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Authority: Craven District Council

Type of consultation: Planning Application

Full details of application/consultation: 2020/21553/OUT - Outline application with some matters reserved for the development of up to 99 lodges, reception cabin with parking, and landscaping including ground modelling and water features (resubmission of previous application 42/2016/17496 refused 28 March 2019)

At land at: The East of Waterside Lane, Hellifield, Skipton, North Yorkshire, BD23 4HJ

Type of response: Objection

Date of Submission: 26th May 2020

All responses or queries relating to this submission should be directed to the Secretary for the Trustees at the contact details shown above on this frontispiece.

Please note that CPRE has nationally rebranded and is now known as 'CPRE The Countryside Charity'. The aims and ethos of the charity remain the same.

All CPRE North Yorkshire 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.

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Comment

CPRE North Yorkshire (CPRENY) welcomes the opportunity to comment on this new application for outline planning permission at land to the east of Waterside Lane, Hellifield, submitted by J O Steel Consulting Ltd on behalf of the applicant Ballan Ltd.

In 2005, a reserved matters application (42/2005/5082) was approved by the Council for the construction of a rural environmental centre comprising tourism, exhibition, training, equestrian and livestock buildings, a hotel and nature conservation area. Some works to implement this decision were undertaken e.g. the construction of the site manager's house, however, works to commence construction of the hotel, the environmental centre and surrounding buildings were not and remain extant.

In 2016, the applicant submitted a planning application (42/2016/17496) to the Council for the development of 300 lodges on a much larger undeveloped part of the site, incorporating the extant site, together with a different location for the hotel, a park and ride facility, bus and coach drop off point, leisure centre including a swimming pool and climbing wall, pedestrian access to Hellifield Station, landscaping including ground modelling and water features. This was refused in March 2019 by the Council at an extraordinary committee meeting and attracted numerous objections to it. CPRENY were pleased that the applicant chose not to appeal that decision.

That proposal was submitted and determined in line with the previous planning policy for the district. Since then, the Council has adopted a new Local Plan which includes specific policies in relation to the site. During the Examination in Public, the Council submitted evidence to the Independent Inspector setting out how the Policy Team did not support the large application (submitted in 2016) and promoted the land as Local Green Space (LGS). The Inspector allocated part of the site as LGS – shown as Gallaber Pond in the adopted Local Plan (shown on diagram EC4B) for its biodiversity value and importance to the local community and accepted that both Little Dunbars Flash and Dunbars Flash were also of biodiversity value, cumulatively known as the Hellifield Flashes – which are in themselves, regionally recognised as important sites for biodiversity, particularly for wildfowl and waders. Designations of LGS allows communities to identify and protect green areas of particular importance to them. National Planning policy places LGS designations on an equal footing with Green Belt in terms of managing development. CPRENY were, therefore, also pleased that the applicant chose not to challenge the Inspectors decision, especially given the areas of extant permission were included on the diagram on the Local Plan for the sake of clarity.

CPRENY has strongly objected to previous applications on this site promoted by the current applicant and others due to the fact that the proposals would have significantly adverse impacts on the biodiversity of the Flashes, the heritage impact on adjacent Heritage Assets, the landscape setting of the Yorkshire Dales National Park and the amenity of local residents who enjoy safe access to the countryside at this location. In short, it was considered not in conformity with the Local Plan and National Planning Policies at that time.

Since the refusal in March 2019, CPRENY are aware that the applicant has been undertaking works on site which have been the subject of various complaints and investigations. This work has caused distress to the local community as they have witnessed, in their opinion, the loss of a regionally valued biodiversity resource as the Gallaber Flash has seemingly been transformed into a more permanent 'lake'. Similarly, many residents have not felt able to access the public rights of way (PROW) which cross the site due to feelings of intimidation by the large machinery and workmen in situ. It is acknowledged that the 2005 permission remains extant and that the applicant is within his rights to further implement the approved scheme, however, it is unclear to CPRENY (amongst many other commentators) whether the works undertaken were actually approved formally and are thus lawful. It is understood that the Council have instructed Counsel to investigate planning documents and establish whether any consent was granted to allow the flash to be restructured into the pond or 'lake' as it is called in the applicants submitted planning documents. It is

considered that this remodelling could have seriously impacted the biodiversity interest of the site. CPRENY are, therefore, of the opinion that until the outcome of Counsel's opinion is known and understood, any determination of this application should be 'on hold' so as not to prejudice any decision regarding the flash or further impact the biodiversity value of the site further.

