

Ouseburn Barrage Inspectors' Report

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Report to the Secretary of State for Transport and the Secretary of State for Communities and Local Government

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Date: 06 November 2006

Transport and Works Act 1992

Acquisition of Land Act 1981

Town and Country Planning Act 1990

Newcastle City Council

The Ouseburn Barrage Order 2007

Dates of Inquiry: 12-15 & 21 SEPTEMBER 2006

Ref: TWA/04/APP/07

Case details

- This case concerns an application by Newcastle City Council (NCC) dated 11 November 2004 for an Order to be made under Section 3(1)(b) of the Transport and Works Act 1992, the Order to be known as The Ouseburn Barrage Order 200X.
- The Order would authorise NCC to construct a tidal barrage with moveable lock gates across the Ouseburn and to execute ancillary works, including dredging of the upstream Ouseburn. The Order would also confer other necessary powers on NCC, including powers to acquire the requisite land and rights by agreement or compulsorily.
- The application by NCC also contains a statement that a direction for deemed planning permission is being sought under Section 90(2A) of the Town and Country Planning Act 1990.
- NCC also made an application on 16 November 2004 for a certificate under Section 19(1)(b) of the Acquisition of Land Act 1981 (Section 19 Certificate) relating to open space included within the Order. This would certify that the land is less than 209 square metres (250 square yards) and that the giving of exchange land would be unnecessary.

Summary of Recommendation(s): I recommend

That the Order be made, subject to the modifications proposed;

That the application for deemed planning permission be granted, subject to conditions; and

That the application for a Section 19 Certificate be granted.

1 Preamble

1.1 I was appointed, pursuant to Section 11 of the Transport and Works Act 1992, to hold a public local inquiry into the above draft Order, and to report to the Secretary of State for Transport.

1.2 I was also appointed, under the Acquisition of Land Act 1981, to hold a public local inquiry into the application for the Section 19 Certificate, and to report to the Secretary of State for Communities and Local Government.

1.3 The inquiry, which sat for 5 days, opened on Tuesday 12 September 2006 at the Civic Centre, Barras Bridge, Newcastle upon Tyne, NE99 2BN to hear representations and objections concerning the applications made by NCC (a) to make the above-mentioned Order; (b) for deemed planning permission for the proposed scheme, including an application for conservation area consent (CAC)¹ for elements of the proposed works; and (c) for the Section 19 Certificate.

1.4 There was no pre-inquiry meeting; however I issued a procedural note [OB/INQ/01] prior to the inquiry to assist the parties in their preparations.

¹ Inspector's Note: It became clear at the inquiry that no-one has objected to the granting of CAC. I received no notification of an inquiry into the CAC application; this matter is not before me. The application is at NCC/OB/SoC/38.

Purpose of the Proposal

1.5 The applicant (NCC) indicated² that the purposes of the proposed barrage are to carry out improvements to the river environment which are regarded as critical to the regeneration of the Lower Ouseburn Valley; fundamental improvements in its visual appearance and accessibility are seen as an essential catalyst in this regeneration process. The scheme is intended to:

- Encourage economic regeneration;
- Raise urban design quality;
- Conserve the natural environment and protect cultural heritage;
- Maintain and improve facilities for recreational uses; and
- Maximise educational opportunities.

Site Inspections

1.6 I made separate unaccompanied inspections of the area affected by the proposals on Monday 11 September 2006 before the opening of the inquiry and on a number of other occasions during the course of and following closure of the inquiry. I carried out a formal accompanied site visit on Thursday 14 September 2006 when I not only inspected the area of the proposed barrage but also the tidal section of the Lower Ouseburn, the adjacent valley and associated development.

The Order

1.7 Notice of the intended application by NCC for the Order was first published on 5 October 2004³ and prior to the inquiry some 24 objections had been received, none were from statutory objectors [NCC/OB/SoC/33]. By the close of the inquiry 11 of the objections had been withdrawn. Details of all the objections are set out in document NCC/OB/SoC/33. The main grounds of objection were:

- Water quality (adequacy of the wider sewerage system),
- flood risk,
- ecological impact,
- risk from contamination (land quality),
- navigation issues, and
- procedural matters.

1.8 Some 10 letters of support had been received prior to the inquiry. These are set out in NCC/OB/SoC/34.

1.9 The proposals in the Order would authorise NCC to construct a tidal barrage with moveable lock gates across the Ouseburn and to execute ancillary works, including dredging of the upstream Ouseburn. The Order would also confer other necessary powers on the Council, including powers to acquire the requisite land and rights, by agreement or compulsorily.

Statement of Matters

1.10 A statement of matters about which the Secretary of State particularly wishes to be informed was issued by the TWA Orders Unit in May 2006. They are as follows:

² NCC/OB/SoC/4, Environmental Statement, Non-Technical Summary, page i

³ NCC/OB/SoC/3, Section 4

Ouseburn Barrage Inspectors' Report

1. The aims and objectives of, and the justification for, the proposed barrage, comprising a tidal weir and lock, including:
 - the extent to which the proposals are consistent with national policies, the development plan and other regional and local policies;
 - the extent to which the scheme would contribute to regeneration objectives and produce economic, environmental and social benefits; and
 - the main alternatives considered and the justification for the chosen option.
2. The likely impacts on the environment of constructing and operating the proposed works, including:
 - the effects on water quality, the riverine environment and sewerage network;
 - the impact on flood risk;
 - the effects on the ecology of the Ouseburn and the Ouseburn Valley;
 - the effects on land quality;
 - the effects on air quality and noise;
 - the effects on landscape, townscape and visual amenity;
 - the effects on the local highway network and road traffic; and
 - the effects on the archaeological and cultural heritage.
3. The likely effects of the scheme on local residents, businesses and others including those with an interest in navigation and safety on, or the amenities of, the Ouseburn.
4. The measures proposed by the Council for mitigating any adverse impacts of the scheme, including:
 - any measures to avoid, reduce or remedy any major adverse environmental impacts;
 - any measures to avoid, reduce or remedy any other adverse environmental impacts; and
 - whether, and if so to what extent, any adverse environmental impacts would remain after the proposed mitigation measures had been implemented.
5. The adequacy of the environmental statement submitted with the application for the TWA Order and whether the statutory procedural requirements have been complied with.
6. The purpose and effect of any substantive changes to the TWA Order proposed by the Council since the application was made; whether anyone likely to be affected by such changes has been notified; and whether any proposed changes to the Order, either on their own or taken together, would amount to substantial change in the proposals for the purposes of section 13(4) of the TWA.
7. The conditions proposed to be attached to deemed planning permission for the scheme, if given, and in particular whether these conditions meet the tests in DOE Circular 11/95 of being necessary, relevant, enforceable, precise and reasonable.
8. Whether there is a compelling case in the public interest for conferring on the Council powers compulsorily to acquire and use land for the purposes of the scheme, having particular regard to the guidance on compulsory purchase in paragraphs 16 to 23 of ODPM Circular 06/2004, and whether all of the land to be acquired under the Order is required for the scheme.
9. The likely effects of the proposals upon the rights, duties and responsibilities of statutory undertakers and other statutory bodies and the proposed arrangements for protecting their interests.

10. Whether the proposals are reasonably capable of attracting the necessary funding.

Public Open Space

1.11 If confirmed the Order would, amongst other things, authorise the purchase of 190 square metres of land which forms part of an open space, as defined in the Acquisition of Land Act 1981.

1.12 On 16 November 2004 NCC applied⁴ to the Government Office for the North East (GONE) for a certificate relating to the permanent acquisition of this open space, for the project's purposes, under s.19(1)(b) of the 1981 Act, indicating that the land is less than 209 square metres (250 square yards) and that the giving of exchange land is unnecessary. This was necessary in order to prevent the proposed Order being subject to the special parliamentary procedure.

1.13 The Secretary of State notified the Council on 3 March 2005 of his intention to give a section 19(1)(b) Certificate. Five letters of objection were received following the Notice of Intention. The Secretary of State considered that these letters objected to the barrage and could be disregarded as objections to the section 19(1)(b) Certificate. However, it was decided that, although considered unopposed, issues may have been raised with regard to the section 19(1)(b) Certificate at the inquiry into the TWA Order and therefore it would be beneficial if this inquiry also considered the proposal to give a section 19(1)(b) Certificate.

1.14 This report contains a brief description of the site of the proposal and its surroundings, the gist of the cases presented and my conclusions and recommendations. Lists of inquiry appearances, documents and draft planning conditions are attached.

2 Description of the site and its surroundings

2.1 The River Ouseburn flows into the north side of the River Tyne some 1.5 miles east of Newcastle city centre. The proposed barrage would be sited upstream from the mouth of the Ouseburn at a point beneath Glasshouse Bridge, across a relatively narrow section of the river channel⁵.

2.2 The Lower Ouseburn Valley has a striking and unusual townscape combining industrial heritage, riverside location and public open space. It contains several listed buildings and is a designated Conservation Area. The lower stretch of the Ouseburn threads through the valley, emerging from a large Victorian culvert under City Stadium to the north, and running to its confluence with the River Tyne - a length of approximately 850m.

2.3 This section of the Ouseburn is tidal; this has enabled traditional manufacturing industrial activities to thrive. The legacy of these industries is still evident. As a consequence, the river channel has been heavily modified with most of it now contained within stone quay walls and gabions.

2.4 Whilst the surrounding area has undergone a certain amount of regeneration, I observed that there remain a large number of vacant, derelict or underused sites and buildings; several adjacent to the river and some clustered on the steep valley sides.

2.5 For a considerable period of time when the tide is receding, the riverbed is visible along this whole estuarine length. This leads to an untidy appearance, with muddy silt banks, algae, litter and debris strewn through the river. During one site inspection I also noted unpleasant odours emanating from the river at low tide. Drainage outfalls are exposed at these times and there is a noticeable drop from the riverbanks to the riverbed below.

⁴ NCC/OB/SoC/3, Section 11

⁵ The indicative location of the barrage is shown at Line C on Figure 2.1 of the ES (NCC/OB/SoC/4)

2.6 Most of this section of the river is navigable when the tide is high and I observed that a number of small motor boats were moored in the vicinity of the Lime Street slipway⁶. A similar group of boats were moored at the confluence with the Tyne.

3 The case for Newcastle City Council

The material points are:

The Aims and Objectives of, and the Justification for the Proposed Barrage (Matter 1)

The aims and objectives of, and the justification for, the proposed barrage, comprising a tidal weir and lock, including:

- the extent to which the proposals are consistent with national policies, the development plan and other regional and local policies;
- the extent to which the scheme would contribute to regeneration objectives and produce economic, environmental and social benefits; and
- the main alternatives considered and the justification for the chosen option

Aims and Objectives

3.1 The aims and objectives⁷ of the proposed scheme are as follows:

- to contribute to the delivery of local and regional policy and strategic objectives;
- to significantly contribute to achieving the regeneration objectives of the Lower Ouseburn Valley area as set out in the Ouseburn Regeneration Strategy;
- to solve the problems of a poor quality estuary environment at low-tide including visual appearance, unpleasant odours and access to the river;
- to improve navigation by recreational vessels upstream of the barrage by retaining the river at a permanent level just below high tide;
- to increase developer confidence by increasing the attractiveness of the degraded riparian brown-field sites currently blighting the river water frontage;
- to enhance the river environment for local people, visitors and wildlife including protected species; and
- to promote wider economic benefits in the valley by encouraging greater investment and visitor interest.

Policy Considerations

3.2 The construction of the barrage would be in accordance with national, regional and local planning policies and it would foster the delivery of other policy objectives. In particular the barrage would be consistent with and/or supportive of the policy objectives set out in most of Planning Policy Guidance or Planning Policy Statements and Regional Planning Guidance and summarised as follows.

⁶ Lime Street slipway lies on the west bank of the Ouseburn, immediately south of 26 Lime Street, this property is indicated on the Key Sites Plan, NCC/OB/SoC/45

⁷ These are set out in NCC/OB/PoE/1, paras 1.7.1-1.7.7

National Policies

3.3 PPS 1 'Delivering Sustainable Development'⁸ outlines key principles that Local Planning Authorities should apply when writing development plans and making decisions on planning applications. A number of these key principles are directly supported by the Regeneration Strategy for the Lower Ouseburn Valley⁹ and the barrage proposal, namely:

- Development plans should ensure that 'sustainable development is pursued in an integrated manner' much as outlined in the Strategy for the Lower Ouseburn Valley¹⁰.
- A spatial approach should be adopted- not just traditional land use planning - and it should integrate with other policies and programmes which influence the nature of places and how they function.
- Planning policies should promote high quality inclusive design, as adopted in the Ouseburn Valley Urban Design Framework.
- Development plans should contain 'clear, comprehensive and inclusive access policies'.
- 'Community involvement is an essential element in delivering sustainable development and creating sustainable and safe communities'.

