration assessment submitted with the application. It is recognised that there will be impacts from both noise and vibration during the construction of the underpass. Once completed, the underpass is not expected to give rise to any noise and vibration impacts. The noise and vibration impact assessment has been reviewed by the Council's Environmental Health officer.

9.28 In terms of the works, which based on a current work programme are expected to last around 13 months, the noisiest element will be the earthworks. Any significant restrictions on night-time working would impact on the construction programme, prolonging the duration of works and delaying the wider project. Heavy plant will be required as well as large machinery to construct the concrete wing walls for the underpass. It is not yet known if piling will be required and final site investigation works will be carried out to ascertain this but, if required piling is likely to be the noisiest activity and also likely to cause vibration. It is clear there is the potential for noise disturbance at the nearest residential properties and that mitigation measures will be required during construction.

9.29 Measurements have been taken at various locations to establish background noise and vibration levels. It is clear that noise levels associated with the construction works, even with best practicable measures implemented, will be high and will require additional mitigation. The impacts of vibration can cause annoyance and potentially property damage although the level of vibration causing damage is higher than that which causes annoyance. Whilst final details will need to be agreed, mitigation measures would be expected to comprise the use of temporary acoustic barriers, programming noisy work and quieter work to give respite, phasing work closest to properties to give respite and seeking to undertake the noisiest activities at the least sensitive times. There needs to be a balance between keeping the duration of works to the minimum possible, so balancing temporary higher noise levels for a shorter time against lower levels over a longer period. There would also be other mitigation measures such as the use of modern, well maintained plant, operated with the appropriate noise reduction measures, loading and unloading taking place away from residential areas in areas suitably screened and the establishment of a means of regular communication with the nearest residents.

9.30 In terms of site access, access from the north is constrained by the existing metro underpass and as such, a temporary construction access road will be provided directly into the site from the A191 Whitley Road to the south of the site. The site compound will be established on the land which will form the landscaping mitigation area. This will mean no plant and equipment would access the site via Ashcroft Drive. There will be temporary parking available in the compound and contractors will be encouraged to use this and not to access the site from Ashcroft Drive (which will be restricted in any event once works commence). These arrangements will eliminate some potential sources of noise disturbance.

9.31 In terms of the construction works, BS 5228 'Code of Practice for Noise and Vibration Control from Construction and Open Sites' sets out criteria relating to noise and the point at which there is likely to be a significant impact. It identifies an exceedance of the specified noise thresholds for a period of 10 or more days of working in any 15 consecutive days or for a total number of days exceeding 40 in any 6 consecutive months as being significant. Where the impact is significant residents are potentially entitled to additional noise insulation to habitable rooms or temporary rehousing.

9.32 Conditions, which are being reviewed by the applicant and Council's Environmental Health Manager, are recommended to deal with construction noise through the submission of a detailed Construction Environmental Management Plan (CEMP) and a detailed noise and vibration impact assessment which accords with BS 5228. Required measures will include a range of mitigation measures, monitoring requirements, and a communication plan to ensure residents are made aware in advance of construction working times and activities expected to be noisy and a process for any complaints to be recorded and dealt with. With these measures in place, it is considered that significant disturbance of residents can be controlled but there will be noise and vibration impacts which are unavoidable during the construction period. Any amendments to conditions will be reported in an addendum.

9.33 The Environmental Health Manager recommends conditional approval. The conditions will secure the required mitigation and with these measures in place, it is officer advice that the proposal is compliant with national and local planning policy. It is also understood that the applicant will also submit a notice to the Local Authority under Section 61 of the Control of Pollution Act (1974) to apply to carry out noisy construction works. This provides the Authority with alternative powers to control noise and vibration from construction works.

9.34 Design and Visual Impact

9.35 Paragraph 126 of the NPPF recognises that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

9.36 Paragraph 130 of the NPPF states "Decisions should ensure that developments: will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit; optimise the potential of the to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience."

9.37 Paragraph 92 of the NPPF, amongst other matters, seeks to promote health and safe communities. Decisions should aim to achieve healthy, inclusive and safe places which: promote social interaction....street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages; are safe and accessible....enable and support healthy lifestyles, especially where this would address identified local health and well-

being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.

9.38 Paragraph 134 of the NPPF makes it clear that development that is not well designed, especially where it fails to reflect local design policies and government guidance on design should be refused. Significant weight should be given to development which reflects local design policies etc. and development which promote high levels of sustainability or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of the surroundings.

9.39 By necessity, the underpass is functional in its design and design has been informed by a range of accessibility and National Rail standards which have to be complied with in addition to planning policy. The visual impact was described above and with the inclusion of new planting as part of the proposal it is not considered that the development will have any significant visual impact. In terms of the design for users, the underpass will be for shared pedestrian and cycle use.

9.40 There are changes in levels across the route of over 3m so to achieve an accessible path gradient, the underpass has to be located 20m west of the existing level crossing. Re-locating to the east was not an option given the existing developments within Bellway Industrial Estate. The new path will have a gradient of 3%. There will be a single 5m intermediate landing along the route. The cutting embankments will have a gradient of 1:3.

9.41 The retaining wing walls will splay out at 45 degrees which minimises the extent of excavation required, reduces the extent the route is confined and also presents a wide opening to the main underpass which would maximise light and views through. As the box design for the underpass is 4m x 2.4m this too is designed to maximise natural lighting and visibility. As noted previously, the underpass will not be lit.

9.42 It is noted that the objectors raise concerns about anti-social behaviour. Design policy seeks to ensure the provision of an environment which is safe and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience. As described above, the underpass has been designed to maximise natural light and visibility so that users have a safe environment in which to walk. The objectors describe the underpass as being in a remote location and whilst it is well screened by the planting between the railway lines, it is close to an established and well occupied industrial estate, the location is not considered remote. The route to and from the underpass is not currently lit so is already less attractive to use at night. Whilst the concerns are noted, it is not considered that the proposal would result in a fear of crime to an extent which, when balanced against the wider benefits of the proposal, would justify refusal of permission.

10.0 Other issues

10.1 Highways Impact

10.2 NPPF paragraph 111 makes it clear that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

10.3 NPPF paragraph 112 states, amongst other matters, that applications for development should give priority first to pedestrian and cycle movements both within the scheme and with neighbouring areas and second to facilitate access to high quality public transport.

10.4 NPPF paragraph 113 sets out guidance on sustainability and connectivity.

10.5 LP Policy S7.3 states that the Council, will support its partners, who seek to provide a comprehensive, integrated, safe, accessible and efficient public transport network, capable of supporting development proposals and future levels of growth.

