

Response to local authority consultation

Authority: **CITY OF YORK COUNCIL**

Type of consultation (insert DF/planning application/appraisal etc) **PLANNING APP**

Full details of application/consultation:

**2018/02687/OUTM - Outline planning permission (with all matters reserved except for means of access) for up to 516 residential units (Class C3) with local centre (Use Classes A1-A4, B1a, C3, D1) public open space with pavilion and associated infrastructure and full application for demolition of existing buildings and structures and creation of ecological protection and enhancement zone.
At Land at Moor Lane, Woodthorpe, York**

Type of response (insert comment/support/object) **OBJECT**

Date of submission 16th January 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
CIO number 1174989
01729 850567 cprecraven@me.com www.cprenorthyorkshire.co.uk

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:



KVA Planning Consultancy
Katie Atkinson MRTPI
www.kvaplaning.co.uk

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 this hybrid application for residential-led mixed use development.

CPRENorthYorkshire recognises that the site in question is the only green space immediately adjacent to Askham Bog Site of Special Scientific Interest (SSSI) which was designated for its importance in relation to its unique geographic origins and its abundance of biodiversity including rare species of both flora and fauna. The rest of the SSSI site is bounded by main roads and the main east-coast rail line.

The proposal seeks outline permission for up to 516 residential units, mixed use local centre, a sports pavilion and associated public open space, landscaping, highway and other infrastructure and drainage, alongside full planning permission for the demolition of all existing buildings ecological protection and enhancement zones and new principal vehicular access. To facilitate this level of development, Barwood Strategic Land II LLP ('the applicant'), propose that the water level of the surrounding area has to be lowered. CPRENorthYorkshire have serious concerns as to the impacts this will have on the SSSI.

The development site totals 40.05 Hectares (Ha) of land located within the York Green Belt. 14.78Ha of this total area is proposed for built development comprising residential development, the local centre and community uses described by national planning policy as inappropriate and thus harmful to the Green Belt. The remainder is use that is described as 'not inappropriate' development in the Green Belt provided that they preserve its openness and do not conflict with the purposes of including the land within it. CPRENorthYorkshire are concerned that the overall development is such that harm will be afforded to the Green Belt that these criteria cannot be met should this application be approved.

Furthermore, the proposals will introduce major development and works into an area currently used as agricultural land which will undoubtedly have a significant impact on the landscape in this area. It is understood that any development being introduced to a 'green field' will have an impact upon the landscape. However, CPRENorthYorkshire consider the location of this development to be particularly sensitive to change given the adjacent land use (of Askham Bogs) and therefore believe that despite the applicant's landscaping plans, the impact will have a detrimental effect.

CPRENorthYorkshire, therefore, objects to the proposals on the following primary grounds:

- The proposals will impact negatively on the nationally designated Askham Bogs SSSI;
- The proposals are inappropriate within the York Green Belt designation;
- The proposals will significantly impact the landscape at this rural location; and
- The proposals are therefore contrary to national and emerging Development Plan policy.

Planning Context

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 City of York Council (CYC) does not have an adopted Local Plan. The Planning Statement, provided by the applicant, sets out a thorough history of the status of CYC's plan-making process to the present day.

When determining the application, other 'material considerations' need to be taken into account. These considerations include other relevant policies and guidance particularly national planning policies provided by the National Planning Policy Framework (NPPF) and other relevant Government policy statements alongside the National Planning Practice Guidance (PPG).

The NPPF was originally published by the Department for Communities and Local Government (DCLG) in 2012 and set out the Government's planning policies for England and how they are expected to be applied. The revised NPPF was published in July 2018 and supersedes the 2012 version when determining planning applications. The revised NPPF is therefore a material consideration which should be used to aid the determination of this planning 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-date⁷, 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."*

The NPPF requires that housing applications are considered in the context of a presumption in favour of sustainable development. A footnote to paragraph 11d (above) sets out that the term 'out-of-date' includes situations where the local planning authority cannot demonstrate a 5-year supply of deliverable housing sites (with appropriate buffer).

In May 2018, CYC published its 'Strategic Housing Land Availability Assessment 2018' providing an up to date assessment of housing need and land availability throughout the administrative area based on the scenario that there was an annual housing target across the Plan period of 867. The Council purport to have a 6.38-year supply of land to achieve this delivery rate.