3.4 PPS1 lists 5 key objectives, two of which are directly supported by the barrage proposal:

- The Government is committed to protecting and enhancing the quality of both the natural and historic environment.
- Sustainable economic development is a key consideration.

3.5 PPG 3 'Housing'¹¹ aims to meet the housing needs of all in the community. It sets out to provide wider housing opportunity and choice and a better mix in the size, type, and location of housing than is currently available, and seeks to create mixed communities. In addition it endeavours 'to promote sustainable patterns of development and make better use of previously developed land' and should 'make a significant contribution to promoting urban renaissance and improving the quality of life' and in 'creating sustainable residential environments by promoting mixed use development'. In particular, in relation to the barrage proposal, the housing section of the Regeneration Strategy for the Lower Ouseburn Valley³ accords with this national guidance.

3.6 The barrage would meet the broad aim of PPS 9 'Biodiversity and Geological Conservation'¹² that planning, construction, development and regeneration should have minimal impacts on biodiversity and enhance it wherever possible. This is supported in the Lower Ouseburn Regeneration Strategy¹³ and aims to promote sustainable development and to contribute towards rural renewal and urban renaissance.

3.7 PPG 15 'Planning and the Historic Environment'¹⁴ contains policies for the identification and protection of historic buildings, conservation areas and other elements of the historic environment, all

⁸ NCC/OB/SoC/10

⁹ NCC/OB/SoC/27

¹⁰ NCC/OB/SoC/27

¹¹ NCC/OB/SoC/11

¹² NSS/OB/SoC/13

¹³ NCC/OB/SoC/27

¹⁴ NCC/OB/SOC/14

key objectives of the Regeneration Strategy for the Lower Ouseburn Valley, which is a Conservation Area.

3.8 The main objective of PPG 17 'Planning for Open Space, Sport and Recreation'¹⁵ supports an urban renaissance where 'local networks of high quality and well managed and maintained open space, sports and recreation facilities help create urban environments that are attractive, clean and safe.' This objective is re-iterated in the Lower Ouseburn Valley Strategy and reflected in the aspirations for the barrage.

3.9 The material planning considerations of the quality of land, air and water and potential impacts arising from development and its effect on other land uses are addressed in PPS 23 'Planning and Pollution Control'¹⁶. The issues of water quality and pollution of the Ouseburn and the developments proposed along its length are important and accord with this guidance.

3.10 The issues that PPG 25 'Development and Flood Risk'¹⁷ discusses are of central importance to the barrage; in particular the lead role of the Environment Agency (EA) which has a supervisory duty for all matters relating to flood defence and in providing advice on flooding issues. The EA has been included in every stage of the barrage proposal and has been provided with all the required studies in order to make its assessment of the impact of the barrage.

Development Plan

3.11 The barrage proposal is in accordance with the adopted Unitary Development Plan for the City of Newcastle upon Tyne¹⁸, the statutory development plan. Particular reference is made to the following policies:

- Policy IA1 which gives high priority to the continued economic and environmental initiatives such as at the Ouseburn Valley;
- Policy ED4 which states that planning permission will be granted for development which assists the regeneration of older industrial areas, provided that any proposed scheme is appropriate having regard to the policies of the plan and any other material considerations. The Ouseburn is identified as such an area under Policy ED6.1;
- Policy EN4 which identifies the Ouseburn (and the Tyne) and their banks as major assets to the City, which contribute greatly to its character. The policy seeks to improve the appearance, public accessibility, nature conservation and recreational potential of the rivers and riverside through encouraging and carrying out improvements to land and buildings with river frontages and seeking to improve access to rivers and the riverside wherever possible for active or passive recreation;
- Policies OS2 and OS3.2 which identify the Ouseburn's recreational route network for extension; and
- Policies NC1.5 and NC1.6 which identify the Ouseburn as a wildlife corridor.

3.12 The barrage proposal would also comply with the Council's Local Development Framework (LDF) Core Strategy Preferred Options Report, May 2006. The Lower Ouseburn Valley, along with other regeneration areas within the city, does not currently have Development Plan Document (DPD) Status as this was not practicable in developing the first Local Development Scheme (LDS).

¹⁵ NCC/OB/SoC/16

¹⁶ NCC/OB/SoC/17

¹⁷ NCC/OB/SoC/18

¹⁸ NCC/OB/SoC/22

However, the area is identified in the current LDS as a regeneration area which is in progress and DPD status will be considered under the LDS review, currently taking place.

Other Regional and Local Policies

3.13 Regional Planning Guidance (RPG) provides a longer term land use framework. It is intended to complement the Regional Economic Strategy (RES) and Regional Spatial Strategy (RSS), considered below. The main purpose of RPG is to provide a strategic regional spatial strategy within which local authority development plans and local transport plans can be prepared. Of particular relevance to the Ouseburn Valley is regeneration, for which four priorities are set:

- To accelerate the renaissance of the Tyne, Wear and Tees conurbations;
- To provide job opportunities and support communities in the former coalfield areas;
- To adapt and revitalise the region's town and city centres and;
- To secure rural regeneration to combat social exclusion, improve access to jobs and services and sustain viable communities.

3.14 Within the context of supporting regeneration as a key principle, several priorities are set out; those which relate to the barrage are:

- Improving the local environment and enhancing community pride; and
- Securing investment to improve the landscape and nature conservation value of the countryside close to the region's main urban settlements and to create and maintain facilities for public enjoyment.

3.15 The Ouseburn Valley falls within 10 Regeneration Areas identified by RPG. These form part of the sequential test for development, with regeneration areas coming second after the main conurbations. Policies ENV2, Water Resource Management and ENV3, Water Quality also apply to the proposal. The proposal complies with these policies.

3.16 The barrage proposal accords with the Regional Sustainable Development Framework¹⁹, which includes a vision that the North East will be a region where present and future generations have a high quality of life: where there is an integrated approach to achieving social, economic and environmental goals; and where global responsibilities are recognised. The Framework sets out a vision for a sustainable future for the North East and outlines objectives for progressing towards that vision. The Framework builds on work undertaken for the RES and RPG as well as regional strategies and plans to improve the region's environment and social wellbeing.

3.17 The Framework is built around the UK Government's 10 principles of sustainable development and looks to achieve integrated thinking through considering social, environmental and economic effects simultaneously. It identifies 16 objectives, 5 of which the barrage would support directly:

- Objective 3. To achieve high and sustainable levels of economic growth;
- Objective 6. To protect and enhance the quality of the region's ground, river and sea waters;
- Objective 8. To protect and enhance the region's biodiversity;
- Objective 11. To protect and enhance the quality and distinctiveness of the region's rural and urban land and landscapes; and
- Objective 13. To protect and enhance the region's cultural heritage and diversity.

¹⁹ NCC/OB/SoC/21

3.18 The proposed barrage would also accord with the draft RES²⁰ of April 2006 which, amongst other things, promotes sustainable development, regional competitiveness and regeneration; recognising the importance of infrastructure to fulfil these aims. This document, produced by the North East Regional Development Agency, One North East, and endorsed by many other regional partners, sets out the broad strategy for the region's economy.

3.19 The barrage proposal and its effects on the continuing regeneration of the valley are in accordance with the emerging RSS. This sets out a long term strategy for the spatial development of the North East. It expresses a common vision, identifies key challenges and outlines the main planning principles for the area. The development of the barrage and its aims and objectives are supportive of the principles outlined in the RSS. In enabling and encouraging private investment in the Ouseburn and contributing to the development of a sustainable urban village (as outlined in the Lower Ouseburn Valley Regeneration Strategy), its development would contribute directly to meeting the key challenges identified in the RSS. The principles of sustainable development, enhancing and preserving historic buildings and heritage, attracting knowledge and service-based businesses to the area and the creation of modern, mixed use sites are all supportive of the RSS's vision for the area.

Justification

3.20 The justification for the scheme lies in the consideration of the need²¹ for the barrage, principally to act as a catalyst for regeneration and to improve the local environment in the Lower Ouseburn Valley. These matters are set out below.

Regeneration Contributions and Benefits

The extent to which the scheme would contribute to regeneration objectives and produce economic, environmental and social benefits.

Background

3.21 For many years the Ouseburn Valley was associated with deteriorating buildings, poor infrastructure, scrap yards, storage yards and vacant and derelict buildings. In the 1970s the area was declared an Industrial Improvement Area (the first in Newcastle) in response to changes in government policy aiming to revive derelict areas through industry.

3.22 In the 1980s there was massive investment in Newcastle Quayside from the city centre to the mouth of the Ouseburn (but excluding the Lower Ouseburn Valley), undertaken by Tyne and Wear Development Corporation (TWDC). Some commercial concerns which did not fit into the TWDC vision were relocated from the desirable Quayside to land seen of less value in the adjacent Lower Ouseburn Valley. Most businesses were storage, car-related, or scrap yards attracted by the low rents.

3.23 By the early 1990s, the industrial improvement funding was nearing completion. However, urged on by concerned local councillors, the Council produced a new development strategy; to look at the Ouseburn Valley and assess its potential in terms of how each area could be used, including attracting visitors, introducing residential accommodation and making use of empty buildings and derelict sites; all married in alongside established businesses.

3.24 During the late 1990s The Ouseburn Trust took the lead in the Ouseburn Partnership (OP), with the Council and other stakeholders, and successfully applied for money from the Single Regeneration Budget (SRB) round 3. Further building and environmental improvement, along with infrastructure schemes and a small amount of house building took place. Following the end of the Partnership in 2002, the wider Ouseburn area was further improved, funded by One North East and

²⁰ NCC/OB/SoC/20

²¹ NCC/OB/PoE/1, Section 4

overseen by the newly formed Ouseburn Advisory Committee. The emphasis was on economic and business development, with the main aim of job creation. As part of a national trend, the community of artists in the Ouseburn was seen as an economic asset, with cultural industries in general now valued. New cultural industries were attracted into the area and there was an emphasis on refurbishing empty buildings for these purposes. There was also new focus on re-branding the Ouseburn, to increase its attractiveness to new businesses and visitors.

Regeneration Strategy

3.25 The need for the proposed barrage must be set in this context of the established and ongoing regeneration initiatives in the Lower Ouseburn Valley for which the Ouseburn Regeneration Strategy²² and Ouseburn River Improvement Strategy²³ provide a robust framework for delivery and securing public sector funding. The Regeneration Strategy envisages the Lower Ouseburn Valley will become a sustainable 'urban village' where people can live, work and play. It encourages mixed-use developments in order to achieve this vision. A variety of housing and housing tenures is a critical element which is underpinned by the strategic objectives of Bridging NewcastleGateshead (BNG) Housing Market Renewal (which includes part of the Lower Ouseburn Valley) and the Local Development Framework and Housing Strategy.

3.26 The barrage would significantly contribute to achieving regeneration objectives in the valley²⁴, particularly those developments along or close to the river bank; although experience from elsewhere indicates that beneficial effects of an improved river environment would be felt, not only at the waterside but also at some distance from it²⁵.

Economic Benefits

3.27 The Ouseburn is an attractive area for businesses in the creative, ICT and new media sectors and demand is currently outstripping supply²⁶. The provision of appropriate accommodation for small/medium-sized businesses is critical to the economic prosperity of area. This provision is underpinned by the LDF Core Strategy, 'Competitive Newcastle' and the Regional Economic Strategy (RES).

3.28 The barrage would promote wider economic benefits in the Valley by encouraging greater investment and visitor interest²⁷ and would increase developer confidence²⁸.

Social and Environmental Benefits

3.29 The barrage would enhance the local environment by raising water levels to remove the unsightly aspect at low tides and unpleasant odours and by providing increased opportunities for wildlife²⁹.

²² NCC/OB/SoC/27

²³ NCC/OB/SoC/1

²⁴ OB/INQ/6, Answer 1

²⁵ OB/INQ/6, Appendix 1, p3

²⁶ NCC/OB/PoE/001, paragraph 4.22

²⁷ NCC/OB/PoE/6, paragraph 4.3 & NCC/OB/SoC/27, p.35, last paragraph

²⁸ NCC/OB/INQ/6, Answer 1, p2 & NCC/OB/PoE/06, paragraphs 3.3-3.4

²⁹ NCC/OB/SoC/4, Non Technical summary S3, 2nd paragraph and S5, last paragraph

3.30 The need for the barrage is also demonstrated by the positive effects on educational opportunities, access and recreation alongside measures to protect and enhance the interests of current river users. It would encourage visitors and would have a positive effect on people's perception and experience of the area. The proposal would also result in a stable freshwater environment and a River Management Strategy to improve the habitat for protected species. Successful examples elsewhere in the UK where impoundment has been a critical factor in encouraging investment must also be taken into consideration.

3.31 These regeneration objectives are supported by conservation, planning and design documents and policies and are consistent with and promote national and regional planning guidance, the Regional Spatial Strategy and the Council's Unitary Development Plan, Local Development Framework, Conservation Area Management Plan and Supplementary Planning Guidance.