10.6 LP Policy DM7.4 'New Development and Transport' makes it clear that the Council will ensure that the transport requirements of new development, commensurate to the scale and type of development, are taken into account and seek to promote sustainable travel to minimise environmental impacts and support resident's health and well-being.

10.7 The application relates to the provision of an underpass on an established walking route. There are no highway impacts, beyond construction activities which have been addressed above, associated with the development.

10.8 The underpass is required in response to the delivery of the wider Northumberland Line scheme which itself seeks to introduce an enhanced public transport option so as to divert current car journeys onto a train service. This will bring regional benefits.

10.9 As no local traffic and transport impacts have been identified the Council's Highway Network Manager recommends approval of the application and the proposal is considered to comply with relevant national and local highway policies and guidance.

10.10 Public Rights of Way

10.11 The existing level crossing is on the route of a designated public right of way (PRoW) – Forest Hall 5 – which extends from the south-eastern residential areas of Forest Hall through to Whitley Road, via the metro underpass, level crossing and through Bellway Industrial Estate. There is also a non-designated route which runs parallel to the railway line as it curves south. This route is currently subject of a Definitive Map Modification Order (DMMO) for its inclusion on the Definitive Map as a right of way.

10.12 The works to construct the underpass will require some temporary and permanent changes to the PRoW network in this location. Whilst often such changes would be dealt with under planning legislation as part of the planning application determination process, in this case, the Northumberland Line Project is also subject to an application under the Transport and Works Act 1992 (TWA).

Planning permissions are being sought for the primary works associated with the project, but the TWA seeks approval from the Secretary of State for Transport to grant powers to enable the delivery of the full scheme including the compulsory purchase of land, access to the land required temporarily for construction works, the closing of level crossings and the temporary and permanent stopping up and diversion of highways (including PRow). Statutory bodies were consulted as part of the TWA process.

10.13 The TWA application was submitted in May 2021 and was subject of a public inquiry from 9 November – 10 December 2021. The decision is awaited. In this context the Planning Committee is not required to authorise the Director of Law and Governance to progress any diversions and closures. The TWA will also deal with authorisation of the closure of the current level crossing.

10.14 For information, there will be a permanent, localised diversion, of Forest Hall 5 to align the PRow with the new underpass and access routes (20m west of the current crossing). It will re-join the current route at the metro underpass to the north and adjacent to the Proctor and Gamble sports court to the south. The existing section which runs from the metro underpass, over the level crossing and between the Gurteen storage site and the Proctor and Gamble expansion land will be closed (although this will be retained as a point of access to the railway via a gated route).

10.15 There will also be minor, permanent diversions on the route of the recordable path, subject of the DMMO.

10.16 During construction, the PRow will need to be temporarily closed along with the route subject of the DMMO. Closures will be from the path approach via Ashcroft Drive in the north and north from the Proctor and Gamble eastern access gate. Signage will be provided to make users aware of the closures.

10.17 This application will deliver an enhanced, safer crossing point for users of the PRow. It will also provide a wider route than exists currently. The route will be extended in length as a result of the re-location of the crossing point some 20m further west of the existing crossing but this is not considered to be a significant diversion along the length of the route. The diversion would not be substantially less convenient to users of the path. The closure of the crossing would result in severance of the PRow necessitating a significant detour which would not be acceptable. The Public Rights of Way officer raises no objections to the proposals. A condition is recommended to agree the installation of appropriate temporary and permanent route signage.

10.18 Flood Risk

10.19 Paragraph 167 of the NPPF states “When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.”

10.20 LP Policy DM5.14 states that applicants will be required to show, with evidence, they comply with the Defra technical standards for sustainable drainage systems (unless otherwise updated and/or superseded). A reduction in surface water run off rates will be sought for all new development. On brownfield

sites, surface water run off rates post development should be limited to a maximum of 50% of the flows discharged immediately prior to development where appropriate and achievable. For greenfield sites, surface water run off post development must meet or exceed the infiltration capacity of the greenfield prior to development incorporating an allowance for climate change.

10.21 LP Policy DM5.15 states that applicants will be required to show, with evidence, they comply with the Defra technical standards for sustainable drainage systems (unless otherwise updated and/or superseded).

10.22 As the site is not in a flood risk area, a Flood Risk Assessment (FRA) was not required to accompany this application. It is known that the underpass is in a location where there is the potential for ground water flooding. There are reported issues with flooding in the existing metro underpass. To deal with surface water run off, drainage channels will direct surface water from the path and embankments and discharge this to a pump chamber on the south side of the underpass. From the chamber, water will be discharged into the combined sewer. The Lead Local Flood Advisor has assessed the scheme and advises the drainage arrangements are acceptable.

10.23 It is noted that there are existing flooding issues in the existing metro underpass. This scheme will not resolve these issues as they fall outside the scope of this application and the funding for the wider Northumberland Line scheme. The underpass development will not exacerbate the current situation. From a planning standpoint, this is acceptable. It is recognised that it would be desirable to improve the existing underpass but in the absence of funding this is not an option at this time but with new drainage infrastructure being provided as part of this development remains an option for future consideration by Nexus and the Council.

10.24 Ground conditions

10.25 Paragraph 183 of the NPPF states planning policies and decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination i.e. mining or land remediation.

10.26 Paragraph 184 of the NPPF goes onto say that where a site is affected by contamination or land instability issues, responsibility for securing a safe development, rests with the developer and/or landowner.

A Preliminary Sources Study for the site has been submitted. This has assessed geotechnical and geo-environmental information to identify constraints to be considered in scheme design and construction. Further investigations will be required and these will inform the final detailed design. The report identifies key issues as the presence of ground water and the potential presence of made ground which will be considered in the final assessments of slope stability for the embankments. It also identifies potential risks from gas and contamination. A Coal Mining Risk assessment is not required as the site is in a low risk area.

10.27 The Contaminated Land Officer has recommended conditions to address the potential risks identified.

10.28 Aviation Safety

10.29 Newcastle International Airport Limited (NIAL) has been consulted and have only commented on the need to limit berry bearing planting to no more than 10% of the planting mix.

10.30 In considering the impact of the development on the other matters set out above, there are, subject to the imposition of conditions, not considered to be any reasons which would justify refusal of permission and the proposal is considered to comply with national and local planning policy.

11.0 Conclusion

11.1 The application is considered to comply with the relevant national and local planning policy and guidance set out in this report. There are a range of socio-economic benefits associate with the wider Northumberland Line scheme, the delivery of which has been an ambition of Northumberland County Council, North Tyneside Council and Newcastle City Council for some years. The wider scheme will improve opportunities for more sustainable travel in the region and this complies with a key aim of planning policy.