Paragraph 48 of the NPPF also sets out that decision-takers may also give weight to relevant policies in emerging plans according to (inter alia) *"the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given) and the degree of consistency of the relevant policies in the emerging plan to the policies in the Framework (the closer the policies in the emerging plan to the policies in the framework, the greater the weight that may be given)"*. The Council have submitted their emerging Local Plan to the Secretary of State for Independent Examination. The Examination is due to take place between February - March of this year,

therefore, because of the late stage in preparation, due weight can be afforded to these policies in the planning balance when determining applications as a material consideration. However, it is understood that the Inspectors have raised questions regarding the submitted figure in light of the fact that the Council's consultants suggested a higher figure. This debate will be heard in full at the forthcoming Examination.

CPRENorthYorkshire understand that this site was originally promoted through the Council's plan-making process, however, was subsequently deleted as an allocation. In the Local Plan Publication Draft in September 2014, the site was identified as land to be safeguarded to "*help ensure that the Green Belt as defined in the Local Plan endures beyond the Plan period*" under policy SF12. However, by the next round of plan-making consultations the Council had removed policy SF12 altogether and instead sought to identify enough land elsewhere to accommodate York's development needs across the plan period 2012-2032. This approach was continued through to the submission draft of May 2018 despite the applicant continuing to promote the site.

CPRENorthYorkshire acknowledges that CYC currently have no adopted Local Plan and therefore the proposal must be assessed against the provisions of the Framework, However, given the late stage in the Local Plan process, albeit debate continues regarding the soundness of the plan, CPRENorthYorkshire considers some weight should be afforded to the emerging policies of the Local Plan where they are consistent with the policies contained within the Framework when determining this application.

Impact on Askham Bog SSSI

According to the Yorkshire Wildlife Trust's (YWT) website "*Askham Bog was purchased in 1946 by the city's most famous sweet manufacturers Francis Terry and Arnold Rowntree and the Yorkshire Naturalists' (now Wildlife) Trust was formed to receive it as a gift.*" The YWT therefore manage Askham Bog and are currently working to ensure it remains in a 'favourable' condition for species protection.

The proposed development for 516 residential dwellings, a local centre (approximately 800m²) and 12Ha of open space and sport facilities will inevitably result in a significant increase in the amount of surface water on the site which would drain into nearby watercourses including Askham Bog Drain. The run-off from these facilities will contain contaminants associated with housing and roads which are alien within the current environment. Should these permeate the watercourses they will have a significant effect on the water quality entering the SSSI and the biodiversity contained within it.

It is understood that the applicant has proposed mitigation by way of the creation of an Ecological Protection and Enhancement Zone (EPEZ) along the site boundary to the Bog which would give rise to a setback distance from the built development to the boundary of the SSSI to protect the Bog. CPRENorthYorkshire believe that the creation of this area will encourage residents and visitors to the new facilities, local centre and dwellings to inevitably enter this area and will not necessarily act as an 'impenetrable area' as intended. The 3m high mesh security fences, whilst also being incongruous in this rural environment, will be susceptible to damage or vandalism.

When determining planning applications, local planning authorities should apply the following principle as set out at paragraph 175 of the NPPF, point B) (inter alia) "*development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest;*" Given the historic planning interest in this location and the fact that the Council decided in 2014 not to pursue this site as an allocation within the Local Plan, CYC clearly believe they have sufficient opportunities else where in the Plan Area for appropriate development. It can be assumed that the Council would prefer not to develop this site which is immediately adjacent to the protected land in line with the NPPF.

Paragraph 175 also requires local planning authorities to refuse planning applications “*if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts) adequately mitigated, or, as a last resort, compensated for.*” It is understood that the applicant has addressed ‘alternatives’ in section 4 of the Non-Technical Summary (NTS) document attached to the Environmental Statement. However, it is considered that the applicant has not considered alternatives thoroughly as required to do so by this process. The NTS only details (briefly) the do-nothing scenario (i.e. no development and the land remain in agricultural use) or different design concepts. The applicant has not considered a smaller scheme or different locations which is what should be required under a comprehensive Environmental Impact Assessment. This is, presumably, because alternative sites are not within the applicant’s ownership. However, this should still be undertaken as a matter of course. CYC have considered alternatives as part of the Local Plan development process and have concluded that this site is not suitable or necessary for development in order to achieve their housing requirement for the Plan period. It is understood that the applicant believes that this is not the case and this will be debated at the Examination. Nevertheless, for the purposes of determining this planning application, due weight should be afforded to those policies contained within the emerging Local Plan and the NPPF which restrict development within or adjacent to SSSI’s.

