

## Response to local authority consultation

**Authority:** Harrogate Borough Council

**Type of consultation:** Planning Application

**Full details of application/consultation:** 19/03460/FULMAJ - Erection of 1 no. new dwelling with associated access, parking and landscape and biodiversity enhancements.

At land at Woodland known as Loftus Hill Fox Covert, Farnham Lane, Ferrensby, North Yorkshire

**Type of response:** Objection

**Date of Submission:** 10<sup>th</sup> October 2019

All responses or queries relating to this submission should be addressed to  
The Chair,  
The North Yorkshire Branch of the Campaign to Protect Rural England  
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The charity will be referred to as CPRENorthYorkshire throughout this document

All CPRENorthYorkshire comments are prepared by the charity using professional planners whose research and recommendations form the basis of this response in line with national CPRE policies.

External planning consultant:



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The North Yorkshire Branch of the Campaign to Protect Rural England CIO operates with the help of planning wardens in the different local authority administrative districts reporting directly to the branch following a recent restructure. All correspondence should therefore be directed to the 'Chair of CPRENorthYorkshire'. CPRENorthYorkshire is the only authorised body to represent CPRENorthYorkshire issues within the local area.

## Comment

CPRENorthYorkshire welcomes the opportunity to comment on the above major application at land north of Ferrensby.

The revised National Planning Policy Framework (NPPF) was updated on 19 February 2019 and sets out the government's planning policies for England and how these are expected to be applied. This revised Framework replaces the previous National Planning Policy Framework published in March 2012 and revised in July 2018.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application should be determined in accordance with the development plan unless material planning considerations indicate otherwise. The NPPF is, therefore, a material consideration which should be taken into account in determining this application.

The planning system should contribute to achieving sustainable development. The NPPF aims to deliver sustainable development through the implementation of its policies. Paragraph 11 states that for decision making this means:

- c) *'approving development proposals that accord with an up-to-date development plan without delay; or*
- d) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date<sup>7</sup>, granting permission unless:*
  - i. *The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
  - ii. *Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'*

Paragraph 213 of the NPPF clarifies that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Weight should be given to them according to their consistency with the NPPF. (The closer the policies in the plan to the policies in the Framework, the greater the weight that should be attributed).

The Development Plan relevant to this application consists of:

- The 2009 Harrogate District Core Strategy; and
- Saved policies of the Harrogate District Local Plan (2001).

The Council, however, have recently undertaken an Examination in Public with an independent Inspector to clarify the soundness of their proposed new Local Plan, and the Inspector's comments and any main modifications to the Plan are awaited for further comment. As such, the emerging Local Plan can be given due weight in the planning balance when determining this application in conformity with paragraph 48 of the NPPF. However, until such Plan has been found sound by the independent Inspector and been adopted by the Council, the above documents remain in force as the Development Plan.

As such, policies within the Development Plan specify that sites outwith the development limits of a settlement are considered 'open countryside' and will not be considered for development. The NPPF sets out that decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside (para170). It goes on to state that when determining planning applications Local Planning Authorities should take account of the desirability of new development making a positive contribution to local character and distinctiveness (para 192).

It is, therefore, the opinion of CPRENY that full weight can be afforded to the relevant policies within the development plan that are in accordance with the NPPF in the determination of this application.

Paragraph 79 of the NPPF sets out the only circumstances in which an isolated dwelling in the open countryside may be permitted. As the proposal is not required for a particular rural worker and will not permit the reuse of an existing building or involve the reuse of a heritage asset, the tests to be passed requires that: *'the design is of exceptional quality, in that it:*

- *is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and*
- *would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area for an existing agricultural or forestry worker.'*

CPRENorthYorkshire recognise that the applicants have engaged highly skilled architects and consultants regarding the built-design and innovative technology features embedded in the proposal and that it has been designed to fit into this particular location. However, CPRENorthYorkshire do not consider that the proposal is in conformity with the second test as set out above which it is required to do so.

The proposed dwelling, could in fact be located at any location and utilise the same design features and technology principles.

CPRENorthYorkshire are concerned that the construction of this large dwelling and associated ancillary developments at this site will not in fact enhance the immediate setting or be sensitive to the character of the area which currently supports a wide range of ecological habitats, indeed some of the species noted as being present on the site are recorded on various endangered and protected lists. Whilst it is acknowledged that the applicants seek to 'enhance biodiversity' as part of the proposals, the destruction of such habitats in order for the dwelling to be built, would be, in our opinion, so severe as to not ensure their subsequent recovery and thus the proposed mitigation will not be adequate.

CPRENorthYorkshire also believe that the ecological survey submitted belatedly on behalf of the applicant is at least one year out of date for certain species and more for many others so as not to be able to be relied upon in the determination of this application. The Local Planning Authority has a duty to have regard to the Habitats Directive in assessing

this application. Where there is such uncertainty the applicant should be required to provide up to date survey information or the application should be refused.

Furthermore, CPRENorthYorkshire, are aware that a Public Right of Way exists in close proximity to the site which is frequented by users accessing the countryside at this location as it affords a tranquil walk and provides the ability to enjoy sighting the abundant wildlife at the site. The ability to do this would be lost should this proposal be permitted.

CPRENorthYorkshire have not seen evidence presented by the applicant's agent as to whether 'alternatives' have been considered in relation to other sites which would not result in the same level of harm to biodiversity and to the landscape.

### **Conclusion**

For the reasons set out above, in its current guise, CPRENorthYorkshire conclude that the proposals are contrary to the existing Development Plan policy, the emerging Local Plan and the guidance contained in the NPPF. As such the proposals should be refused.

CPRENorthYorkshire would wish to be kept informed with the progress of this application and reserve the right to submit additional comments should further information be submitted.