11.2 In terms of the underpass, its provision is necessary to ensure the existing right of way can be maintained in light of the current level crossing being considered unsafe for future use once the railway line is being used more frequently as a result of the additional passenger train journeys being introduced. The new route will be wider and safer and will mean users are not delayed at times when a freight train is held over the crossing which does occur from time to time. The location is largely constrained by the location of the current crossing and the need to minimise the diversion of the right of way. Whilst there are residential properties nearby, with appropriate mitigation measures in place and good on-going communication, the nuisance arising from construction can be minimised. Once constructed, the design of the underpass is considered appropriate for its function and, whilst concerns over the fear of crime are noted, it is not considered that the extent of this fear is a basis on which to refuse planning permission. Alternative means of maintaining a crossing point have been considered but it is this scheme which is being considered.

11.3 The scheme does necessitate the removal of existing mature and semi-mature planting and whilst this is disappointing it is unavoidable, appropriate mitigation is proposed to provide new planting in accordance with net gain requirements.

11.4 Subject to conditions, as recommended, to mitigate the biodiversity impacts arising from the loss of existing landscaping and habitat and the adverse effects of construction as far as possible, approval of the scheme is recommended.

11.5 Whilst not a planning matter, the recommendation includes appropriate instruction to the Director of Law and Governance to work with the applicant to secure an appropriate agreement and commuted sum to cover the long term maintenance of the development.

RECOMMENDATION: Application Permitted

Reason: To provide an identifiable separation of works which will allow the imposition of conditions aimed at the main construction works separate to the site enabling and preparation works.

4. Notwithstanding Condition 1 and pursuant to the submitted Outline Construction Environmental Management Plan (CEMP) (Planning Statement by SLC Property 8/10/21) no development shall commence until a detailed Construction Method Statement and CEMP which set out control measures and standards to be implemented for the duration of the construction period, has been submitted to and approved in writing by the Local Planning Authority. The approved statement and CEMP shall:

- identify the traffic management arrangements including access to the site for all site operatives (including those delivering materials) and visitors and the parking to be provided for the vehicles of site operatives and visitors;
- indicate the route for heavy construction vehicles to and from the site;
- identify a turning area within the site for delivery vehicles;
- provide details of a dust suppression scheme (which shall include measures to include mechanical street cleaning, and/or provision of water bowsers, and/or wheel washing and/or road cleaning facilities, and any other wheel cleaning solutions and dust suppressions measures considered appropriate to the size of the development);
- detail a scheme to ensure the construction site is kept clear of litter and debris including windblown materials which could impact on the operational train and metro lines.

The statements shall also provide details of the site compound(s) including:

- identifying the location of welfare facilities and for the storage of plant (silos etc) and materials used in constructing the development and provide details of the arrangements for their unloading;
- identifying the location of any fuels and waste to be stored;
- details of any concrete mixing facilities.

The scheme shall be designed and laid out to ensure that no cabins are placed, nor materials or plant placed or stored, and no parking areas are located within the root protection area (RPA) of the retained trees as defined by the Tree Protection Plan.

The scheme must include a site plan illustrating the location of facilities for each phase of the development. The approved statement shall be implemented and complied with during and for the life of the works associated with the development.

Reason: This information is required pre development to ensure that the site set up does not impact on highway safety, pedestrian safety, retained trees (where necessary) and residential amenity having regard to policies DM5.19 and DM7.4 of the North Tyneside Local Plan (2017) and National Planning Policy Framework.

5. Construction shall not commence on any part of the development other than the construction of a temporary site access and site set up until the scheme for the provision of wheel washing facilities and mechanical sweepers to prevent mud and debris onto the public highway as required by condition 3 has been implemented and the approved measures are available for use. The agreed measures must remain fully operational for the duration of the construction of the

development hereby approved and if the agreed measures are not operational then no vehicles shall exit the development site onto the public highway.

Reason: This information is required pre development to ensure that the adoptable highway(s) is kept free from mud and debris in the interests of highway safety having regard to policies DM5.19 and DM7.4 of the North Tyneside Local Plan (2017) and National Planning Policy Framework.

6. In accordance with the recommendations of the Ecological Impact Assessment and Biodiversity Net Gain Report (SLC Property October 2021), prior to the commencement of development a detailed precautionary method statement shall be submitted to and approved in writing by the Local Planning Authority. The statement shall be produced by a Suitably Qualified Ecologist (SQE) so as to ensure appropriate mitigation measures are in place to minimise the low residual risk of protected or notable species being adversely affected, including the residual risk of roosting bats being adversely affected. This shall include a requirement for all contractors involved in site clearance work to attend a toolbox talk by an SQE to ensure they are aware of the potential presence of protected and notable species in the area, the working methods which must be followed, and what to do in the event such a species is recorded on site during the works period. Works shall proceed on site in accordance with the approved Precautionary Method Statement, including all tree felling, trimming or other arboricultural works.

Reason: To maintain the biodiversity value of the site and ensure that local wildlife populations are protected in the interests of ecology having regard to the NPPF and Policy DM5.5 of the North Tyneside Local Plan (2017).

7. In accordance with the recommendations of the Ecological Impact Assessment and Biodiversity Net Gain Report (SLC Property October 2021), within 1 month prior to the start of works on site, including enabling works as agreed pursuant to condition 3, the following checking surveys shall be undertaken and details submitted to the Local Planning Authority for approval prior to works commencing on site:

Survey to establish that no Schedule 9 invasive plant species have established on site since the preparation of the ECiA and BNG Report; and

Survey to identify if any protected species are present on the site.

If stands of Schedule 9 invasive plant species are identified, details of the measures to be taken to ensure these species are subject to control or removal by an appropriately licensed contractor as part of the works shall be submitted to the Local Planning Authority.

Reason: To maintain the biodiversity value of the site and ensure that local wildlife populations are protected in the interests of ecology having regard to the NPPF and Policy DM5.5 of the North Tyneside Local Plan (2017).

8. In accordance with the Noise and Vibration Impact Assessment (AECOM September 2021) and the outline Construction Environmental Management Plan (CEMP) (Planning Statement by SLC Property 8/10/21) no development shall take place beyond the enabling works as agreed pursuant to condition 3, until a detailed Construction Noise and Vibration assessment, which is in accordance with BS5228:2009+A1 2014, has been 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; details of predicted noise and vibration levels at the nearest sensitive receptors; and, where required, measures for the control and reduction of noise emissions and vibration associated with the construction works. The following BS 5228-1 Threshold Values will be used to determine the noise impacts at nearby residential buildings and hence the requirement for control measures:

-day time period 07:00 to 19:00 hours and Saturdays 07:00 to 13:00 hours 65 dB LAeq,façade;

- evening period 19:00 to 23:00 hours and weekends 13.00-23.00 hours 65 dB LAeq,façade; and

- night time period 23:00 to 07:00 hours 55dB LAeq,façade.