CPRE North Yorkshire, therefore, does not believe that developing this site can give rise to benefits which will outweigh potential risks to the important SSSI immediately adjacent to the site (regardless of the intended EPEZ). As such, the application is not in conformity with national or emerging Local planning policy and should be refused.

Inappropriate development in the Green Belt

The NPPF states that the Government attaches great importance to the Green Belt. The proposed development site lies wholly within the York Green Belt. When the Yorkshire and Humber Regional Spatial Strategy was revoked in 2008, the policy relating to the protection of the York Green Belt was saved until such time that a Local Plan was fully adopted having been found sound by an independent examination, ergo, is still relevant to this application.

Whilst acknowledging that CYC has submitted their draft Local Plan to the Secretary of State and the Examination is due to be heard in February - March of this year, the examination in to the North Yorkshire Joint Minerals and Waste Plan has been heard in relation to its policies, of which CYC is an author (alongside North Yorkshire County Council and the North York Moors National Park Authority). The Inspector stated due to the special circumstances surrounding the city of York that she is likely to find various policies sound in relation to the importance of ‘safeguarding’ from inappropriate large scale (minerals and waste) developments, the historic setting of the City of York. Paragraph 5.129 of the Joint Plan states “*Although the City of York is not protected in the same way as National Parks and AONBs, the historic character and setting of the City is a key reason for having designated the York Green Belt, one of only six cities in England where this reason applies, and the historic City as a whole does not benefit from any other specific national policy protection. The relatively flat and low-lying landscape around York allows for long distance views of the Minster and other landmark buildings which are integral to the setting of the City..*”

Indeed, Policy SS1 of the draft City of York Local Plan identifies one of the spatial principles in locating development, as being “*...conserving and enhancing York’s historic and natural environment. This includes the city’s character and setting and internationally, nationally and locally significant nature conservation sites, green corridors and areas with an important recreation function*”. The basis for the policy is that there are areas of land outside the existing built up areas that should be retained as open land due to their role in preserving the historic character and setting of York.

Draft Policy SS2 deals specifically with ‘The Role of York’s Green Belt’ and sets the policy context for a Green Belt around York, noting that its primary purpose is to safeguard the setting and special character of York.

The Council published ‘The Approach to the Green Belt Appraisal’ in 2003 and when the CYC began its preparation for a new Local Plan, technical papers were produced as the emerging plan was being prepared, to review and update the areas identified as important to the historic character and setting of York in the 2003 appraisal. ‘A Historic Character and Setting Technical Paper 2011’ was updated in 2013, to add or remove land from the areas previously identified. The study is used as a spatial shaper, providing buffered landscape areas within which strategic development is deemed inappropriate. It forms part of the current emerging City of York Local Plan’s spatial strategy, as reflected in Policy SS1.

The 2003 document stated that the application site falls within the area identified as ‘Retaining Rural Setting’ which is applied to areas “*specific to areas of open countryside visible from prominent locations enabling views of the city and in particular the Minster or conservation areas*”. The reason cited for the importance of this location is “*an open agricultural landscape including the woodland of Askham Bogs affording prominent views of the Minster*” and it also “*Has an important role in preventing the coalescence of Copmanthorpe and the urban area*”. Both of these aspects are considered to be in conformity with the first four of the five purposes of Green Belt designation as set out in paragraph 134 of the NPPF.

For development to be approved in Green Belt, very special circumstances need to be justified and proved to the satisfaction of the Local Planning Authority in line with paragraph 143 of the NPPF which states that inappropriate development is, by definition, harmful to the Green Belt.

CPRENorthYorkshire submits that due to the importance of this site in relation to the first four purposes of Green Belt designation, alongside the fact that the Council do not require this site to deliver their Objectively Assessed Need throughout the Plan Area for the duration of the Plan period, there are no such special circumstances that justify the approval of this application. The applicant argues that CYC have not assessed their ‘need’ appropriately and have submitted evidence to the Examination (and alongside this planning application) to state that a higher housing requirement should be adopted in the Local Plan and that this fact justifies the special circumstances required to develop this site. These arguments will be heard in the forthcoming Examination. However, the Council should not consider approving this site for development as the additional ‘need’ (as stated by the applicant) has not been adequately proved. Furthermore, the Council’s own evidence in support of the emerging Local Plan states that the area should be maintained as Green Belt for the reasons set out above.