Furthermore, it is thought that whatever decision is made, (i.e. returning the flash to its previous state; or, the requirement of retrospective planning permission; or in the event of concluding that alterations were in fact lawful), the applicant should be required to produce a full management plan for the site, prior to the determination of the current proposal, which would incorporate the area designated as LGS, so that the Council and consultees, alongside interested members of the local community, can understand how the entire site will be managed in order to ensure long-term sustainability to the remaining biodiversity and should set out what impact may occur from recreational activities and noise disturbance from visitors to the hotel or lodges and provide information regarding the future management of the site should the current owners sell the development in the future. Should the management plan not deliver sustainable outcomes to the satisfaction of the statutory consultees, the Council should refuse the application.

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 planning system should contribute to achieving sustainable development. The National Planning Policy Framework (NPPF) (2019) 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'*

Paragraph 12 goes on to state that *'Where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.'*

The Development Plan relevant to this application consists of:

- The Craven Local Plan 2012-2032 (adopted November 2019).

Craven District Council ('CDC' or 'the Council') has an up to date development plan. Therefore, CPRENY believe that the proposals should be determined fully against those policies contained within it.

It is understood that the applicant sought pre-application advice prior to the submission of the application. A copy of the applicant's pre-application enquiry letter has been uploaded on to the Council's website, however, CPRENY has not seen a copy of the Council's response. The application form states that the advice given was *'verbal advice which suggested that the initial drawing which showed c 130 lodges and no water features was excessive'*.

The application form states that only access is to be considered by the Council and that all other elements are to be reserved for a later detailed application. This therefore means that whilst the applicant has applied for *'up to 99 lodges, a reception building with parking and landscaping to include ground modelling and water features'* – according to the JBA documents submitted on behalf of the applicants this equates to two ponds, all drawings should be considered indicative and could be subject to change in the future.

The applicant has not submitted a planning statement in support of the application and the design statement does not assess the proposals against planning policy. Documents submitted in support of the 2016 application have been resubmitted to the Council for consideration in the determination of this application, albeit with an attached technical note updating the Council on Heritage Matters and a similar updated note from JBA Consulting referring to matters of landscape, biodiversity, flood risk and archaeology in relation to the new application. However, no new surveys have been undertaken as a result of the proposed scheme apart from a Transport Assessment and Travel Plan undertaken by Sanderson Associates on behalf of the applicant.

Section 7 of the adopted Local Plan sets out the Council's intentions towards economic development for the district outside of the National Park. It includes the rural economy and of particular relevance to the determination of this proposals, tourism development.

Policy EC3 sets out that Craven's rural economy will be supported so that it may grow and diversify in a sustainable way to provide long term economic, environmental and social benefits for local communities. This will be achieved by: (inter alia)

c) *'helping existing and new rural businesses, including tourism related businesses to succeed, grow and expand, by working with them cooperatively and proactively, so that development proposals can be supported wherever possible...'*

It goes on to state that proposals in line with those set out in the policy will be supported provided they accord with all relevant local plan policies and help to achieve sustainable development.

Paragraph 7.19 establishes that the Local Plan sets out two specific tourism designations: a Tourism Development Commitment and (8) Key Locations for Tourism Development. Paragraph 7.20 provides information relating to the application site designating it as a *'Tourism Development Commitment'* setting out that it benefits from extant planning permission for construction of a rural environmental centre comprising tourism, exhibition, training, equestrian and livestock buildings, a hotel and nature conservation area. The footnote to this sentence clarifies the relevant permission histories associated with the extant permission. The paragraph goes on to explain which areas of the site benefit from the extant permission for built development and how they are identified on Diagram EC4B in relation to the site. Importantly, the paragraph goes on to set out that proposals for alternative development may be supported in the future, provided that they promote sustainable tourism and fully address important matters of landscape, heritage, local character and appearance, archaeology, biodiversity, local green space and public rights of way, in accordance with local plan policies ENV1, ENV2, ENV3, ENV10 and ENV12.

CPRENY acknowledge that the current application is much smaller than the previous scheme submitted in 2016, with the proposed lodges (now up to 99) sited within the main 'hatched' area benefitting from extant permission for the rural environment centre as shown on Diagram EC4B. The extant permission for the 40-bed hotel is still proposed to the north west of the site and it is understood some works have commenced in this area.