3.32 The barrage proposals and other developments in the river catchment, along with the requirements of the Water Framework Directive have re-enforced the need for a multi-agency approach to managing the river on a catchment-wide scale. The Council has been an active partner in the process which has been facilitated by, amongst other mechanisms, the ERDF Interreg IIIB funded PURE North Sea Project³⁰. A Draft Catchment Plan for the Ouseburn is now in place to provide the momentum for achieving targets of improved water quality, access, recreation and wildlife habitat, and reducing the risks of flooding through a number of mechanisms.

3.33 For many reasons including location, heritage, environment, business community and a history of partnership working, the valley has attracted a considerable amount of public sector financial intervention. This funding is continuing through regional programmes and others resources, aimed at improving the built and natural environment and legibility of the area and to provide continued strategic infrastructure improvements. However, a significant degree of private investment is required to deliver mixed use schemes which satisfy demand for work space and provide the necessary housing in order to complete the regeneration cycle. Developers have advised the Council that the current state of the river reduces the viability of such schemes.

3.34 The likely effects of the construction and operation of the barrage on stakeholders have been competently assessed. Positive effects such as increased navigation, improved access and the contribution to achieving the vision of an 'urban village' for the benefit of businesses and residents alike, are clearly evident and any negative impacts, such as the loss of inter-tidal habitat, and boat maintenance area have been adequately mitigated through the provisions of the Order or in accordance with agreed operating protocols. In particular Newcastle Motorboat Club (NMBC) has been involved throughout the development of the project. Issues and concerns have been discussed in detail and the impact of navigating the lock kept to a minimum and ease of use maximised.

Main Alternatives

The main alternatives considered and the justification for the chosen option.

3.35 The concept of a barrage in the Ouseburn has its origins in the TWDC's commissioned report³¹ by Ove Arup in 1996. This considered a number of options for the siting of a structure in the Ouseburn in order to raise water levels in the estuary due to its unsightly and malodorous mud banks, exposed at low tide. At that time it was recognised that the current state of the Ouseburn gave a negative development incentive. In recognising the regeneration momentum building in the Ouseburn, the Ove Arup report concluded that the specific type and location of any barrage should be considered in the context of regeneration strategy for the valley.

³⁰ NCC/OB/SoC/32

³¹ NCC/OB/PoE/1A, Appendix C

3.36 The OP was formed by the Ouseburn Trust in 1997 to deliver a successful SRB programme. In 1999, the OP established an Ouseburn River Improvement Strategy (ORIS) Steering Group and undertook a UK-wide tendering process to appoint an environmental consultancy to undertake feasibilities to examine methods of enhancing the Ouseburn.

3.37 In January 2000 Entec UK Ltd was appointed as scheme consultant. In August 2001, following stakeholder consultations, Entec produced an Options Appraisal, Preliminary Economic Appraisal and Environmental Impact Scoping Report.

3.38 In 2002, when the SRB programme ceased the main responsibilities of the Partnership were passed to the Ouseburn Sub-Committee and later the Ouseburn Advisory Committee. Entec were commissioned by the Council to undertake further studies and consultations, culminating in a Design Review Report in 2003 and an Environment Statement in 2006. In November 2004, following approval by Council Executive and Full Council an application for the barrage was made under the Transport and Works Act 1993.

3.39 The alternatives considered are set out in the Options Study³². Five locations for possible structures were considered. These are shown as lines A to E on Fig 2.1 of the ES³³, where they are discussed at paragraph 3.3.6. In addition the option of not constructing anything but dredging to low tide level was also considered³⁴.

3.40 On the evidence before the inquiry there is no more suitable location for the barrage than at Glasshouse Bridge (Line C on Figure 3.1 of the ES), both in respect of its effect on navigation and the environment and cost.

Environmental impacts (Matter 2)

The likely impacts on the environment of constructing and operating the proposed works, including:

- the effects on water quality, the riverine environment and sewerage network;
- the impact on flood risk;
- the effects on the ecology of the Ouseburn and the Ouseburn Valley;
- the effects on land quality;
- the effects on air quality and noise;
- the effects on landscape, townscape and visual amenity;
- the effects on the local highway network and road traffic; and
- the effects on the archaeological and cultural heritage.

Water Quality, Riverine Environment and Sewerage Network³⁵

3.41 Currently the Lower Ouseburn receives inputs from sewer overflows, mine water seepages and direct and diffuse sources from the catchment. Development projects in or near water would also

³² NCC/OB/SoC/1, Part 1

³³ NCC/OB/SoC/4, p.8a

³⁴ NCC/OB/SoC/4, p. 7, paragraph 2.3.4 (option 4)

³⁵ NCC/OB/PoE/3

have the potential to cause pollution of surface water during the construction phase. Adherence to the mitigation measures detailed in the ES would reduce this latter risk to an insignificant level.

3.42 For the operational phase, the assessment includes consideration of catchment inputs, sewer overflows, mine water seepages, groundwater inputs, the change in the tidal regime, land contaminants and the resultant changes in surface water quality arising from the increased retention time of water within the impoundment. A major change in surface water quality would result from the current estuarine character to a predominantly freshwater river upstream of the barrage.

3.43 Increased retention time would affect the behaviour of contaminants within the Ouseburn, as well as altering the dissolved oxygen regime and increasing the potential for growth of plankton and floating algae. Calculations show that dissolved oxygen levels would remain satisfactory, even under worst-case conditions, and there would be little risk of algae blooms. Protocols for flushing out deteriorating water have been agreed.

3.44 The lock gates would allow any excess sediment to be removed from immediately behind the barrier and the lock would also provide a mechanism for releasing any saline water following high spring tides that might overtop the weir.

3.45 Water levels would be impounded at a level low enough not to increase inflows to sewers via sewer overflows. A visible sewage management protocol has been agreed and established in order to ensure the immediate removal of any sewage derived solids that remain behind the barrage.

Flood Risk^{36 37 38}

3.46 With the lock gates open during a severe fluvial flood any water rise would be confined to the river channel downstream of Ouseburn Bridge³⁹. If the gates remained closed there would be a risk of increased flooding [Ibid]. However there would be measures in place to ensure that the gates would still be raised when there was warning of a flood event⁴⁰ - if the automatic control system failed.

3.47 These measures address the concerns of the EA⁴¹ and the content of an extensive Flood Management Protocol⁴² has been agreed with the EA and with Northumbrian Water Ltd (NW).

Inspector's Note: A synopsis of this Flood Management Protocol is set out NCC/OB/PoE/03, paragraph 9.6.6.

Ecology^{43 44}

3.48 The concerns of English Nature (EN) and the Northumberland Wildlife Trust (NWT) in respect of estuarine fauna, otters and fish have been met and they have withdrawn their objections.

³⁶ NCC/OB/SoC/4, Section 10

³⁷ NCC/OB/SoC/6

³⁸ NCC/OB/SoC/8

³⁹ NCC/OB/PoE/3, paragraph 9.5.2

⁴⁰ NCC/OB/SoC/8 pp.20-23

⁴¹ NCC/OB/SoC/8, paragraph 4.2.1

⁴² NCC/OB/SoC/33

⁴³ NCC/OB/SoC/4, Section 13

⁴⁴ NCC/OB/SoC/7

Provision would be made for otters and eels to pass over the Barrage and habitats would be improved^{45 46}.

3.49 The Council has entered into a legal agreement⁴⁷ with EN under which it would be bound to consult with that body on the preparation of a River Management Strategy that would provide measures for the benefit of wildlife in the Ouseburn such as otters and other flora and fauna⁴⁸.

Land Quality⁴⁹

3.50 The Ouseburn Valley has a long history of industrial activity. A land quality investigation shows that some of the made ground contains elevated concentrations of metals, petroleum hydrocarbons and certain polycyclic aromatic hydrocarbon (PAH) compounds.

3.51 Adherence to good practice guidance would be required during construction to minimize release of contaminants to groundwater through disturbance of contaminated land and to ensure that drainage from the construction site would not result in pollution of groundwater or deterioration in land quality.

3.52 Examination of contaminant levels and leachability in relation to predicted changes in groundwater levels indicates that increased contamination of groundwater would be unlikely to arise as a result of the scheme.

3.53 There would be potential for increased filtration into the sewerage network causing additional flows to the sewage pumping stations, as a result of changes in groundwater levels resulting from the scheme. This has been addressed in a Deed of Undertaking⁵⁰ which would allow for appropriate arrangements for compensation of NW.

Air Quality and Noise⁵¹

3.54 The operational noise associated with the barrage would not be significant. Construction would give rise to some ephemeral effects. Temporary construction noise effects at the Tyne pub⁵² would vary and, even after mitigation, a minor negative effect would be experienced.

3.55 Air quality effects would be limited to fugitive dust emissions arising from the construction phase. This would be addressed by appropriate site management procedures targeted at dust suppression.

Landscape, Townscape and Visual Amenity

3.56 English Heritage (EH) has stated⁵³ that it believes 'that the overall impact of the scheme is likely to be a positive one'. Condition 7 attached to the application for deemed planning permission

⁴⁵ NCC/OB/SoC/4, p.219

⁴⁶ NCC/OB/PoE/3, paragraph 9.10.2

⁴⁷ NCC/OB/SoC/33, OBJ/3

⁴⁸ NCC/OB/PoE/001, paragraph 8.6

⁴⁹ NCC/OB/SoC/04, Section 12

⁵⁰ NCC/OB/PoE/3, paragraph 8.8.2

⁵¹ NCC/OB/SoC/4, Section 9

⁵² Inspector's Note: The Tyne pub sits on Maling Street, adjacent to the east side of the Ouseburn very close to the site of the proposed barrage – see NCC/OB/SoC/4, Figure 2.3.

⁵³ NCC/OB/SoC/34, SUPP/1

requires a method statement to be submitted and approved prior to development to safeguard and preserve structures of heritage interest during construction⁵⁴.

3.57 The effect of the guillotine structure on the immediate area of the barrage can be seen from the design sketches in the ES⁵⁵. Although there is clearly an impact on the view, this artist-designed structure would be visually compatible with the existing waterside environment⁵⁶. It would become 'an attractive focal point at the entrance to the valley'⁵⁷. Details of the design and external appearance of the structures would have to be approved before development takes place, as covered in proposed planning condition 5⁵⁸.

3.58 The effect of the barrage on the townscape as a whole is set out in the ES⁵⁹. The permanent raising of the water levels in the river upstream of the barrage would be a considerable enhancement to the townscape of the area. Condition 8 to the deemed planning permission requires a landscaping and implementation scheme to be submitted and approved⁶⁰.

Highways and Traffic⁶¹

3.59 During the construction phase the temporary closure of Maling Street would cause some local inconvenience; however access would be maintained to all premises. An appropriate traffic management plan would help to minimize disruption. No significant effects are predicted on the surrounding roads.

3.60 Once the barrage is operational, the anticipated amount of road traffic associated with the scheme would be minimal and would not warrant detailed assessment.

Archaeology and Cultural Heritage⁶²

3.61 The Ouseburn Valley is rich in historical interest largely associated with built industrial archaeology. The valley is designated as a Conservation Area⁶³ and the historic interest is recognized in the Council's Conservation Area Management Plan⁶⁴.

3.62 Minor effects during construction could be anticipated through work affecting the Ouseburn river walls; this would be addressed through the preparation of an appropriate scheme of works.

3.63 The lock and weir would have no direct physical effects on any listed features but the raised water level would affect the setting of the surviving elements of the historic townscape within the Conservation Area. The historic tidal element of the townscape would be lost upstream of the

⁵⁴ Appendix D to this report

⁵⁵ NCC/OB/SoC/4, pp.88-89

⁵⁶ NCC/OB/SoC/4, Table 6.5, p.84

⁵⁷ NCC/OB/SoC/4, paragraph 6.5.2

⁵⁸ Appendix D to this report

⁵⁹ NCC/OB/SoC/4, Table 6.5, p.84

⁶⁰ Appendix D to this report

⁶¹ NCC/OB/SoC/4, Section 8

⁶² NCC/OB/SoC/4, Section 14

⁶³ Inspector's Note: The Lower Ouseburn Valley Conservation Area is indicated on Figure 6.1, NCC/OB/SoC/04

⁶⁴ NCC/OB/SoC/24

barrage; this would include the covering of parts of the river walls that are currently visible. The weir and lock structures would have very limited direct effect on the setting of recognized historic features.

Effect on Local Residents, Businesses and Ouseburn Navigation Interests (Matter 3)

The likely effects of the scheme on local residents, businesses and others including those with an interest in navigation and safety on, or the amenities of, the Ouseburn.