A peak particle velocity (PPV) level of below 10 mm/s will be used to assess residential vibration (from BS 5228-2). Other noise and vibration levels will be used for non-residential receptors on a case-by-case basis, as agreed with the Local Planning Authority.

The plan will also:

Provide details of a communication scheme setting out the steps which will be taken to give notice to residents of works that are expected to produce high levels of noise and vibration and a process for responding to complaints; and

Identify those activities where it is expected an exceedance of the Construction Noise Threshold Values will arise, details of the properties affected, the number of exceedances of the noise threshold level expected, and whether it meets the noise insulations or temporary criteria set out in BS5228. The works shall be carried out in accordance with the approved plans and documents. 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 5 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.

9. There shall no deliveries by Heavy Goods Vehicles (HGVs) to the construction site outside the hours of 0800-1800 Monday-Friday and 0800-1600 on Saturday unless otherwise approved in advance in writing by the Local Planning Authority.

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).

10. No impact or vibratory pile driving is permitted except between 10:00 and 17:00 hours Monday to Saturday, unless otherwise agreed in writing in advance with the Local Planning Authority.

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).

11. Pursuant to condition 8, details of a compensation scheme for any property that meets a criteria of 40 or more exceedances of the noise threshold level as set out in BS5228, shall be agreed with the Local Planning Authority within 1

flooded monitoring wells. The method of construction shall also incorporate all the measures shown in the approved assessment.

This should provide details of exactly what remediation or mitigation is required and how these measures will be implemented on site; details including drawings of gas protection scheme should be included.

In the event that there is a significant change to the ground conditions due to the development, for example grouting or significant areas of hard standing; then additional gas monitoring should be carried out to assess whether the gas regime has been affected by the works carried out. In the event that the gas regime has been altered then a reassessment of remediation options shall be submitted to the Local Planning authority to be agreed in writing before the development is brought into use.

Thereafter the development shall not be implemented otherwise than in accordance with the scheme.

Reason: In order to safeguard the development and/or the occupants thereof from possible future gas emissions from underground and or adverse effects of landfill gas which may migrate from a former landfill site having regard to policy DM5.18 of the North Tyneside Local Plan (2017) and National Planning Policy Framework.

15. Unexpected Hotspots CON007 *

16. Validation Report CON006 *

17. Within three months from the start on site of any operations such as site excavation works, site clearance (including site strip) for the development, a fully detailed landscape plan shall be submitted to the Local Planning Authority for approval. The fully detailed landscape scheme shall include planting proposals to ensure biodiversity net gain is achieved in accordance with other planning conditions. Any new standard tree planting is to be a minimum of 12-14cm girth. The landscaping scheme shall be implemented in accordance with the approved details within the first available planting season following the approval of details. New trees or shrubs planted adjacent to the Nexus operational railway boundary must be positioned at a minimum distance greater than their predicted height from that boundary. Evidence must be provided with the landscaping scheme to confirm that it has been approved by Nexus and is compliant with their requirements for planting in proximity to their operational land.

Reason: To ensure that important features are protected and retained in the interests of amenity and to ensure a satisfactory standard of landscaping having regard to policy DM5.9 of the North Tyneside Local Plan (2017) and to protect the safety of an operational railway line.

18. Any trees or plants which, within a period of five years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced in the current or first planting season following their removal or failure with others of similar size and species, unless the Local Planning Authority first gives written consent to any variation. Reason: In the interests of amenity

and to ensure a satisfactory standard of landscaping having regard to policy DM5.9 of the North Tyneside Local Plan (2017).

19. All works shall be undertaken in accordance with the submitted Arboricultural Impact Assessment (AECOM October 2021) and the Tree Protection Plan (set out in Appendix E of the AIA). If there are any changes to the design of the development hereby approved (including any additional tree removal), a revised AIA and Tree Protection Plan, which shall also be informed by the requirements in BS 5837:2012 Trees in relation to design, demolition and construction, shall be submitted for the approval of the Local Planning Authority. No development shall take place except in accordance with the approved AIA or any approved revised AIA.

Reason: To ensure that important features are protected and retained in the interests of amenity and to ensure trees and hedges to be retained are adequately protected from damage during the execution of the works hereby permitted, in the interests of visual amenity having regard to policy DM5.9 of the North Tyneside Local Plan (2017).

20. Prior to any ground being broken on site and in connection with the development hereby approved (including demolition works, tree works, soil moving, hardstandings, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery, site security fencing, services), detailed design and construction method statement of vehicular drives, parking areas, installation of kerb edges, retaining wall construction and other hard surfacing within the root protection area (as defined by BS5837:2012) a detailed Arboricultural Method Statement (AMS) in accordance with BS5837:2012 'Trees in relation to design, demolition and construction - Recommendations' is to be submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved tree protection scheme and Arboricultural Method Statement.

Reason: To ensure that important features are protected and retained in the interests of amenity and to ensure trees and hedges to be retained are adequately protected from damage during the execution of the works hereby permitted, in the interests of visual amenity having regard to policy DM5.9 of the North Tyneside Local Plan (2017).

21. No vegetation removal or works to features (buildings) that could support nesting birds will take place during the bird nesting season (March-August inclusive) unless a survey by a suitably qualified ecologist has confirmed the absence of nesting birds immediately prior to works commencing.

Reason: To ensure that local wildlife populations are protected in the interests of ecology having regard to the NPPF and Policy DM5.5 of the North Tyneside Local Plan (2017).

22. Development shall be carried out in accordance with the requirements of the submitted Ecological Impact Assessment (EclA) (SLC Property 12 October 2021). If there are any changes to the design of the development hereby approved, a revised EclA shall be submitted for the approval of the Local Planning Authority to ensure protected and priority species and habitats are

appropriately assessed in accordance with any updated design plans associated with the scheme.

Reason: To ensure that local wildlife populations are protected in the interests of ecology having regard to the NPPF and Policy DM5.5 of the North Tyneside Local Plan (2017).

23. Any excavations left open overnight shall have a means of escape for mammals that may become trapped in the form of a ramp at least 300mm in width and angled no greater than 45°.