Paragraph 7.36 of the Local Plan explains that *'proposals for tourism development that will result in biodiversity and green infrastructure, and better facilities for rural communities, will be particularly welcomed. Wildlife activities or 'nature tourism' will be encouraged and supported...'* CPRENY are aware that the applicant has submitted an indicative site plan with the proposals which show two new ponds within the 'lodge area', however, no information has been submitted to explain their presence in terms of any wildlife or nature orientated activities on the site. The JBA Technical Note sets out that the presence of the ponds will increase the biodiversity value of the proposal. Given that lodges are illustrated as being sited all around both ponds CPRENY are unsure as to what type of biodiversity is being referred to although it is acknowledged that the submitted plans are indicative and could be altered at Reserved Matters stage.

Paragraph 7.37 deals with community benefits setting out that a sustainable approach to growth in tourism will ensure that benefits to the economy, environment and quality of life are felt broadly and by the local community, including by attaching community use agreements to planning permissions. The applicant has not suggested any planning conditions of this nature nor are community benefits referred to in the application documents. It is not clear how the local community will benefit from these proposals, given that the PROWs across the site already exist and the site is well used by the community. Given the number of objections to the historic applications and to this new one it seems unlikely that the community will benefit greatly from a proposed holiday park.

Importantly to the determination of these proposals, paragraph 7.40 sets out that the *'Local Plans general support for tourism does not mean support for any tourism-related development proposal that may come forward.'*

Policy EC4 deals generally with 'tourism'. It sets out several criteria which a proposal must meet to be supported by the Council. It goes on to set out that alongside the criteria in the policy, a proposal must accord with other relevant local plan policy to achieve sustainable development.

Policy EC4B deals specifically with the application site and is helpfully entitled 'tourism development commitment at Hellifield' and is to be read alongside Diagram EC4B. The proposals are contained within the area marked as 'approved operation development' therefore the second part of the policy relating to non-designated land is not relevant to the current proposals. The proposals must, therefore, meet all 6 criteria set out within the policy to be supported.

The following section of this report comments on each of the criteria in turn.

Criterion 1 – Conservation of the landscape and of the setting and special qualities of the Yorkshire Dales National Park. The site is located within the immediate setting of the Yorkshire Dales National Park. The applicant has not submitted an updated Landscape and Visual Impact Assessment (LVIA) which incorporates changes made as a result of the revised scheme, nor one which considers the cumulative proposals of the hotel and carparking benefiting from extant permission across the site. Ideally photomontages from various viewpoints looking across the proposal into the National Park and from the National Park across the site would be beneficial to ensure the full impact of the change to the current open landscape can be understood prior to determination. As the applicant has proposed landscaping including ground modelling, and water features, an updated LVIA is essential at the outline stage to assess whether the principle of the proposals are appropriate given the sites locational circumstances.

Defra's 'English National Parks and the Broads: UK Government Vision and Circular' (2010) emphasises that *'Major development in or adjacent to the boundary of a park can have a significant impact on the qualities for which they were designated'* (para 31). As such the Council has a specific statutory duty to consider the impact of the proposals on the National Park – section 62 of the Environment Act 1995, amended by section 85 of the Countryside and Rights of Way Act 2000, which requires *'in exercising or performing any functions in relation to, or so as to affect, land' in National Parks and Areas of Outstanding Natural Beauty, relevant authorities 'shall have regard' to their purposes'.*

Without the updated information, it is unclear as to whether the introduction of woodland, additional water features, earth bunds and the 99 holiday lodges – some of which are proposed to be 6.5m in height, alongside the in combination effects of the extant permissions is appropriate development in the setting of the National Park and therefore in conformity with Local Plan policy ENV1. Further, the applicant has not demonstrated the 'need' for the proposal in line with ENV1d. Nor is it clear whether proposed mitigation will be effective when

considering alterations to the access route, the hotel and car park. Without this information, CPRENY believe the Council cannot rule out detrimental harm to the landscape setting of the proposal and the development should thus be refused.

Criterion II – Conservation of heritage assets, including archaeological remains, the Long Preston Conservation Area and the Settle-Carlisle Conservation Area. When compared with the 2016 scheme on which CPRENY commented, this application is less harmful to the heritage assets as it occupies a smaller site and the large structure that was previously proposed adjacent the listed station building has been omitted.

However, assessed each planning application should be assessed on its own merits and it is considered that the proposed scheme will still cause harm to the setting of heritage assets, most notably the Grade II listed Hellifield Station and Long Preston Conservation Area.