Local Residents

3.64 There is very limited residential use in the valley bottom at present⁶⁵. The visual activity associated with the operation of the lock mechanism and the movement of the boats through it would have a very positive effect on the character of the area⁶⁶. The intention is to create a mixed use urban village and associated community rather than simulate the redevelopment of the Quayside; the mixture of tenures and uses would be enhanced through commitment to building affordable housing⁶⁷
⁶⁸.

Businesses

3.65 The Council has identified⁶⁹ the Lower Ouseburn Valley as a focal point for growth in the Digital Technologies and Creative Industries and the Tourism, Hospitality and Culture sectors in Newcastle. The Lower Ouseburn Valley is one of 5 strategic sites in the City where particular sectors would be encouraged to achieve major growth in employment and where funding would be concentrated. Although the Digital Technologies and Creative Industries sector is likely to see the main growth, Tourism, Hospitality and Culture are also expected to see an increase.

3.66 The current state of the river is identified⁷⁰ as having a negative impact upon continued investment due to its degraded nature and the perception that the area is unsafe⁷¹. However, many of the existing workspace facilities in the valley are full and demand for workspace is outstripping supply. The Ouseburn Valley is an attractive location for businesses in the creative, ICT and new media sectors and without any marketing, inquiries from businesses in these sectors are growing weekly⁷².

3.67 Developers have advised the Council that the current state of the river reduces the viability of schemes and returns on investment. One developer, Metier Group, who own and have planning permission to develop a 9 storey mixed use scheme at the old Ice Factory site adjacent to the river⁷³,

⁶⁵ NCC/OB/SoC/4, p. 74 & Figure 6.3

⁶⁶ NCC/OB/SoC/4, p.98

⁶⁷ NCC/OB/SoC/4, Section 5.5

⁶⁸ J Miller in response to Inspector's question during inquiry (12 September 2006)

⁶⁹ NCC/OB/SoC/27, p.18

⁷⁰ NCC/OB/PoE/1, paragraph 4.22

⁷¹ NCC/OB/SoC/4, p.60

⁷² NCC/OB/PoE/1, paragraph 4.22

⁷³ NCC/OB/SoC/45

have indicated that the 'Certainty over the tidal barrier is fundamental as to when and if we commence development of our landholdings on the Ouseburn.' Other developers have similar concerns⁷⁴.

3.68 This is not to say that without the barrage there will be no further improvement⁷⁵. However one of the major reasons for the construction of the barrage and the Riverside Walkway is to contribute to the Regeneration Strategy for the Ouseburn. In particular this would create a mixed use, mixed tenure 'urban village' with stable residential and business communities. This in turn would develop a dynamic, efficient, competitive and entrepreneurial business environment that would create employment opportunities⁷⁶.

3.69 No negative socio-economic effects have been identified as likely to arise during the construction of the barrage⁷⁷.

Navigation Interests

barrage would be positive both for navigation upstream of the lock and for access to and from the River Tyne. Currently there is uninterrupted access from the Tyne to the Ouseburn for about 12 hours a day⁷⁸. With the barrage in place there would be lock-based access for 18 to 20 hours a day⁷⁹, depending on the size of craft. The raised water levels in the Ouseburn, upstream of the barrage, would allow navigation for 24 hours a day on this stretch of water, except when the gates are open for operational reasons⁸⁰. The barrage would also facilitate increased use of the river by a wider range of craft and users than currently navigate it.

3.71 On the question of siltation, notwithstanding the potential for increased sedimentation immediately upstream of the barrage, the design of the lock would allow the flushing of upstream silt. Powers for the Council to dredge the river, with the consent of the Port of Tyne Authority, are sought in Article 9 of the amended draft order⁸¹. The Council is committed to ensuring that dredging at the mouth of the Ouseburn is carried out and intends to source the necessary funds to do this⁸².

Environmental Mitigation (Matter 4)

The measures proposed by the Council for mitigating any adverse impacts of the scheme, including:

- any measures to avoid, reduce or remedy any major adverse environmental impacts;
- any measures to avoid, reduce or remedy any other adverse environmental impacts; and
- whether, and if so to what extent, any adverse environmental impacts would remain after the proposed mitigation measures had been implemented

⁷⁴ NCC/OB/PoE/1, paragraph 4.26

⁷⁵ NCC/OB/SoC/4, p.62

⁷⁶ NCC/OB/SoC/4, p.65

⁷⁷ NCC/OB/SoC/4, p.69, paragraph 5.7

⁷⁸ R Anderson in Cross-examination

⁷⁹ J Pomfret in re-examination

⁸⁰ NCC/OB/SOC/4, p112, first paragraph

⁸¹ NCC/OB/SoC/44

⁸² NCC/OB/PoE/1, paragraph 7.15

Major Adverse Environmental Impacts & Post-Mitigation Effects

3.72 The only areas which are recorded in the ES as having possible major negative (adverse) environmental effects are those relating to surface water quality, sediments and ecology. The operation of the barrage would change the Lower Ouseburn from a tidally dominated regime to a freshwater one. This is a fundamental and significant effect.

3.73 Whether it is a positive or negative effect is debatable when considering water quality in isolation⁸³. Considerations of the resultant physical and physiological effects on fish are again both positive and negative⁸⁴. The improved habitat and water quality, including stable water levels, would provide better conditions for coarse fish but unsuitable for estuarine and marine juvenile fish.

3.74 Concerns of EN and NWT about this loss of intertidal area, which they considered fell within the definition of mudflat, which is a UK Biodiversity Action Plan Priority Habitat, and about particular species, were addressed by further work which is reported in the 'Further Ecological and Water Quality Information' report⁸⁵.

3.75 This led to detailed discussions on mitigation measures and potential for creation of compensatory inter-tidal habitat elsewhere in the Tyne Estuary. EN has withdrawn its objection⁸⁶, following the sealing of a Deed of Undertaking setting out commitments from the Council in relation to a River Management Strategy, including sedimentation control, and an Off-site Mitigation Scheme to be implemented by the Council to an agreed, capped budget. NWT has similarly withdrawn its objection⁸⁷.

3.76 The water quality impacts would be completely mitigated and, on balance in these respects the scheme would be environmentally beneficial⁸⁸.

Other Adverse Environmental Impacts & Post-Mitigation Effects

3.77 Varying mitigation measures are proposed to address other adverse environmental impacts. These are described fully in the ES⁸⁹ and summarized in the table below.

Mitigation, compensation and enhancement measures - references to tables in the Environmental Statement

Topic	Measures incorporated into the design or agreed in advance	Implementation of measures requiring further development
Socio-economics	Table 6.1	--
Townscape and Visual	Table 6.1	Table 6.9
Recreation and Amenity	Table 7.1	Table 7.7
Traffic and Transport	Table 8.1	--

⁸³ NCC/OB/SoC/4, Table 11.22, p.184

⁸⁴ NCC/OB/SoC/4, Table 13.6, p.220

⁸⁵ NCC/OB/SoC/7

⁸⁶ Letter of withdrawal of EN objection dated 14 September, NCC/OB/SoC/33, OBJ/3

⁸⁷ Letter of withdrawal of NW objection dated 22 December 2005, NCC/OB/SoC/33, OBJ/9

⁸⁸ Mr Pomfret in answer to Inspector's question in the Inquiry.

⁸⁹ NCC/OB/SoC/4

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Noise and Air Quality	Table 9.1	Table 9.7
Hydrology and Flood Risk	Table 10.1	Table 10.5 (iv)
Surface Waters and Sediments	Table 11.1	Table 11.22 (i) (iv)
Land Quality and Groundwater	Table 13.1	Table 13.5 (iii)
Ecology	Table 13.1	Table 13.7 (i) (ii) (v)
Cultural Heritage	--	Table 16.2

(i) See also Flood Modelling and Flood Warning Strategy reports

(ii) See also Further Ecological and Water Quality Information report

(ii) Note this table was erroneously numbered 13.3 in the Environmental Statement

(iv) See also schedules to Deeds of Undertaking with Environment Agency and Northumbrian Water Ltd

(v) See also schedules to Deeds of Undertaking with English Nature

Source: Table 7.1, NCC/OB/PoE/3

3.78 The townscape and visual amenity issue would be largely addressed by good management during the construction phase and sympathetic design of the permanent structures. There would be a major positive remaining effect⁹⁰.

3.79 The principal affected activity in the recreation and amenity category would be navigation. This would be addressed through a barrage operation protocol and through provision of a winch and cradle at the Lime Street slipway for the use of NMBC members. The barrage would provide improved access for boats to the Ouseburn for a significantly greater period of the day, albeit through the lock. The proposal would also provide a major positive benefit for bankside recreation with completion of the Riverside Walkway. The net result would be a positive environmental impact⁹¹.

3.80 Construction noise would be mitigated by appropriate working time controls and appropriate barriers and other limits and constraints agreed with the Environmental Health Officer prior to construction. Operational noise levels from the barrage would not be sufficient to cause a nuisance at nearby sensitive properties. There would not be a significant remaining adverse environmental impact⁹².

3.81 Significant increase in flood risk would be avoided by operation of the lock gates to release flood flows, in accordance with the protocol agreed with the EA. There would not be a significant remaining adverse environmental impact⁹³.

3.82 A deed of undertaking with NW addresses the issue of the potential need for and nature of measures to mitigate any increased groundwater infiltration into sewers. There would be a minor adverse environmental effect remaining⁹⁴.

⁹⁰ NCC/OB/SoC/4, Table 6.6

⁹¹ NCC/OB/SoC/4, Table 7.7

⁹² NCC/OB/SoC/4, Table 9.6

⁹³ NCC/OB/SoC/4, Table 10.4

⁹⁴ NCC/OB/SoC/4, Table 13.4

Adequacy of the Environmental Statement (Matter 5)

The adequacy of the environmental statement submitted with the application for the TWA Order and whether the statutory procedural requirements have been complied with.

3.83 The principal instrument requiring EIA for development projects is EC Directive 85/337/EEC, amended by Directive 97/11/EC. The Ouseburn Barrage project falls within Annex II of the Directive.

3.84 The proposed works are of a description included in The Transport and Works (Descriptions of Works Interfering with Navigation) Order S.I. 1992:3230, consequently approval for the barrage proposals was sought by applying for an Order under s.3 of the Transport and Works Act 1993. The relevant legislation transposing the EC requirement for EIA into English law is s.14 of this Act, as amended by The Transport and Works (Assessment of Environmental Effects) Regulations S.I. 1995:1541 and S.I. 1998:2226. The Environmental Statement complies with these legislative requirements.

3.85 The EIA process for applications for Orders under the Transport and Works Act is also influenced by the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules⁹⁵. During the course of preparation of the Environmental Statement, these were given in S.I. 2000:2190, as amended by S.I. 2002:1965. These Rules were complied with.

3.86 The conclusions of the preliminary EIA scoping exercise are summarised in the table below, where ticks indicate a requirement for detailed assessment of the topic indicated in either the construction or the operation phase. The EIA addresses these issues in detail.

Topic	Construction phase	Operational phase
Population - recreation (including navigation)	✓	✓
Population - education		✓
Population - socio-economics		✓
Noise and air quality	✓	
Traffic and transport	✓	
Ground and surface water quality	✓	✓
Sediments	✓	✓
Hydrology and flood risk	✓	✓
Land quality	✓	✓
Flora and fauna	✓	✓
Cultural heritage	✓	✓
Landscape (townscape) and visual	✓	✓

Ouseburn Barrage - Scope of the EIA

Source: Table 6.1, NCC/OB/PoE/3

⁹⁵ Inspector's Note: Since the application date the rules have been updated and the 2000 rules have been replaced from 11th September 2006 by S.I. 2006:1466. However, under the transitional provisions in Rule 3 of the 2006 Rules, the 2000 rules continue to apply to the application for the Ouseburn Barrage Order.

3.87 The scheme constitutes 'development' in terms of planning law and therefore requires planning permission. In accordance with s.90(2A) of the Town and Country Planning Act 1990, deemed planning permission is being sought through an application for a Planning Direction from the Secretary of State, which was applied for concurrently with the application for the Order. In order to satisfy the requirements of the Secretary of State for environmental information required to assist in determining the application, the ES contains all the information required under The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations S.I. 1999:293, as amended by S.I. 2000:2867.

3.88 Because the scheme would require materials to be placed below high water mark, a licence is required under Part II of the Food and Environment Protection Act 1986. An application for this was submitted to the Marine Consents and Environment Unit, then jointly administered by the Department for Environment, Food and Rural Affairs (Defra) and the Department for Transport (DfT), in November 2004. The Act empowers the regulatory authority to require provision of environmental information and the necessary information for this purpose was included in the ES. A licence for construction of the scheme was issued on 30th September 2005⁹⁶.

Substantive Changes to the TWA Order (Matter 6)

The purpose and effect of any substantive changes to the TWA Order proposed by the Council since the application was made; whether anyone likely to be affected by such changes has been notified; and whether any proposed changes to the Order, either on their own or taken together, would amount to substantial change in the proposals for the purposes of section 13(4) of the TWA.