CPRE both nationally and locally campaign for the protection and enhancement of Green Belt land and believe that there is sufficient land *outwith* these designated areas to meet development needs.

CPRENorthYorkshire, therefore, believe that this proposal is not in conformity with national and emerging local planning policy and should be categorically refused.

Impact on the rural landscape

The development of the proposed site would result in the loss of 40Ha of agricultural land, 23Ha of which is categorised as the ‘Best and Most Versatile’ in line with the NPPF which states that development should avoid this category of land where possible. It is acknowledged that much of the agricultural land surrounding the City of York is designated at this level and that in order to meet its objectively assessed need, CYC will be required to utilise some of this land and has indeed proposed to do so.

CPRENorthYorkshire submits that until the housing land requirement has been proved unsound at Examination, it would be premature of the Council to approve this site for such a significant number of dwellings, other built development and open space which would ensure the loss of high-quality agricultural land.

Furthermore, it is acknowledged by CPRENorthYorkshire that introducing development to any green field will result in an impact on the landscape and countryside. This 'impact' does not necessarily have to be a negative impact when appropriate mitigation, landscaping and screening is considered at the design stage. CPRENorthYorkshire welcomes the applicant's attention to detail in relation to its landscaping plans for the proposal. However, as the development is considered inappropriate at this location for all the reasons discussed above, it is felt that the encroachment of such a significant amount of built form into this open countryside location, cannot ever be fully mitigated and should not be permitted. The open agricultural land is important to maintaining the setting of the historic city and the SSSI. Allowing such large-scale development would, in the opinion of CPRENorthYorkshire, result in more people accessing an area which is currently considered as relatively undisturbed agricultural land, which will put unavoidable stress on the SSSI from vehicular movements, noise, litter production, unauthorized access and emissions impacting air quality. This will inevitably put strain on the biodiversity of this area, which once damaged or disturbed will not necessarily be so easy to encourage to return.

CPRENorthYorkshire considers that the application should be refused as it is not in conformity with emerging Local Plan policy and with paragraph 170 of the NPPF which states that decisions should *"contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites for biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan)..."* amongst other things.

Other areas of concern

Whilst the above-mentioned points are the primary objections of CPRENorthYorkshire to this application, there exist other areas of concern for the Trustees of the Charity, which are discussed below.

Access

CPRENorthYorkshire notes that at the time of writing this response, the Highways Authority have stated that they require more information prior to the determination of this application. It is considered that this is essential in order to assess the likely impact of potential traffic movements on the Strategic Road Network, which is already highly congested in this area. CPRENorthYorkshire have concerns that the proposed levels of movements once completed and associated construction traffic will exacerbate this problem further leading to a detrimental impact on all road users.

CPRENorthYorkshire have been contacted by members who are concerned about the access arrangements for the proposed development. Whilst the applicant has proposed the creation of a second formal access to the site with the intention of eliminating the current 'informal access' to the site which is damaging the SSSI. CPRENorthYorkshire believe that the YWT should confirm whether they believe a second access point is necessary or beneficial to the nature reserve that they manage.

Drainage and Flood Risk

CPRENorthYorkshire has concerns regarding the proposed drainage of the Askham Drain and the impact that this will have on the ecological value of the SSSI. The Trustees also believe that prior to determination, the Local Planning Authority should be absolutely satisfied that the impacts from the significant quantity of built form, people and vehicular emissions will not impact on the water quality of the area by surface water flooding and drainage issues.

Heritage Assets

The NPPF sets out clearly at paragraph 193 that “*when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance” (our emphasis). The proposed development site has important cultural ties to the communities of York dating back to Roman times who potentially used the peat as a source of fuel. It has also been asserted that one of the reasons for designation as Green Belt was to ‘preserve the setting and special character of the City of York’.*

The Joint Minerals Plan states (as set out above) that York is one of only six cities in the UK where this reason applies. The low laying unspoilt countryside affords unrestricted views of the historic city and its integral landmarks.

CPRENorthYorkshire are concerned that the development of this site would result in a detraction from the historic city and an irreplaceable loss to its setting.

Conclusion

CPRENorthYorkshire welcomes the opportunity to comment on this major hybrid application.

For the reasons set out above, CPRENorthYorkshire object in the strongest terms to this planning proposal adjacent to Askham Bogs SSSI.

The Trustees would wish to be kept informed of the progress of this application and reserve the right to comment further should further evidence or information be submitted to the Council.