The application site currently forms part of the historic, open landscape setting of these heritage assets and contributes to their significance through its contribution towards Historical Illustrative Value and Aesthetic Fortuitous Value. The proposal will significantly undermine this natural setting. The density and layout of the development has no vernacular precedent and vehicular access with its associated hard landscaping and infrastructure will further erode the natural setting of the heritage assets. The increase in activity and light pollution will also undermine the tranquil character of the site which currently contributes to the timeless landscape setting of these heritage assets.

The heritage technical update which is to be read alongside the submission for the 2016 application, states that screening will mitigate harm and the application states that screening will conceal the development from roads but there is no evidence submitted to confirm this. As such the application is considered inadequate as there is insufficient information to fully assess the impact of the development.

The application makes reference to proposed earth bunds and tree belt which will, in their own right, create further solid features within a currently open landscape. As such the proposed mitigation will also undermine the contribution of the historic, open landscape setting to the significance of the heritage assets. Bunding and tree belts are man-made features which rarely read as 'natural' features. This is evident in the tree belt that runs alongside the nearby A65. The introduction of either in this open landscape would constitute alien intrusions which would undermine its open, natural character, significantly affect its topography and further harm the setting and significance of the heritage assets.

Paragraph 194 of the NPPF states that, '*Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.*' No such justification has been submitted within the application.

Paragraph 195 adds that, '*Where a proposed development will lead to substantial harm to ... a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss.*' The economic benefits put forward are not considered sufficient to counter the harm to the historic, open landscape setting of the Grade II listed station and the nearby Conservation Area and the associated harm to the heritage values and significance of the relevant heritage assets.

As such CPRENY believe that the proposals are contrary to Local Plan policy ENV2 and should be refused.

Criterion III – Conservation of biodiversity value. CPRENY acknowledge that the site is a much smaller footprint than the previous application submitted by the applicant in 2016, however, this does not mean that the impact will necessarily be lessened. The excavation of the Gallaber flash to the much larger Gallaber Pond

has altered the habitat. Similarly, the introduction of built form and wooded areas surrounding the lodges, will alter what is currently an open grassed area in agricultural usage. The documents submitted by the applicant in support of this new application are those that were presented to the Council in support of the 2016 application. As such, whilst JBA have produced an updated technical note, a revised ecological appraisal and bird survey should be submitted to the Council for the altered scheme to fully determine the potential impacts of the revised proposals and whether the proposed mitigation is sufficient for the revised scheme.

Similarly, the applicant has not provided sufficient evidence to demonstrate what impacts the revised development will have on the River Ribble (Long Preston Deeps) Site of Special Scientific Interest (SSSI). The SSSI is designated for its unique aquatic flora of the river and the importance of the floodplain for breeding, migratory and overwintering birds. The site and the SSSI are inextricably linked. The site is a vital resource for birds in times of flooding or drought to the River Ribble. So much so that the site was previously recommended to be designated as a Site of Importance for Nature Conservation (SINC) having at least 16 species of conservation concern. The loss of habitats and disturbance across the application site to date, alongside the increase in footfall from visitors and their dogs to the holiday park, could easily lead to a detrimental impact to the birdlife found on the SSSI and impact the wide variety of animal and plant life found in the area.

The NPPF (paragraph 175) requires development proposals to demonstrate a ‘measurable’ net gain in biodiversity, which is supported by the Environment Bill 2020 which expects proposals to achieve a 10% net gain in biodiversity. Whilst the Bill is not yet statute, this level is already being implemented across the country as a minimum target for good practice. Craven Local Plan policy ENV4 sets out that development will make a positive contribution towards achieving a net gain in biodiversity and will, in particular (inter alia):

- A ii) *‘ensure that no adverse effect on any national or local designated sites and their settings unless it has been demonstrated to the satisfaction of the local planning authority that the benefit of, and need for the development clearly outweighs the impact on the importance of the designation;*
- iii) *avoid the loss of, and encourage the recovery or enhancement of ecological networks, habitats and species populations (especially priority habitats and species as identified in the Craven Biodiversity Action Plan, 2008...) by incorporating beneficial biodiversity features in the design (through landscaping or SUNs)*
- iv) *Conserve and manage the biodiversity and/or geodiversity value of land and buildings within the site...’*

The policy goes on to discuss compensatory measures for the loss of and replacement of habitats on sites.

The Tourism Development Commitment was originally established at the time of the proposed Hellifield Bypass which is now not going to be constructed and due to the extant permission has been carried over to the newly adopted Local Plan. The hotel previously approved to the north east of the site appears to be under construction – this was proposed to support the rural environmental centre. The proposal for the centre was to be a tourist attraction. Whilst some support for an alternative development exists in current Policy EC4B, as a ‘sustainable tourism development’, the applicant is required to satisfy other policies within the Plan. That being so, no justification of *need* for this type of development at this specific location (in line with ENV4 A-ii above) has been demonstrated.