3.89 Copies of legal agreements with the EA, NW and the Royal Yachting Association which contain most of the amendments to the protective provisions in the Order are set out in NCC/OB/SoC/33.

3.90 The chronology of amendments to the draft Order is set out in answer to the Inspector's written question no. 11⁹⁷; these include stylistic and grammatical changes, repositioning and re-numbering of some articles, and a number of amendments to punctuation and statutory references. Those changes were brought together at the inquiry by submission of the final draft Order and a summary of the changes to the Order⁹⁸.

3.91 None of these amendments amounts to a substantive change in the TWA Order.

Planning Conditions (Matter 7)

The conditions proposed to be attached to deemed planning permission for the scheme, if given, and in particular whether these conditions meet the tests in DOE Circular 11/95 of being necessary, relevant, enforceable, precise and reasonable.

3.92 As well as being the applicant for the TWA Order, NCC is the local planning authority. The draft planning conditions, set out in NCC/OB/PoE/1A, Appendix Q and in NCC/OB/SoC/3, Section 9, were revised during the course of the inquiry and these revised conditions are set out in NCC/OB/SoC/44, Section 3. (Inspector's Note: The agreed draft planning conditions are included at Appendix D to this report.)

⁹⁶ NCC/OB/SoC/52

⁹⁷ OB/INQ/6, Question 11, p.7

⁹⁸ NCC/OB/SoC/44

3.93 The conditions and associated undertakings represent a suitable framework of control for the project. With their imposition the project would be sufficiently regulated in the final stages of its design, in its implementation, and in its operation. The conditions all comply with the necessary policy tests in Circular 11/95. In particular, they do not exceed that which is necessary and reasonable in the circumstances.

The Case for CPO Powers (Matter 8)

Whether there is a compelling case in the public interest for conferring on the Council powers compulsorily to acquire and use land for the purposes of the scheme, having particular regard to the guidance on compulsory purchase in paragraphs 16 to 23 of ODPM Circular 06/2004, and whether all of the land to be acquired under the Order is required for the scheme.

3.94 The evidence⁹⁹ has shown how each area of land identified in the Book of Reference is required to ensure that the scheme can proceed. No dwelling is involved in the relevant land. There are no statutory objectors to any compulsory purchase powers; indeed the Council considers it owns all the relevant land but cannot prove title to all of it. No evidence has been produced to show that the limits proposed are unnecessary or over-generous. While Tyneside Ramblers did object to the stopping up powers, that objection has been withdrawn. An adequate alternative route to the stopped-up footway exists¹⁰⁰ via the adjacent parallel footway in Maling Street.

3.95 The requirements of ODPM Circular 06/2004, paragraphs 16 to 19 have been satisfied and the powers sought are reasonably necessary to ensure the scheme can progress¹⁰¹. There are not likely to be any financial, physical, legal or planning policy impediments to the implementation of the scheme¹⁰² - ODPM Circular paragraphs 20 - 23. In the circumstances there is a compelling case in the public interest for giving the Council the powers to acquire and use land for the purposes of the proposed barrage.

3.96 None of the objectors has raised any express or implied objection to the issuance of a Certificate under section 19 of the Acquisition of Land Act 1981. The Council has made a compelling case for the granting of compulsory purchase powers. As a matter of fact the land in question 'does not exceed 209 square metres (250 square yards) in extent'. The land subject to the Section 19 Certificate is to be returned to its present use as open space/highway, notwithstanding the fact that it would be available for access to construct and maintain the barrage¹⁰³ and that the giving in exchange of other land is therefore unnecessary in the interests of the public. No third party has claimed any title to or interests in this land.

⁹⁹ NCC/OB/PoE/2

¹⁰⁰ J Pomfret in answer to Inspector's question in the inquiry

¹⁰¹ NCC/OB/PoE/2, paragraph 6.3

¹⁰² NCC/OB/PoE/2, paragraph 6.4

¹⁰³ NCC/OB/PoE/2, paragraph 5.3

Effects on Statutory Undertakers (Matter 9)

The likely effects of the proposals upon the rights, duties and responsibilities of statutory undertakers and other statutory bodies and the proposed arrangements for protecting their interests.

3.97 Matters regarding sewerage, drainage and flooding have been resolved to the satisfaction of the EA¹⁰⁴ and NW¹⁰⁵, who have withdrawn their objections.

3.98 The Deeds of Undertaking agreed with these bodies contain extensive details of the protocols that must be agreed before the barrage scheme could be implemented. Although the final protocols, in terms of operating instructions, cannot be finalised until detailed design has been completed, the Schedules of the Deeds set out in detail the matters that must be included in the protocols.

3.99 The Flood Management Protocol, including a Flood Warning Plan, has been referred to at paragraph 3.47 above.

3.100 In relation to 'debris and sewage', the Visible Sewage Derived Debris Management Protocol must contain measures to monitor any accumulation of Visible Sewage Derived Debris (VSDD) upstream of the barrage, including inspections by Council officers and by CCTV, and the manual removal of VSDD when necessary. It also provides for the reporting of the results of such inspections to NW.

3.101 Conclusions on water quality concerns have been incorporated into the Deed of Undertaking with the EA. This requires compliance with a Water Quality Management Protocol which must include a requirement for the Council to release water if the dissolved oxygen concentration falls below 5mg/l and to implement aeration if it falls below 3mg/l.

3.102 There are no unresolved concerns or outstanding objections from any Statutory Undertaker.

Funding¹⁰⁶ (Matter 10)

Whether the proposals are reasonably capable of attracting the necessary funding

Inspector's Note: During the Inquiry it became clear that the £1 million funding contribution from the ERDF Objective 2 Programme is time-limited to the period 2000-2006. I requested a detailed note on the implications of the criticality of this and it is set out in document NCC/OB/SoC/54. In particular attention is drawn to paragraph 7 of this document, which highlights the applicant's desire for a decision on the TWA Order by the end of 2006, see also paragraph 3.108 below.

3.103 The estimated total capital cost for constructing the barrage is £2,250,000 (November 2004). However, the current costs estimate, allowing for inflation and market conditions is more likely to be £2,500,000 (based on the DTI Construction Statistics Annual 2005 and allowing for a 5% rise within the Infrastructure Sector).

3.104 Funding has been obtained by the Council from a variety of sources including, contributions from the private sector through section 106 contributions, the UK public sector, including the Government's Single Regeneration Budget Challenge Fund Round 6, and the Single Programme. European Union resources, including monies from the Interreg IIIb Programme (PURE) as well as Priority 3 of the Objective 2 programme of the European Regional Development Fund (ERDF), would also be utilised in the project. Allocations within several of these strategic funding mechanisms are

¹⁰⁴ EA letter of withdrawal – 2 November 2005, OBJ/8

¹⁰⁵ NW letter of withdrawal – 22 December 2005, OBJ/9

¹⁰⁶ NCC/OB/PoE/1, Section 13

either defrayed through the capital process or, in the case of ERDF, subject to approval of the Transport and Works Act Order application and subject to remaining uncommitted resource being available.

3.106 Contributions from strategic funders for the scheme are illustrated in the Table below:

No.	Funding Programme	Amount (£,000)	Status
1.	SRB 6	100	Approved - defrayed
3.	Single Programme	200	Approved - defrayed
3.	ERDF INTERREG IIIB -PURE	100	Approved - defrayed
6.	ERDF Objective 2	1,000	Agreed with GONE subject to Order being secured
6.	Developer Contributions	800	Approved by cabinet
	Total:	2,200	

Ouseburn Barrage - Strategic Funding Contributions
p.75

Source: Table 1, NCC/OB/PoE/1,

3.107 Capital Funds 1, 2 and 3 above have largely been utilised in the pre construction phase of the project and are part of the approved capital programme for Ouseburn.

3.108 As regards Capital Fund 4, government (GONE) has advised¹⁰⁷ that the project would still be eligible to apply for ERDF funding during 2006, subject to remaining uncommitted resource being available. A further £50,000 has been allocated from the Council's own resources for undertaking the tender process, in order that the construction contract can be let quickly, following any positive outcome of the inquiry, in order for the project to remain eligible for the ERDF 2003-2006 Programme.

3.109 The funding for the barrage is like many other public sector funding opportunities in that release of funds is linked to the scheme being progressed. However, notwithstanding the delays to the implementation of this project occasioned by the convening of a public inquiry, there continues to be strong and consistent support for the project across all funders including the City Council¹⁰⁸.

3.110 The developer contributions model is being amended to take account of positive effects on development away from the river in seeking appropriate contributions¹⁰⁹. The current estimate (£800k), based on waterside development only, is therefore conservative. This is reflected in Table 2¹¹⁰ which indicates potential contributions of £1,300,000. There is a reasonable prospect of funding being obtained so that the scheme would proceed if statutory powers were given.

¹⁰⁷ NCC/OB/PoE/1A, Appendix Y

¹⁰⁸ NCC/OB/SoC/54, paragraph 11

¹⁰⁹ J Miller in response to Inspector's question in inquiry, 12 September 2006

¹¹⁰ NCC/OB/PoE/1, p.77

4 The case for the supporters

The material points are:

4.1 Some 10 letters of support have been received in response to the publication of the draft Order [NCC/OB/SoC/34, SUPP 1-10] including correspondence from English Heritage and the Inland Waterways Association; the key aspects of support reflect those reported above and include:

- The barrage is fundamental to the successful regeneration of the valley;
- Experience from elsewhere indicates that the provision of a permanent waterfront would act as a positive catalyst to redevelopment;
- The proposal would improve the river environment through removal of debris, covering of malodorous mud and wider ecological benefits;
- It would improve boat passage into and along the Lower Ouseburn;
- The scheme is at a pivotal point; it must proceed to ensure regeneration of the Ouseburn Valley. If not started in 2006 there would be a danger of losing £1m of European funding.

5 The case for the objectors

The material points are:

Jim Cousins MP¹¹¹ [OBJ/10]

5.1 As MP for the Newcastle Upon Tyne Central constituency, which since 1997 has included the western side of the Ouseburn Valley, the objector supports the regeneration of the area. In this respect the work of the Ouseburn Partnership in promoting a number of community-based projects is applauded.

5.2 However this objection to the TWA Order emanates from a number of concerns. Firstly, growing development pressures in the wider Ouseburn catchment are leading to issues of water quality in the Ouseburn because of increased operation of storm sewer overflows, particularly to the north of the city.

5.3 Secondly, these same development pressures are leading to growing flood problems in the Ouseburn catchment which, coupled with the issue of rising levels of the Tyne, leads to the need to question the value for money of the barrage scheme. These issues have not been properly addressed and have been bypassed by the offer of indemnity to the EA and NW. The scheme promoter has turned these legitimate concerns into a political issue. However the inquiry must thoroughly explore these issues.

5.4 Much of the case for the barrage rests on improving the appearance of the Ouseburn Valley. This could be addressed by a scheme for regular rubbish clearance and environmental maintenance at low tide. This would be simpler and cheaper than providing the barrage.

5.5 The argument for the improved water-side environment is far weaker than at more dense urban locations. Regeneration of the Ouseburn Valley has already started successfully. Furthermore the tidal nature of the stream creates its own attractive environmental features which are consistent with its heritage and which, if properly managed, could become a positive aspect in local regeneration.

5.6 The manner in which the City Council has dealt with the approval of the application for the barrage raises serious governance issues about its handling of this project.

¹¹¹ OB/OBJ/PoE/10

Rick Anderson¹¹² [OBJ/12]

5.7 The objector is a former ward councillor who has played a very active role in the conservation and opening up of the rich heritage of the valley and in the development process. Although a director of the Ouseburn Trust since its inception the objection is lodged in a personal capacity.

5.8 The objection focuses on five primary concerns:

- Option choice;
- Boat club amenities;
- Leaching of contaminants;
- Sewage pollution; and
- Flood risk.

5.9 The option study was not open or transparent and did not give the public and stakeholders an opportunity to influence or scrutinise the choice. Furthermore the option study brief to consultants pre-empted the choice of site by limiting costs to £1m. This effectively ruled out the river mouth option (line A on Figure 2.1 of the ES¹¹³), the option historically preferred by the Newcastle Motorboat Club (NMBC). The 'nil option' of no barrage was also precluded from the brief. Subsequently the preferred option has been the only one open to discussion, NCC has brushed aside anyone questioning or challenging this option.

5.10 NMBC's members' amenities would be harmfully affected by the proposed barrage as it would flood the hard-standing platform facility that is currently used for boat repair and maintenance and reduce the capacity of the Lime Street slipway so that it would only accommodate one boat. The barrage would also increase boat entry time into the Ouseburn because of the need to negotiate the lock. The proposal would do nothing to address the perennial problem of siltation in the river mouth.