Reason: To ensure that local wildlife populations are protected in the interests of ecology having regard to the NPPF and Policy DM5.5 of the North Tyneside Local Plan (2017).

24. No lighting will be installed during the construction works period without the prior agreement of the Local Planning Authority. Any lighting scheme, which will be prepared with input from a Suitably Qualified Ecologist (SQE) must be designed to minimise light spill to adjacent boundary features such as woodland, scrub, grassland and hedgerow habitat and located to minimise the risk of adversely affecting nocturnal species such as bats and the impact of light pollution on nearby residential properties and on the operational rail and metro lines. The lighting scheme shall include details of the location of lighting, the timings it is intended to be in use and information indicating predicted illuminance levels at critical locations on the boundary of the site including nearby residential properties and retained woodland.

Reason: To protect local residential amenity and to ensure that local wildlife populations are protected in the interests of ecology having regard to the NPPF and Policies DM5.19 and DM5.5 of the North Tyneside Local Plan (2017).

25. Five bat boxes and five bird boxes will be provided on suitable trees within the development site. Details of bat and bird box specification and locations must be submitted to the Local Planning Authority for approval prior to the development becoming operational. The bat and bird boxes shall be installed prior to the development becoming operational in accordance with the approved details.

Reason: To ensure that local wildlife populations are protected in the interests of ecology having regard to the NPPF and Policy DM5.5 of the North Tyneside Local Plan (2017).

26. No development shall commence unless and until a scheme for the long term management of the broadleaved woodland planted area, species rich grassland and hedgerow planting ("the offsetting scheme") as indicated on drawing 60601435-ACM-XX-ZZ-DRG-EEN-000508 Rev. P02.1 (AECOM) has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall include:

- The provision of arrangements to secure the delivery of the offsetting measures (including a timetable for their delivery) that will be implemented by the developer;

- A fully detailed Landscape & Ecology Management Plan to include for the provision and maintenance of the offsetting measures for a 30-year period. The plan shall include details of the design, management and monitoring objectives, management responsibilities, timescales and maintenance schedules for all

newly created and/or enhanced habitats within the site. Thereafter, these areas shall be managed and maintained in full accordance with these agreed details unless first agreed in writing by the Local Planning Authority. The plan will include the following:-

- Details on the creation, enhancement and management of all target habitats identified within the approved Biodiversity Net Gain Assessment Report, Biodiversity Metric Spreadsheet and associated landscape plans for on-site and off-site mitigation/compensation.

- Survey and monitoring details for all target habitats identified within the Net Gain Assessment Report and associated Landscape Plans /Strategies. Monitoring Reports will be submitted to the LPA for review in years 3, 5 and 10 and thereafter on a 5 yearly basis, and will include a Net Gain Assessment update as part of the report to ensure habitats are reaching the specified target condition. Any changes to habitat management as part of this review will require approval in writing from the LPA.

- Details of any corrective action that will be undertaken if habitat delivery fails to achieve the requirements set out in the approved Biodiversity Net Gain Report.

The written approval of the LPA shall not be issued before the arrangements necessary to secure the delivery of the off-setting measures have been executed. The offsetting scheme shall be implemented in full accordance with the requirements of the approved scheme.

Reason: This information is required from the outset in the interests of biodiversity having regard to policy DM5.5 of the North Tyneside Local Plan 2017.

27. No development shall commence beyond the enabling works as agreed pursuant to condition 3, unless and until details of off-site skylark compensation have been submitted to and agreed in writing by the Local Planning Authority. Details of the Plan shall include the location of the compensation area, habitat enhancement and management measures that build capacity for skylark within the site, survey and monitoring details management responsibilities and a timetable for its implementation.

The written approval of the LPA shall not be issued before the arrangements necessary to secure the delivery of the off-site compensation scheme have been executed. The offsetting scheme shall be implemented in full accordance with the requirements of the approved scheme for a minimum period of 30 years.

Reason: This information is required from the outset in the interests of biodiversity having regard to policy DM5.5 of the North Tyneside Local Plan 2017.

28. The development shall not be brought into use unless and until a scheme for the long-term management of the drainage scheme, including the proposed sump and pump, has been submitted to and agreed in writing by the Local Planning Authority.

Reason: To ensure there are satisfactory arrangements to maintain site drainage and prevent the increased risk of flooding from any sources in accordance with the NPPF and Policy DM5.12 of the North Tyneside Local Plan 2017.

29. Prior to the commencement of any works beyond the enabling works as agreed pursuant to condition 3, a scheme detailing the timetable for the temporary closure of the Public Right of Way (Forest Hall 5) and of the unrecorded route, shall be submitted to the Local Planning Authority together with details of temporary signage to be provided on site to inform users of the footpaths of the closures and diversions in operation during the construction period. Signage shall be installed in accordance with the agreed details and maintained for the duration of construction works. Before the underpass is brought into use, details of permanent destination signage on the route of the diverted public right of way shall be submitted to and agreed with the Local Planning Authority and thereafter implemented in accordance with the approved details.

Reason: In the interests of users of the Public Right of Way network having regard to policy DM7.4 of the North Tyneside Local Plan (2017)

Statement under Article 35 of the Town & Country (Development Management Procedure) (England) Order 2015):

The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. The Local Planning Authority has therefore implemented the requirements in Paragraph 38 of the National Planning Policy Framework.

Informatives

The applicant is advised that the vehicular access to the highway must be constructed by or to the satisfaction of the Local Highway Authority. Contact Highways@northtyneside.gov.uk for further information.

The applicant is advised that a licence must be obtained from the Local Highway Authority before any works are carried out on the footway, carriageway verge or other land forming part of the highway. Contact Highways@northtyneside.gov.uk for further information.

The applicant is advised that it is an offence to obstruct the public highway (footway or carriageway) by depositing materials without obtaining beforehand, and in writing, the permission of the Council as Local Highway Authority. Such obstructions may lead to an accident, certainly cause inconvenience to pedestrians and drivers, and are a source of danger to children, elderly people and those pushing prams or buggies. They are a hazard to those who are disabled, either by lack of mobility or impaired vision. Contact Highways@northtyneside.gov.uk for further information.

The applicant is advised that a license must be obtained from the Highways Authority for any scaffold placed on the footway, carriageway verge or other land forming part of the highway. Contact Streetworks@northtyneside.gov.uk for further information

The applicant is advised that no part of any gates may project over the highway at any time. Contact New.Developments@northtyneside.gov.uk for further information.