5.11 There is a concern that the raising of the water table would result in contaminants leaching from the McFee's site¹¹⁴. The consultant's desk study relies on only three boreholes sited near the edge of the site. There is also concern about potential contamination from the former 'tip' sited above the culvert and beneath the City Stadium, to the north of the valley.

5.12 A number of storm water overflows outfall into the River Ouseburn, some distance from the valley to the north. In recent years a number of significant developments, and notably the Newcastle Great Park, have added to the sewerage system and the ten-fold increase in potential uses of the overflows has not been married with an appropriate capital spend by NW to renew infrastructure or provide screens on the overflows. Furthermore the two open sewers on the side of the Ouseburn culvert are an additional source of sewage.

5.13 The barrage is not part of a flood defence strategy; it is a source of potential flooding in the event of gate failure - with only a two hour call-out response time. Furthermore there would be likely to be structural implications for the foundations of adjacent buildings.

¹¹² OB/OBJ/PoE/12

¹¹³ NCC/OB/SoC/4, p.8a

¹¹⁴ The McFee's site is indicated on NCC/OB/SoC/45

William Colwell¹¹⁵ [OBJ/13]

5.14 The objector lives and works in the Ouseburn Valley and is very heavily involved with local voluntary and charity organisations. There are serious concerns regarding lack of accountability and about the administrative practices exhibited by relevant bodies during the preparation of this scheme. The objection is to the principle of a barrage on the Ouseburn¹¹⁶.

5.15 The first substantive objection matter relates to technical concerns brought about by the proposed permanent change in tidal regime. This would have a marked influence on the flood plain which has an infill cocktail of mineral and heavy metal pollutants. The topography and nature of the valley would make it very difficult to model this issue.

5.16 A concern is raised regarding the appointment of the environmental consultant (Entec); this Group had connections with NW. This raises questions of partiality and potential bias, particularly towards NCC's favoured option. There is also a question regarding the connection between the barrage and the European PURE programme.

5.17 Turning to environmental concerns, the proposal would affect habitats in this sensitive area by the nature of the changed tidal regime. The weir and lock would affect, for example, the passage of swans¹¹⁷ that regularly visit the river estuary. The proposal would seriously impinge on sight lines¹¹⁸ through the arch of the Glasshouse Bridge and would compromise access. It would be visually intrusive. Furthermore there would be the anomaly that some 150 metres of the river, between the barrage and the Tyne, would not be affected and would remain as low tide mudbanks.

5.18 The proposed works have not been subject to a cost/benefit analysis. Without this how can the claimed virtues of the scheme be shown to outweigh the loss and costs?

Written Representations of Objection

5.19 Some 24 written objections have been received in response to the publication of the draft Order [NCC/OB/SoC/33]; at the end of the inquiry 11 have been withdrawn. There are no outstanding objections from statutory objectors. Three objectors presented evidence to the inquiry, as reported above. The key issues raised in the remaining unwithdrawn objections largely reflect those presented at the inquiry and include:

- Lack of proper public consultation and ignoring previous feasibility work,
- Increased risk of flooding,
- Lack of financial prudence in NCC underwriting statutory undertakers against future liabilities,
- The significant public expenditure would be better spent in direct assistance to the local community,
- Concerns about the environmental fieldwork carried out,
- Increased risk of water contamination.

¹¹⁵ OB/OBJ/PoE/13

¹¹⁶ W Colwell in answer to Inspector's question in the inquiry 15 September 2006

¹¹⁷ Inspector's Note; I observed the swans on my accompanied site inspection (14 September 2006)

¹¹⁸ OB/OBJ/PoE/13, paragraph 3.1b, photographs 1 & 2

6 Response By newcastle city council

Inspector's Note: Some common themes appeared in the various objections therefore the NCC responses are reported accordingly, with reference to particular objectors where appropriate.

The material points are:

Water Quality (OBJ/10, /12, /13)

Sewage (OBJ/10, /12)

6.1 Concern is expressed about discharges from combined sewer overflows (CSOs) (referred to by the objectors as storm water overflows). The proposal would not affect the frequency or method of operation of the CSOs. Details of the local sewerage system are set out in the ES¹¹⁹; predicted annual spill frequencies are reported. Further information is available in 'Ouseburn River Improvement Scheme: Further ecological and water quality information'¹²⁰. The issue of dissolved oxygen in the river arising from summer sewage spills is addressed in this document. A Water Quality Management Protocol requires the Council to release water from behind the Barrage if the dissolved oxygen concentration falls below 5mg/l and to implement aeration if it falls below 3mg/l¹²¹. This has enabled the EA to withdraw its objection¹²².

6.2 While most CSOs are currently unscreened, some screening work has already started¹²³. The ES¹²⁴ refers to submissions for water industry capital expenditure including screening for CSOs discharging to the Ouseburn. Details of the plans agreed within AMP4 (2005-2010) for screening of CSOs are set out in NCC/OB/SoC/60.

6.3 Solid material captured by the barrage would be dealt with through the Visible Sewage Derived Debris Management Protocol¹²⁵. NW has withdrawn its objection as a result¹²⁶.

6.4 As regards the two existing sewers that are adjacent to the Ouseburn culvert¹²⁷, these have been in place for a considerable time; the barrage would not affect their operation in any way.

Contaminants (OBJ/12, /13)

6.5 The issue of contaminants leaching out of the former industrial sites as a result of the permanent raising of water levels is addressed in the ES¹²⁸. The only significant changes to the system with respect to issues of land contamination would be changes to the flow regime in the river and a general

¹¹⁹ NCC/OB/SoC/4, paragraph 11.6.4 & Table 11.13

¹²⁰ NCC/OB/SoC/7

¹²¹ NCC/OB/SoC/33 at OBJ/8 and OBJ/9

¹²² NCC/OB/PoE/3, paragraph 9.95

¹²³ Mr Pomfret in re-examination

¹²⁴ NCC/OB/SoC/4, p.168

¹²⁵ NCC/OB/SoC/33 at OBJ8 and OBJ9 (see legal agreements)

¹²⁶ NCC/OB/PoE/3, paragraph 9.94

¹²⁷ NCC/OB/SoC/59

¹²⁸ NCC/OB/SoC/4

rise in mean groundwater level of around 2m above present day water levels in ground adjacent to the Ouseburn¹²⁹. All of the ground affected by this is currently subject to saturation and drainage on a daily rolling cycle with the flow of the tide. At the McFee's yard, which is capped, the level of groundwater would rise but penetration laterally would be restricted by the topography and geology of the area¹³⁰.

6.6 A summary of the results of intrusive investigations into potential leachates is set out in the ES¹³¹. Leach test data show that metals leach at low concentrations¹³². In any event, metals and hydrocarbons are present below the existing water table and thus it is not considered that, as a result of the investigations, there are any additional particular contamination sources that would lead to increased contaminant concentrations in groundwater [Ibid, paragraph 3.1.13]. The rise in groundwater level would be most unlikely to result in increased contamination of groundwater because the soil quality in the zone of water table rise is not markedly different to the soil quality in the current saturated zone. In addition the rise in groundwater levels is relatively small, particularly when compared to existing peak water levels. Furthermore a steady groundwater state - instead of the current tidal regime of twice-daily washing out- may also reduce the potential for contamination migration [Ibid, paragraph 3.1.4].

6.7 The fact that only three boreholes were drilled at the McFee's yard is not considered adequate by the objectors. However, it should be noted that this is only one of several contaminated sites alongside the tidal Ouseburn and over twenty boreholes were examined in total. Results of previous examinations were also taken into account [Ibid, Appendix L, Figure 6.1]. The EA was involved in selection of borehole sites and was sufficiently satisfied that, as a result of these investigations, the proposed development would not pose an unacceptable risk to controlled waters (the Ouseburn)¹³³.

6.8 Turning to the issue of the former tip, which is situated beneath the City Stadium and above the culvert, the barrage would not alter or affect the present situation¹³⁴.

Flood Risk (OBJ/10, /12)

6.9 General concerns about flood risk have been raised; however there is nothing substantive in these objections. Mr Cousins MP has discussed the matter with the School of Civil Engineering and Geosciences of Newcastle University¹³⁵ and the EA. No technical objections have been made. A call-out response would be in place to respond manually within appropriate timescales in the event of failure of the automatic gate-opening system¹³⁶. What have been presented by objectors are assertions of worst case scenarios. These may properly be rejected.

6.10 Consideration of the effects on the foundations of relevant properties would be undertaken at the detailed design stage - which is the proper time to do this assessment. Any risks would be

¹²⁹ NCC/OB/PoE/4, paragraph 3.1.10

¹³⁰ Mr Evans in cross-examination

¹³¹ NCC/OB/SoC/4, paragraph 6.3.3 & Appendix L, Figure 3.1

¹³² NCC/OB/PoE/4 paragraph 3.1.12

¹³³ NCC/OB/PoE/4, paragraph 2.4.1

¹³⁴ I Evans in cross-examination by W Colwell 13 September 2006

¹³⁵ NCC/OB/SoC/53

¹³⁶ NCC/OB/SoC/8, p.20-23

mitigated by appropriate measures which might include, for example, underpinning, grouting or tanking of basements¹³⁷.

Alternatives (OBJ/10, /12)

6.11 At the inquiry the objectors concentrated on either there being a barrage at the mouth of the Ouseburn (Line A on Fig 2.1 of the ES) or there being no barrage at all.

Option A (OBJ/12)

6.12 A barrage at Line A, or for that matter a shorter line running from the same western limit but angled in a north easterly direction, as suggested by the Inspector, would have a number of disadvantages.

6.13 If it impounded water at a level to exclude most tides, it would severely restrict navigation unless the headroom at the Low Level Bridge¹³⁸ were increased or it were converted to a moveable bridge (swing or lift bridge). This would be prohibitively expensive, as it carries a major water main and high voltage power cables. If the barrage were to retain water at mid-tide level, to allow adequate headroom under the existing Low Level Bridge, it would be subject to the severe disadvantages of half-tide barrages which act as silt traps for silt derived from the tidal estuary and are also typically subject to water quality problems¹³⁹. A half-tide barrage would also reduce the magnitude and geographical extent of the raised water level, thus reducing the regeneration and navigation benefits that would accrue.

6.14 Location of a barrage at Glasshouse Bridge (Line C) would also help to create an identity for the urban village proposed for the lower Ouseburn valley that is separate from that of the Newcastle Quayside redevelopment. For these reasons, Line A was rejected.

No Barrage - Regular Cleaning & Dredging (OBJ/10)

6.15 The option of dredging to low tide levels was rejected in the Options Study¹⁴⁰ due to the impracticability of implementing it without damage to building foundations¹⁴¹.

6.16 Mr Cousins' suggestion of a simple litter clearance scheme¹⁴² would be simpler and cheaper. However Mr Cousins provides no evidence of the effect of this on the regeneration of the valley; he simply asserts¹⁴³ that 'Properly managed the tidal aspect of the stream could in fact become a positive aspect in the regeneration of the Ouseburn.' No evidence is presented to indicate how this approach would affect recreation and amenity or economic regeneration. Nor does the objector demonstrate how this would meet the objectives of government strategy - eg RPG1 'to accelerate the renaissance of the Tyne, Wear and Tees conurbations'¹⁴⁴ and UDP policy ENV3¹⁴⁵.

¹³⁷ NCC/OB/PoE/3, paragraph 9.12.2

¹³⁸ Inspector's Note: The Low Level Bridge is the road bridge which lies to the south of the Glasshouse Bridge,

¹³⁹ NCC/OB/PoE/3, paragraph 9.3.4 & NCC/OB/PoE/03A, Appendix A

¹⁴⁰ NCC/OB/SoC/1

¹⁴¹ NCC/OB/SoC/4, paragraph 2.3.4

¹⁴² OB/OBJ/PoE/10, paragraph 19

¹⁴³ OB/OBJ/PoE/10, paragraph 23

¹⁴⁴ NCC/OB/SoC/4, p.39

¹⁴⁵ NCC/OB/SoC/4, p.40

6.17 Given this lack of evidence from Mr Cousins and in the face of overwhelming evidence^{146 147}
^{148 149} regarding the effects of not building the barrage, this proposal should be given little weight.

6.18 On the evidence before the inquiry, therefore, there is no more suitable location for the barrage than at Glasshouse Bridge, both in respect of its effect on navigation and the environment and cost. The option of a simple litter clearance programme would achieve little, would not deal with the odour problem, and would not meet the objectives of government strategy.

Need (OBJ/10)

6.19 Without the barrage the quality and scale of the investment in the Ouseburn would be considerably inferior to that which could be achieved were the Order to be granted, the barrage constructed and the Lower Ouseburn impounded. The barrage would consolidate the work already done by NCC and would allow the full development and regeneration potential of Lower Ouseburn Valley to be realised¹⁵⁰. This view is shared by a number of supporters¹⁵¹.