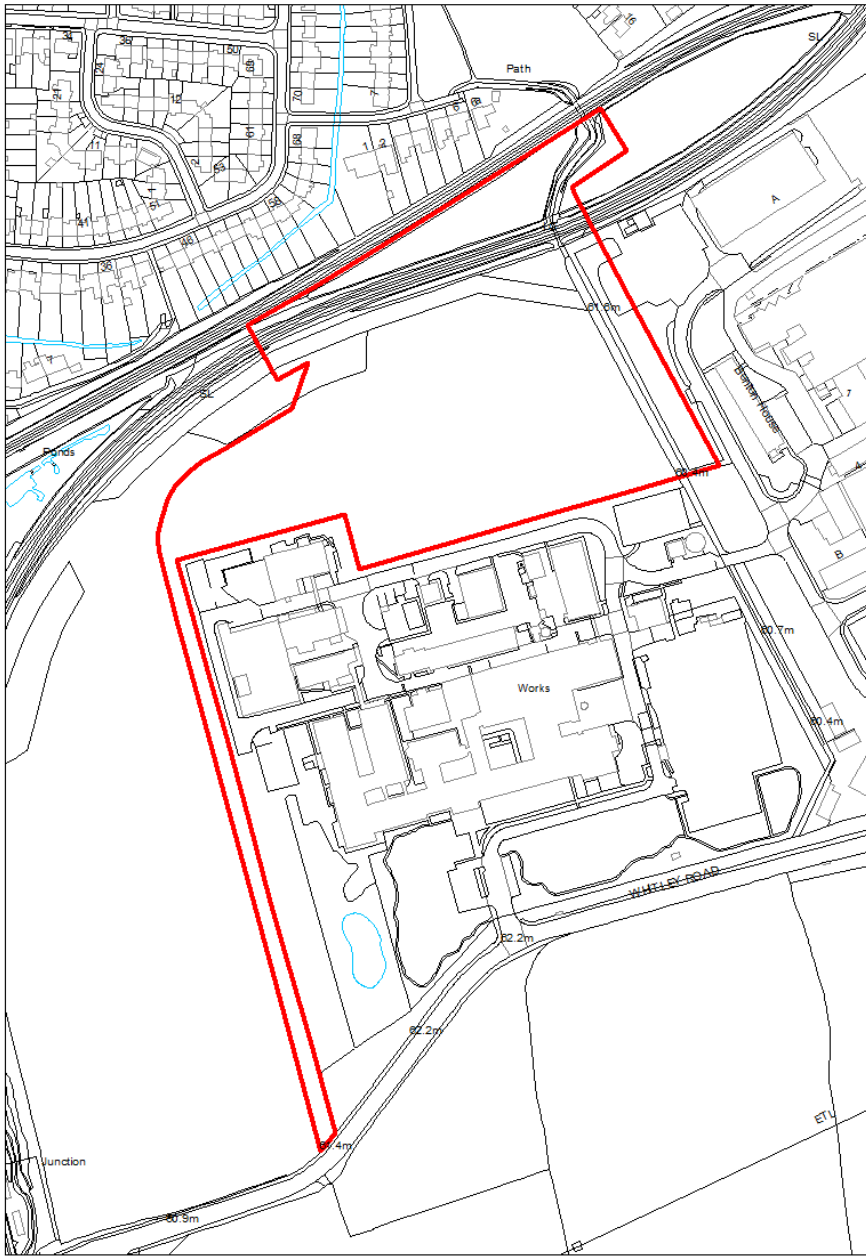
The applicant is advised that it is an offence to obstruct the public highway (footway or carriageway) by depositing materials without obtaining beforehand, and in writing, the permission of the Council as Local Highway Authority. Such obstructions may lead to an accident, certainly cause inconvenience to pedestrians and drivers, and are a source of danger to children, elderly people and those pushing prams or buggies. They are a hazard to those who are disabled, either by lack of mobility or impaired vision. Contact Highways@northtyneside.gov.uk for further information

The applicant is advised that they should contact Highway Maintenance to arrange for an inspection of the highways adjacent to the site. The applicant should be aware that failure to do so may result in the Council pursuing them for costs of repairing any damage in the surrounding area on completion of construction. Contact Highways@northtyneside.gov.uk for further information.

Beyond the authorised temporary closure and diversions of Public Rights of Way, free & full access to the remaining Public Right of Way network will always need to be maintained. Should it be necessary for the protection of route users to temporarily close or divert any additional routes, this should be agreed with the council's Public Rights of Way Officer.

The applicant is advised that prior to the commencement of works and upon the completion of the development the developer will need to the council's Public Rights of Way Officer to carry out a full joint inspection of the routes affected to be carried out. The developer will be responsible for the reinstatement of any damage to the network arising from the development.

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.



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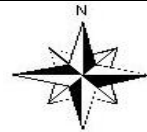
Location: Land To The West , Bellway Industrial Estate, Benton

Proposal: Construction of an underpass, works to public rights of way, construction of soft and hard landscaping, surface and subsurface drainage, utilities and other services, boundary treatment and other associated works

Not to scale

Date: 06.01.2022

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**Appendix 1 – 21/02173/FUL
Item 1**

Consultations/representations

1.0 Internal Consultees

1.1 Highways Network Manager

1.2 This application is for construction of an underpass, works to public rights of way, construction of soft & hard landscaping, surface & subsurface drainage, utilities & other services, boundary treatment and other associated works.

1.3 The wider Northumberland Line development will enhance transport links in the North Tyneside & South East Northumberland areas and as such, the proposal is welcomed for the positive impact on single car journeys. The developer has applied to divert the Public Right of Way via the Transport & Works Act and the developer will be required to enter into an appropriate Legal Agreement to secure the commuted sum for future maintenance of the asset.

Conditional approval is recommended.

1.4 Recommendation - Conditional Approval

1.5 Conditions:

Notwithstanding Condition 1, no development shall commence until a Construction Method Statement for the duration of the construction period has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall: identify the access to the site for all site operatives (including those delivering materials) and visitors, provide for the parking of vehicles of site operatives and visitors; details of the site compound for the storage of plant (silos etc) and materials used in constructing the development; provide a scheme indicating the route for heavy construction vehicles to and from the site; a turning area within the site for delivery vehicles; dust suppression scheme (such measures shall include mechanical street cleaning, and/or provision of water bowsers, and/or wheel washing and/or road cleaning facilities, and any other wheel cleaning solutions and dust suppressions measures considered appropriate to the size of the development). The scheme must include a site plan illustrating the location of facilities and any alternative locations during all stages of development. The approved statement shall be implemented and complied with during and for the life of the works associated with the development.