Boat Club Amenities (OBJ/12)

6.20 The objectors are concerned that passage through the proposed lock would be an impediment to craft and would increase navigation time; this is clearly right¹⁵². However this would be a minor effect when offset against the improved navigability of the river. Given the number of passages made¹⁵³ queues for the lock would be unlikely. With the average size of the boats [Ibid] and the size of the lock chamber¹⁵⁴ more than one boat may be able to use the lock at a time.

6.21 Although objectors are concerned about the loss of part of the area used by the NMBC as a maintenance facility¹⁵⁵, this would be fully compensated by providing a winch and cradle on the Lime Street slipway¹⁵⁶. NMBC is no longer an objector to this scheme¹⁵⁷.

Ecology (OBJ/13)

6.22 The barrage would not worsen the situation for swan visitation to the Ouseburn, although the valley is high-sided there is a potential landing area upstream from the barrage. Furthermore the birds should be able to negotiate the angled and rough weir face¹⁵⁸.

¹⁴⁶ Canon Langley in re-examination

¹⁴⁷ NCC/OB/PoE/006, paragraphs 4.1 & 4.2

¹⁴⁸ NCC/OB/PoE/9, paragraph 16

¹⁴⁹ NCC/OB/SoC/4, paragraph 6.4.2

¹⁵⁰ NCC/OB/PoE/9, paragraph 16

¹⁵¹ NCC/OB/SoC/34, SUPP/2, /3, /4, /5, /6, /7, /8, /9, /10

¹⁵² NCC/OB/SoC/4, p.111

¹⁵³ NCC/OB/SoC/4, p. 108, Table 7.5

¹⁵⁴ NCC/OB/SoC/4, paragraph 2.5.1

¹⁵⁵ NCC/OB/SoC/4, p.103

¹⁵⁶ NCC/OB/PoE/3, paragraph 9.13.5

¹⁵⁷ NCC/OB/SoC/33 at OBJ11

¹⁵⁸ J Pomfret in cross-examination by W Colwell 13 September 2006

6.23 As regards other ecological concerns EN and NWT have withdrawn their objections on the strength of the proposed mitigation measures.

Visual Impact (OBJ/13)

6.24 The final design of the structure, and its materials, would need to be submitted to the local planning authority for approval. The draft design presents arched gates that reflect the curves of the adjacent Glasshouse Bridge and other structures of note in the Conservation Area¹⁵⁹.

6.25 On the question of the siting of the barrage some distance up the Ouseburn, with the consequent retention of an element of low-tide mudflats, Glasshouse Bridge forms a natural gateway from the Quayside to the proposed urban village area. Positioning of the lock and barrage at this location would also make this the point at which the tidal character gave way to the impounded section of the Ouseburn. This would form a significant element in the urban landscape which, with suitable design, would be an attractive focal point at the entrance to the valley¹⁶⁰.

Siltation (OBJ/13)

6.26 Siltation at the mouth of the Ouseburn is a major concern. In general, while there would be changes to the sediment balance, sedimentation rates would be likely to remain similar to the current situation¹⁶¹. There may be increased sedimentation upstream of the Barrage due to reduced flow velocities. However as much of the present silt is borne into the river by the tide¹⁶² the barrage would prevent this.

6.27 Notwithstanding the potential for increased sedimentation immediately upstream of the barrage, the design of the lock would allow the flushing of upstream silt. Powers for the Council to dredge the river with the consent of the Port of Tyne Authority are sought in Article 9 of the draft Order¹⁶³. The Council is committed to ensuring that dredging at the mouth of the Ouseburn, downstream from the barrage, would be carried out and intends to source the necessary funds to do this¹⁶⁴.

Procedural/Administrative Issues (OBJ/13)

6.28 Although objectors have raised issues as to openness, proper consultation and the adequacy of information, these have not been substantiated. There has been reasonable public consultation¹⁶⁵ and the statutory requirements for advertising the proposal have been satisfied¹⁶⁶. The consultation which Entec carried out was in excess of statutory requirements¹⁶⁷.

6.29 As far as the availability of information is concerned the question is whether adequate information has been supplied to enable objectors to know in clear terms what the proposal is, telling

¹⁵⁹ NCC/OB/PoE/3A, Appendix D

¹⁶⁰ NCC/OB/PoE/3, paragraph 9.3.11

¹⁶¹ NCC/OB/SoC/4, p.161 & Appendix K

¹⁶² NCC/OB/SoC/4, Appendix K, paragraph 3.3.3

¹⁶³ NCC/OB/SoC/44

¹⁶⁴ NCC/OB/PoE/1, paragraph 7.15

¹⁶⁵ NCC/OB/PoE/1, paragraphs 11.2, 11.10 and 11.13. & NCC/OB/PoE/5, paragraph 5.4

¹⁶⁶ NCC/OB/PoE/1, paragraphs 11.21, 11.23, 11.26, 11.28 and 11.29 & NCC/OB/SoC/55

¹⁶⁷ NCC/OB/PoE/3, paragraph 9.14.4 & OB/INQ/06 answer to the Inspector's question 13

them enough to enable them to make an intelligent response¹⁶⁸. The Council has supplied adequate information to the objectors.

6.30 As regards Entec's connection with NW, the objector does not make clear why this is of concern. The Ouseburn Partnership was fully aware that Entec was then owned by Northumbrian Water Group plc, as is NW. Entec does undertake consultancy work for NW but this is on a competitive basis with other consultants¹⁶⁹. The fact that NW objected is a clear indication that Entec was not involved in any sort of arrangement with them.

6.31 The question of bias is dealt with in the NCC Skeleton Argument at NCC/OB/SoC/47. Although assertions of predisposition and bias were made, no objector could provide any evidence that when the full Council voted on this matter Councillors were biased or had predetermined the issue. In the circumstances these allegations should be rejected.

6.32 The study brief, to which Entec and other consultants responded, did not predict the study outcome. The Entec report indicated no limitations on finance, it looked at various options. This report informs the decision-making process; it does not put cost as a limiting factor. Furthermore the issue of siltation is covered, with proposals for separate methods to overcome the problem¹⁷⁰.

6.33 The proposal has attracted funding through the European PURE programme¹⁷¹. The objector does not present any substantive evidence to support any concerns nor does he outline to what this aspect of his objection relates¹⁷².

6.34 The Council has been fully informed at the appropriate decision-making times of the financial risks associated with the barrage and with the associated legal undertakings and protocols. The Council has a mature understanding of, and is comfortable with, the likely risks¹⁷³.

¹⁶⁸ NCC/OB/SoC/47, paragraphs 2 – 4

¹⁶⁹ NCC/OB/PoE/3, Section 9.15

¹⁷⁰ J Miller in cross-examination by R Anderson 12 September 2006

¹⁷¹ NCC/OB/PoE/1, paragraph 13.2

¹⁷² J Colwell in cross-examination by NCC 15 September 2006

¹⁷³ J Miller in answer to Inspector's question in inquiry 12 September 2006

7 Conclusions

Inspector's Note: In this section references in square brackets [] indicate the paragraph(s) in this report in which the relevant source material can be found.

7.1 The structure of this section of my report generally follows the topics listed in the Statement of Matters issued by the Secretary of State [1.10]. Bearing in mind the submissions and representations I have reported, the information contained in the Environmental Statement, representations made about the environmental effects of the development, and all other environmental information supplied, I have reached the following conclusions.

The Aims and Objectives of, and the Justification for the Proposed Barrage (Matter 1)

Policy Considerations

National Policy

7.2 I find that the proposal would sit comfortably with a range of relevant national policies. The proposal would accord with government objectives of delivering a sustainable development in an integrated manner [3.3].

7.3 I consider that the mixed use urban village proposal with an appropriate variety of housing tenures that would be enabled by the scheme, would accord with national housing aims for meeting the needs of all in the community [3.5].

7.4 Other national policies dealing with biodiversity, geological conservation, the protection of the historic environment, issues of recreation, quality of the environment and flood risk would all be respected by the proposal [3.6-3.10].

Development Plan

7.5 The scheme would fit with the UDP strategic policy which highlights the high priority that will be afforded to such economic development opportunities. This support is reflected in the statutory development plan's more detailed planning policies dealing with regeneration, riverside assets, accessibility, recreation and wildlife [3.11].

Other Regional and Local Policies

7.6 The proposed barrage and the resultant regeneration would accord with the longer term objectives set out at the regional level and aimed at renaissance of the conurbation, economic support and revitalization [3.13].

7.7 The Ouseburn Valley is identified as a Regeneration Area in the RPG and as such is a high priority development area [3.15]. Furthermore I am satisfied that the barrage proposal and the associated regeneration would accord with the emerging RSS [3.19].

Policy Summary

7.8 From a study of the evidence I am satisfied that the proposal complies with a wide raft of adopted and emerging policies from national through to local level. No one challenged the policy support that the scheme attracts. It accords with the statutory development plan, a key point in consideration of the request for deemed planning permission. Furthermore it would aid the regeneration of the Ouseburn Valley.

Regeneration Contributions and Benefits

Regeneration Contributions

7.9 I note that a limited amount of regeneration has taken place in the Ouseburn Valley in recent years [2.4, 5.5]. However much of the riverside is derelict, untidy and unattractive to potential users and developers [2.4-2.5]. From a consideration of evidence from other waterside schemes and from local needs I consider that the proposed barrage and the associated impounded water would make a significant contribution to the early accelerated regeneration of the Ouseburn Valley [3.25, 3.26]. This is a view shared by a number of local stakeholders [6.19].

Economic Benefits

7.10 I am satisfied that the urban regeneration and associated benefits that would flow from the scheme would lead to enhanced confidence in the area and produce concomitant economic benefits. This confidence would attract the necessary private sector funding that would be required to ensure the successful completion of the regeneration of the area [3.33]. This view is supported by the current level of unsatisfied demand [3.27-3.28, 3.66]. It is pertinent that much of the valley lies derelict when this demand is in existence; the barrage is seen by supporters as a vital piece in the jigsaw for the successful regeneration of the valley [4.1]. I heard no objective evidence to counter this conclusion.

Social and Environmental Benefits

7.11 The scheme would achieve the removal of the source of unpleasant odours at low tide [3.29]. I am not convinced by one objector's argument that this end could be satisfactorily achieved by regular rubbish clearance and environmental maintenance at low tide [5.4, 6.16-6.17]. The Option Study rejected this approach on grounds of impracticability [6.15].

7.12 It is clear to me that one of the key attributes of the proposal would be to create a pleasant stretch of water that would attract waterside regeneration and which would provide positive effects on educational opportunities, access and recreation alongside and on the river [3.30, 3.32]. Furthermore the proposal would result in a stable freshwater environment with improved habitats for protected species [3.30].

7.13 In my view in light of the above the scheme would produce fundamental social and environmental benefits. There is a proven need for the scheme [3.20-3.34, 6.19].

The Main Alternatives

7.14 Apart from the 'do-minimum' regular cleaning option highlighted above [7.11], the main alternative that was championed by an objector at the inquiry is that which would see the barrage positioned across the mouth of the Ouseburn, at its confluence with the Tyne (Line A) [5.9]. However no objective evidence was presented to counter the compelling technical evidence of NCC that this option should be rejected on grounds of navigation difficulties, cost, siltation problems and limited regeneration benefits [6.12-6.14].

7.15 I am persuaded by the evidence, including the comprehensive Options Study that the most suitable location for the barrage is that which is promoted by the draft Order, at Glasshouse Bridge (Line C) [3.35-3.40].

Environmental Impacts (Matter 2)

Water Quality, Riverine Environment and Sewerage Network

7.16 There are concerns regarding growing pressures on the sewerage network within the wider Ouseburn catchment, particularly in the northern part of the city where major development is taking

place. These concerns extend to the likely increased operation of CSOs, the adequacy of screening and the impact on the Lower Ouseburn [5.2, 5.12].

7.17 These are, in my view, understandable concerns for, whilst the barrage would not increase pressures on the sewerage system and on CSOs [6.1], the quality of the newly impounded water in the Lower Ouseburn is a material consideration and would, in my estimation, have possible implications for the local environment and for the success of the barrage in promoting regeneration.

7.18 However the evidence, which is not technically challenged, points to satisfactory levels of water quality with the enacting of appropriate mitigation measures under extreme conditions, which include relevant protocols for flushing out deteriorating water and for the removal of any sewage derived solids [3.41-3.45, 6.1, 6.3].

7.19 I also note that detailed plans are in place to address the screening of CSOs that issue into the River Ouseburn [6.2]. I commend early action on the implementation of these plans.

7.20 I am reassured by the evidence base regarding future water quality and by the fact that the proposed measures have enabled NW and the EA to withdraw their objections [6.1, 6.3].

7.21 I conclude that the water quality and the river environment would be acceptable. I do however stress that the appropriate bodies should be pressed to address the issue of completion of improvements to the wider network of CSOs at an early stage if the TWA Order is made. However this should not delay making of the Order.