Reason: This information is required pre development to ensure that the site set up does not impact on highway safety, pedestrian safety, retained trees (where necessary) and residential amenity having regard to policies DM5.19 and DM7.4 of the North Tyneside Local Plan (2017) and National Planning Policy Framework.

Notwithstanding Condition 1, no development shall commence until a scheme to show wheel washing facilities and mechanical sweepers to prevent mud and debris onto the public highway has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include details of the location,

type of operation, maintenance/phasing programme. Construction shall not commence on any part of the development other than the construction of a temporary site access and site set up until these agreed measures are fully operational for the duration of the construction of the development hereby approved. If the agreed measures are not operational then no vehicles shall exit the development site onto the public highway.

Reason: This information is required pre development to ensure that the site set up does not impact on highway safety, pedestrian safety, retained trees (where necessary) and residential amenity having regard to policies DM5.19 and DM7.4 of the North Tyneside Local Plan (2017) and National Planning Policy Framework.

1.6 Informatives:

The applicant is advised that the vehicular access to the highway must be constructed by or to the satisfaction of the Local Highway Authority. Contact Highways@northtyneside.gov.uk for further information.

The applicant is advised that a licence must be obtained from the Local Highway Authority before any works are carried out on the footway, carriageway verge or other land forming part of the highway. Contact Highways@northtyneside.gov.uk for further information.

The applicant is advised that it is an offence to obstruct the public highway (footway or carriageway) by depositing materials without obtaining beforehand, and in writing, the permission of the Council as Local Highway Authority. Such obstructions may lead to an accident, certainly cause inconvenience to pedestrians and drivers, and are a source of danger to children, elderly people and those pushing prams or buggies. They are a hazard to those who are disabled, either by lack of mobility or impaired vision. Contact Highways@northtyneside.gov.uk for further information.

The applicant is advised that a license must be obtained from the Highways Authority for any scaffold placed on the footway, carriageway verge or other land forming part of the highway. Contact Streetworks@northtyneside.gov.uk for further information

The applicant is advised that no part of the gates or garage doors may project over the highway at any time. Contact New.Developments@northtyneside.gov.uk for further information.

The applicant is advised that it is an offence to obstruct the public highway (footway or carriageway) by depositing materials without obtaining beforehand, and in writing, the permission of the Council as Local Highway Authority. Such obstructions may lead to an accident, certainly cause inconvenience to pedestrians and drivers, and are a source of danger to children, elderly people and those pushing prams or buggies. They are a hazard to those who are disabled, either by lack of mobility or impaired vision. Contact Highways@northtyneside.gov.uk for further information.

The applicant is advised that they should contact Highway Maintenance to arrange for an inspection of the highways adjacent to the site. The applicant should be aware that failure to do so may result in the Council pursuing them for costs of repairing any damage in the surrounding area on completion of construction. Contact Highways@northtyneside.gov.uk for further information.

The applicant is advised that free & full access to the Public Right of Way network will always need to be maintained. Should it be necessary for the protection of route users to temporarily close or divert an existing route during

development, this should be agreed with the council's Public Rights of Way Officer.

The applicant is advised that prior to the commencement of works and upon the completion of the development the developer will need to the council's Public Rights of Way Officer to carry out a full joint inspection of the routes affected to be carried out. The developer will be responsible for the reinstatement of any damage to the network arising from the development.

1.7 Public Rights of Way, Definitive Map and Cycle Network Officer

1.8 Raised queries as to which party will deal with the diversion of the public right of way and seeks to ensure that the statutory bodies are aware of the requirement to divert the path.

1.9 Notes the requirement for temporary closure of routes during construction and the need to provide appropriate signage to ensure users of the paths are aware of any closures well in advance. The applicant will be required to provide this. New permanent destination signage will also be required to mark the new route and the applicant will also be required to provide this in accordance with our specification.

1.10 Notes that the new surface will tie in with the Nexus underpass which itself is liable to flooding and asks what consideration has been given to dealing with this existing flooding issue.

1.11 Lead Local Flood Authority

1.12 I have carried out a review of the surface water drainage proposals for planning application 21/02173/FUL, I can confirm the proposed surface water drainage system for the underpass is acceptable as such I have no objections to the proposals.

1.13 I would recommend a condition is placed on the application requiring details of the company appointed to maintain the underpasses drainage assets to be provided to LLFA.

1.14 Biodiversity and Landscaping Officers

1.15 The site is located in a Wildlife Corridor as defined by the Local Plan therefore the following policies apply:

Policy S5.1 Strategic Green Infrastructure

Policy S5.4 Biodiversity and Geodiversity

Policy DM5.5 Managing Effects on Biodiversity and Geodiversity

Policy DM5.7 Wildlife Corridors states:

Policy DM 5.9 Trees, woodland and hedgerow

1.16 Officers have reviewed the submitted Ecological Impact Assessment, Biodiversity Net Gain assessment and Arboricultural Impact Assessment, no objections are raised, subject to the imposition of conditions.

1.17 They initially sought clarification on the information submitted, noting that the biodiversity offsetting proposal included habitat creation to mitigate not only the development of the underpass but also in relation to the approved new

station at Northumberland Park. Revised biodiversity net gain assessments were provided for both schemes which demonstrated that there is over 10% gain in relation to both developments. 0.7ha of woodland planting is proposed as mitigation for the underpass and 0.4ha for the station at Northumberland Park. In addition, there is 0.14ha of coniferous planting. A condition is recommended to ensure that the calculations are reviewed in the event there are any changes to the scheme. A condition is also recommended to allow final agreement of the woodland planting area species.

1.18 The Ecological Impact Assessment (EclA) indicates that the underpass site may support one pair of breeding skylark. Mitigation is required and the applicant has explained that the mitigation area will incorporate skylark plots on land reinstated to arable use.

1.19 Officers have sought clarification on the extent of the loss of existing vegetation. This has been confirmed as the loss of 3979m². The applicant has advised the BNG assumes a loss of 4200m² so the calculations provide for a better outcome.

1.20 Environmental Health Manager

1.21 I have viewed the noise report that has considered the existing background noise level to determine the construction noise threshold levels. This has established that the threshold will be category A for daytime, and category C for evening and night time. A detailed assessment of the noise from the proposed construction activities has not been carried out as limited information on the proposed plant to be utilised is available. However, given the distance to the nearest sensitive receptors additional mitigation measures are likely to be required to minimise significant adverse impacts on existing housing during the proposed construction times, given that some of the works will need to occur during the night period and that the programme of works is likely to take place for a period of 13 months.

1.22 The noise and vibration report outlines that the ground investigation works were not complete and therefore the construction works and plant requirements had not been identified. It is likely that piling will be required as part of the construction. As a detailed assessment of the vibration impacts has not been undertaken the requirements for plant/activities which emit significant levels of vibration, are not yet known. A detailed vibration assessment will be required as part of the construction environmental noise plan.

1.23 Restrictions of specific noisy activities of construction will need to be set e.g. piling where possible should be limited to daytime hours of 10:00 to 17:00 hours and noise threshold limits not exceeded at the nearest sensitive receptor. Noise monitoring will also need to be carried out during the construction phase to prevent adverse impacts. A detailed phase of works will need to be submitted with the noisiest construction activities restricted to daytime hours only, thereby reducing the potential noise impacts at the residential houses during the night period.

1.24 Where it is essential to carry out construction activities during the night period, it will be necessary to notify those properties that exceed the threshold

and to advise on the number of events that the threshold may be exceeded. In accordance with BS5228 compensation shall be offered to any properties were over more than 40 day/night/evening exceedances of the threshold events during the period of construction that may arise as the works will occur for more than 6 months. The threshold levels measured as free field equivalent noise levels at facade of noise sensitive property are set out from noise report as:

Day time period 07:00 to 19:00 hours freefield Leq(A) 65 dB.

Evening period 19:00 hours to 23:00 hours freefield Leq(A) 55 dB, and

Night time period 23:00 hours to 07:00 hours freefield Leq(A) 55dB,

1.25 Compensation for those properties considered eligible based on criteria shall be set out and agreed in writing with the planning authority.

1.26 I would therefore suggest the following conditions:

No pile driving is permitted except between 10:00 and 17:00 hours Monday to Saturday.

An assessment of construction noise and vibration including detailing measures for the control and reduction of noise and vibration emissions associated with demolition, earthworks and construction.

Prior to construction activities, a Construction Environmental Noise and Vibration Plan in accordance with BS2558 must be submitted in writing and approved by the local planning authority. The plan must include for a phased assessment of the noise levels and vibration emissions at residential premises for each phase of activity, excavation, earth works, stabilisation works, foundations and engineering works. The plan must include details of mitigation measures to be taken, details of the communication scheme with noise sensitive receptors and the noise and vibration monitoring scheme to validate the noise and vibration activity assessments, to enable corrective actions to be agreed to mitigate the construction noise levels and vibration emission levels to ensure compliance with the construction threshold noise levels and the peak particle velocity levels are kept below the 10 mm/s, which is considered a medium magnitude of impact. A reporting mechanism for the noise and vibration monitoring to the local planning department must be agreed for complaint recording, exceedances of the construction noise threshold level and vibration emission monitoring and any corrective action taken. . All information should be available on request within 5 working days. The noise threshold levels are set out below:
day time period 07:00 to 19:00 hours freefield Leq(A) 65 dB.
evening period 19:00 hours to 22:00 hours freefield Leq(A) 55 dB, and
night time period 22:00 hours to 07:00 hours freefield Leq(A) 55dB,

Prior to commencement of construction a compensation scheme shall be agreed and thereafter implemented for any property that meets a criteria of 40 or more exceedances of the noise threshold level.

Prior agreement for those activities where an exceedance of the construction noise threshold level is considered to arise must be obtained from the local planning authority, detailing the properties affected, the number of exceedances

of the noise threshold level, and whether it meets the compensation criteria if more than 40 events occur as set out in BS5228.

No deliveries or collections shall be carried out except between the hours of 07:00 and 19:00 hours, determined as the daytime period under BS5228.

A detailed lighting assessment will be required to ensure all external lighting utilised during the construction phase and that required for when the underpass is operational, complies with the Institute of Lighting Engineers guidance for the reduction of obtrusive lighting.

LIG01 During construction and external lighting of the underpass when in use.

1.27 Contaminated Land Officer

1.28 I have read the Preliminary Sources Study Report - Palmersville Dairy Crossing. This report has identified risk from gas and potential contamination: "The risk from exposure to hazardous gas is primarily to railway workers entering confined spaces such as the pump chamber during construction and maintenance operations. The underpass is open-ended and will not be susceptible to development of a hazardous gas environment."

"Contamination testing is advised prior to works commencing for any widespread contamination that is amenable to pre-planned mitigation through design and risk management."

1.29 Based on the information submitted the following must be applied
Con 004, 005, 006 & 007 & Gas 006

2.0 External Consultees

2.1 Newcastle Airport

2.2 No comments but requests that the woodland planting mix includes no more than 10% berry bearing species.

2.3 Coal Authority

2.4 Notes that the application site does not fall within the defined Development High Risk Area so there is no requirement for any Coal Mining risk assessment to be submitted. An informative should be imposed to ensure the developer is aware of potential public health issues.

2.5 Nexus

2.6 Nexus welcomes the intentions of Northumberland County Council and the Northumberland Line Scheme to develop and enhance the propensity to travel via rail across the North East. Any modernisation or creation of new footpaths and underpasses next to rail lines is likely to further the potential of more people travelling by rail due to ease of access and pedestrian integration between modes. At this location, creation of an underpass will enhance the ability for people to access areas north and south of the rail lines – and is likely to encourage onward passage to Palmersville Metro Station.

2.7 In consultation with Nexus Rail, Nexus recommends that the developer adhere to good housekeeping during development by the Tyne and Wear Metro line to prevent items blowing onto the Nexus Electrified Overhead Line Equipment resulting in Metro services being stopped which will incur large costs

for disruption. Enclosed skips should be used to mitigate against this from happening.

3.0 Representations

3.1 Two representations, representing three addresses have been received in response to the statutory publicity undertaken. One (on behalf of two addresses on Ashcroft Drive) raises objections relating to:

The deviation of the public right of way;

Environmental damage including extensive excavation which includes the removal of mature trees;

The remote location of the underpass which attract those engaged in unlawful activities;

The proposal is expensive and damaging and all that is required is a barrier and crossing lights on the existing route which is more cost effective and less damaging.

3.2 One resident generally supports the underpass noting that the community's views have been listened to by the applicant who have recognised that a footbridge was not suitable given its ecological impact, inclusivity issues and possible privacy concerns. Also notes that the underpass as submitted is closer to the existing crossing than on earlier designs so the environmental impact is reduced. Noted some discrepancies in the submitted application documents and requested these were addressed to as to be clear the underpass would be constructed in the location proposed – 20m west of the existing crossing. Requested consideration be given to lighting the underpass.

3.3 The applicant had undertaken consultation on this proposal (July – Aug 2021) and on the wider Northumberland Line project prior to the submission of this planning application (Nov-Dec 2020). Twelve responses were received to the 2021 consultation.