Flood Risk

7.22 Jim Cousins MP alludes to the possibility of rising levels of the Tyne [5.3]. However no supportive evidence was introduced and it is not an issue raised by NW or the EA. The principal flood risk concern of objectors relates to the possibility of the failure of the automatic gate-opening system during flood conditions [5.3, 5.13].

7.23 This was a concern of the EA and I am satisfied with the adequacy of measures that would be put in place and that are covered by the Deed of Undertaking with the EA that requires approval of a Flood Management Protocol [3.47, 6.9].

7.24 I also note that the matter of possible consequential effects on foundations would be appropriately addressed at the detailed design stage [5.13, 6.10].

Ecology

7.25 I consider that the proposed mitigation measures, which have addressed the concerns of EN and NWT, would provide beneficial measures for wildlife [3.48-3.49, 6.23]. No counter evidence questioned these measures.

7.26 I understand Mr. Colwell's concerns regarding the future ability of swans to continue to visit the Ouseburn [5.17]. However I am reassured that the detailed design of the weir would address his concern, if the birds did not fly into the river area upstream of the barrage [6.22].

7.27 I conclude that the barrage would not introduce any harmful ecological impacts.

Land Quality (Contamination)

7.28 As part of the EIA process comprehensive examinations of several contaminated sites alongside the Ouseburn have been carried out [6.7]. These sites include McFee's Yard, which was of particular concern to objectors [5.11, 6.7]. I am reassured that the EA was closely involved in this process [6.7].

7.29 In my view the objectors' legitimate concerns regarding the potential impact of the raised groundwater level are fully addressed in the ES and in evidence [3.50-3.52, 6.5-6.6]. No technical

evidence was put forward to counter the conclusion, which may be drawn from the investigations and which I share, that the proposal would not pose an unacceptable contamination risk to the Ouseburn [6.7].

7.30 Furthermore I heard nothing to persuade me that the former tip, above the culvert, would be affected by the barrage [6.8].

Air Quality and Noise

7.31 From all that I have seen I conclude that the proposal would not have an unacceptably harmful effect on air quality nor would it create a noise nuisance [3.54-3.55].

Landscape, Townscape and Visual Amenity

7.32 I accept that at the very local level these concerns would be addressed properly at the detailed design and planning stage, both for the barrage structure and for subsequent redevelopment proposal in the Ouseburn Valley [3.56-3.58, 6.24]. In my view the barrage would form an interesting and sympathetic gateway to the Ouseburn Valley [3.57, 6.24].

7.33 I do not share Mr. Colwell's view that the proposal would be visually intrusive; I adopt this stance because of its proximity to the much more imposing structure of Glasshouse Bridge [5.17].

7.34 It is my judgment that the overall visual impact of the proposed barrage, the impounded water and the resultant regeneration would be positive when viewed in the light of the current backdrop of part-dereliction and under-used sites [2.4, 3.56, 3.58].

Highways and Traffic

7.35 I note that appropriate measures would be implemented to minimize disruption and to maintain local access during the construction period; in its operation mode the barrage would have no discernible traffic impact [3.59-3.60]. In view of all this I conclude that there would be no unacceptably harmful impact caused by the construction or operation of the barrage on the local highway network and on road traffic.

Archaeology and Cultural Heritage

7.36 These are matters which attracted no substantive objections. I note that measures would be taken to protect and maintain the river walls [3.62]. I am satisfied that through implementation of the NCC's Conservation Area Management Plan and through the normal planning process the barrage would not have a deleterious effect on the archaeology and cultural heritage of the area.

Effects on Local Residents, Businesses and Ouseburn Navigation Interests (Matter 3)

Local Residents

7.37 I share the applicant's unopposed view that the proposal would have a positive effect on the character of the area to the benefit of the very small number of existing local residents [3.64].

7.38 In my view it would also be likely to have a positive effect for future residents by acting as a catalyst for the creation of a mixed use urban village [3.64].

Businesses

7.39 It seems clear to me from evidence of other similar sites that the creation of an area of attractive impounded water would contribute to achieving regeneration objectives throughout the

valley [3.26]. Local indicators, businesses and developers support this view [3.27-3.28, 3.66-3.67, 4.1].

7.40 All this leads me to the conclusion that the barrage would have a positive effect on businesses.

Navigation Interests

7.41 Whilst access to the Ouseburn from the Tyne would become less convenient, because boats would need to negotiate the proposed lock, I consider that, on balance, this would be outweighed by the fact that boats would be able to gain access over much longer periods of the day [3.70, 5.10, 6.20].

7.42 I note that as part of the proposed works the loss of the maintenance hard-standing in the Ouseburn would be compensated by provision of a winch and cradle at the Lime Street slipway [5.10, 6.21]. All these considerations have enabled NMBC to withdraw its objection to the scheme [6.21].

7.43 The issue of siltation in the river mouth would be addressed by powers in the Order which would enable appropriate dredging downstream from the barrage [5.10, 6.27]. The lock design would allow flushing of upstream silt [6.27].

7.44 In view of all the above I am satisfied that, on balance, the proposal would not have an unacceptably harmful effect on those with an interest in navigation and safety on, or the amenities of, the Ouseburn.

Environmental Mitigation (Matter 4)

Major Adverse Environmental Impacts & Post-Mitigation Effects

7.45 The areas of water quality, siltation and ecology are those reported as having a major environmental impact. As reported above I conclude that the effects of the proposed mitigation measures would adequately deal with the environmental impact of these matters [7.21, 7.27, 7.44].

7.46 I have seen nothing to detract from the conclusion that the post-mitigation effects of the scheme would be environmentally beneficial in these areas [3.76].

Other Adverse Environmental Impacts & Post-Mitigation Effects

7.47 My consideration of the other remaining environmental effects of the proposal, set out in 3.77-3.81 above, leads me to conclude that in the main they would be moderate to major positive. The limited adverse effects on groundwater infiltration into sewers would be addressed by appropriate mitigation measures which would be overseen by NW [3.82].

Adequacy of the Environmental Statement (Matter 5)

7.48 NCC's ES complies with European and UK directives and it is noted that all statutory and a number of non-statutory bodies have been consulted during the course of the Scheme's assessment, their responses having been included within the EIA. No other opinions have been expressed and there are no significant changes to the accuracy or relevance of the ES. The ES and other environmental information, including comments and representations made by statutory consultees and members of the public, have all been taken into account in reaching the conclusions on the proposals [3.83-3.88]. I further note that NCC has obtained the requisite FEPA Licence [3.88].

Substantive Changes to the TWA Order (Matter 6)

7.49 In preparation for the inquiry a number of minor amendments were made to the Order to effect stylistic changes, to correct grammar, to incorporate statutory references and to take account of legal agreements with various parties [3.89-3.90].

7.50 I am satisfied that given the relatively minor nature of all of the changes proposed, none of them coming close to being a substantial change in the project for the purposes of sub-section 13(4) of the Transport and Works Act 1992, and given also that the changes have for the most part been made to respond to objections made or concerns expressed, it may be concluded that these adjustments to the proposals ought to be admitted; and that the scheme thus modified should be the subject of the Secretary of State's determination [3.91].

Planning Conditions (Matter 7)

7.51 I have considered the draft conditions against the advice set out in Circular 11/95, 'The Use of Conditions in Planning Permissions' (the circular). The agreed conditions, together with the reasons for them, are reproduced in Appendix D to this report.

7.52 Conditions 3, 4 and 10 address the issue of potential disruption by construction activities. The visual impact of the scheme and its effect on cultural heritage are addressed by conditions 5 to 9. The general approval of conditions is set out in condition 11.

7.53 In my opinion the conditions are all necessary and meet the tests set down in the circular. Should the Secretary of State be minded to grant deemed planning permission for the project, I commend them to him.

The Case for CPO Powers (Matter 8)

7.54 I have closely studied the schedule and plans setting out the Land to be Acquired or Used, as modified, and can find no evidence of any proposal to purchase land or rights other than those necessary to implement the scheme, and furthermore there have been no assertions to the contrary other than those that I have considered and reported above [3.94]. I am therefore satisfied that the Order addresses no more land than is necessary, and that NCC has a clear idea of how it intends to use the land. Budgetary provision has been put in place by NCC. In order to be assured of retaining ERDF funding, approval of the Order is sought by the end of 2006 and if the Order is made work would start in 2007. For these reasons I am also satisfied that no land is proposed to be acquired ahead of time [3.103-3.109].

7.55 I note that NCC has put measures in place to ensure an early start to the construction process and I am satisfied that the scheme is unlikely to be blocked by any impediment to implementation [3.95, 3.108-3.109]. The Secretary of State has indicated his intention to grant a certificate that the provision of 'exchange land' is unnecessary, no issues were raised in this respect in the inquiry and I see no reason why the S19 Certificate should not be granted [1.11-1.13, 3.96]. Furthermore I heard and saw that an adequate alternative route would be available in the event of the stopping-up of a section of footway, as requested [3.94].

7.56 In my view there is a compelling case for the scheme to be implemented to impound the Lower Ouseburn in order to encourage the economic regeneration of the Lower Ouseburn Valley, through promotion of a mixed use urban village with raised urban design quality, whilst conserving the natural environment, protecting cultural heritage and improving facilities for recreational uses [1.5, 3.1, 3.20, 3.21-3.34].

7.57 Therefore, having regard to ODPM Circular 06/2004, I am persuaded that there is a compelling case for the land's compulsory purchase in the public interest which justifies interfering with the human rights of those with an interest in the land. Loss of any interest could be met by compensation.

Effects on Statutory Undertakers (Matter 9)

7.58 There are no unresolved concerns on the part of any statutory undertaker [3.102]. A number of Deeds of Undertaking have been put in place with associated Protocols to address the concerns of NW and the EA [3.97-3.101].

7.59 At the close of the inquiry no statutory undertaker sought to argue that the arrangements made for protecting their interests were insufficient to enable them to carry out their undertakings effectively and in compliance with their statutory obligations, or otherwise maintained an objection to the proposals.

Funding (Matter 10)

7.60 The total cost of the scheme, updated from the 2004 figure, is estimated as £2,500,000 [3.103]. Funding has been secured from a number of sources and I am satisfied from all that I have heard and seen that the scheme is reasonably capable of attracting the necessary funding [3.104-3.109]. I draw the Secretary of State's attention to the applicant's request for a decision on the Order by the end of 2006 in order to ensure receipt of the ERDF £1million funding.

Other Matters

Procedural/Administrative Issues

7.61 Although objectors raise issues regarding local governance, financial prudence, administrative and procedural concerns, none of these went to the heart of the TWA procedures. In my judgment they are not matters that affect the consideration of the efficacy of the Order [5.6, 5.9, 5.16, 5.19, 6.28].

7.62 I am satisfied that, both in terms of the appointment of Consultants and more generally in terms of other procedural and financial matters, the necessary statutory requirements have been met [6.28-6.34].

Summary of Conclusions

7.63 I conclude that there is a clearly demonstrated need for the proposed barrage [7.9-7.13]. It would be wholly consistent with national, regional and local planning policies and would accord with the statutory development plan [7.2-7.8].

7.64 There are no alternatives to the scheme that would come close to delivering its objectives of assisting the major regeneration of the area at reasonable cost without attendant navigation difficulties [7.14-7.15].

7.65 I am satisfied that there is a compelling case in the public interest for the adoption of powers of compulsory purchase [7.54-7.57].

7.66 I find that the scheme would have very limited adverse environmental or ecological impacts, and that after mitigation residual impacts would not be unacceptably harmful [7.16-7.47].

7.67 Whilst initially some 24 objections were made to the proposals, 11 of these were withdrawn before the inquiry closed. Those that remain should not, in my view, prevent the Order (as amended) being made [1.7, 7.61-7.62].

Overall Conclusions

7.68 In my opinion, the wide-ranging regeneration and socio-economic benefits that would arise as a result of providing the proposed barrage in the Ouseburn would clearly outweigh the limited

environmental impacts that would remain after mitigation. I accordingly conclude that the case for making the Order, as amended, and conferring on NCC the CPO powers contained therein is compelling and in the public interest. I likewise conclude that it would be in the public interest to grant the associated application for deemed planning consent. I also conclude that the S19 Certificate should be granted. In coming to these conclusions I have taken into account the ES and other environmental information, including comments and representations made by statutory consultees and members of the public.

8 Recommendations

8.1 In the light of my conclusions above, I recommend;

1. That The Ouseburn Barrage Order 200X be modified by the changes as referred to in paragraphs 3.89-3.91 above and set out in the revised draft Order at NCC/OB/SoC/44 and that the Order so modified be made.
2. That deemed planning permission be granted for the development proposed in the Order, subject to the conditions set out in Appendix D to this report.
3. That the application for a certificate under Section 19(1)(b) of the Acquisition of Land Act 1981 be granted.

R M Barker

INSPECTOR