The site is allocated within the Local Plan via EC4B as a tourism development commitment, but also on the wider site as LGS and with two areas of biodiversity value. As the car parking and hotel is at one end of the overall site and the proposed lodges are within the previously approved site, the applicant should justify how the need for this proposal outweighs the importance of the designation of this site as a whole. Within the immediate location the large development at Gallaber Park exists as does the Coniston Hotel which was a similar type of development to that previously proposed. Other such accommodations (incorporating a mix of

holiday parks, to boutique and spa hotels) are also located nearby. CPRENY remain unconvinced that there is a need for further such accommodation in the vicinity. Even if there is a perceived need within Craven district, this location is not considered sustainable due to the biodiversity interest it currently holds. Should the site be developed in an alternative way to that already proposed, it is considered that an application which involves opening hours rather than 24/7 visitor occupation would be more suitable.

Criterion IV – Preservation or enhancement of Local Green Space, including its open character, local significance, and value to the community. It is concerning, that the existing larger Dunbar Flash, has not been shown on the site plan (Little Dunbar Flash is shown) and other plans submitted in support of the application. Clarification should be sought from the applicant to ensure that this flash is not to be removed and is to be retained in situ as per the Local Plan. CPRENY are aware that paragraph 101 of the NPPF sets LGS designations on equal footing as Green Belt in terms of managing development, therefore, inappropriate development is, harmful, and should not be approved except in very special circumstances.

The Local Plan policy ENV10 transposes this into local policy by stating that sites designated as LGS *'will be protected from incompatible development that would adversely impact on their open character and the particular local significance placed on such green areas which make them valued by their local community. Incompatible development is harmful to areas designated as Local Green Space and should not be approved except in very special circumstances'*

CPRENY believe that the current application cannot be determined without an updated LVIA which assesses the impact of the reduced scheme in the wider context of the overall site, including increased planting in the lodge area on the wider LGS designation including the open character of the wider site and the value it brings to the local community. If the applicant does not provide this, the application should be refused as the Council cannot rule out a detrimental impact on the designation.

Criterion V – Preservation and enhancement of the existing public rights of way network. The plans submitted set out that the PROWs are to be retained and are not required to be re-routed, therefore, CPRENY have no comment to make in relation to criterion V which is supported by Local Plan Policy ENV12.

Criterion VI – Preservation or enhancement of the character and appearance of the local area. As set out in comments above, the applicant has relied upon out of date submissions in support of these proposals. When considering the insufficient information provided, it is not possible to rule out harm to the character and appearance of the open site.

CPRENY fully acknowledge all development results in a change to a site and the proposed rural environment centre would have resulted in a degree of change. However, that site, whilst extant, has not been developed and the applicant (and previous site owners) has repeatedly shown no interest in developing that visitor attraction but favoured tourism accommodation on the site instead, including remodelling of the Gallaber Flash to a 'lake' completely altering the appearance and habitat of the site.

CPRENY are aware that this is an outline application and that details including design have been 'reserved' for a detailed application stage. However, the documents submitted describe the application as being a proposal for up to 99 units of four different types, some of which will be 6.5m in height. This seems somewhat excessive for such an open location in the setting of the National Park and Conservation Areas.

Policy ENV3 of the Local Plan requires all developments to be of good design to ensure the growth of Craven results in a positive change. It sets out that *'development should respond to the context and be based on a proper understanding and appreciation of environmental features, including both natural and built elements such as landscape, topography, vegetation, open space, microclimate, tranquillity, light and darkness'*. It goes

on to set out the importance of proposing appropriate density, scale, height and massing of design for the environment and also that *'development should protect the amenity of existing residents ...'* CPRENY would argue that the design elements mooted in the outline proposal are not sympathetic to the open nature of the environment and that the amenity of local residents, who were supported by the Council's Planning Policy team in their request for the entire site to be considered as LGS in the Local Plan examination stage, will be severely diminished should the Council seek to grant permission for the proposals. Residents currently enjoy the tranquil environment for recreation purposes and watching the wildlife, should the site be developed as proposed and is fully occupied (as an operator would seek it to be) then upwards of 278 people (based on 2 people sharing each unit and hotel bedroom) could be present on site at any time – severely altering the tranquil and peaceful nature of the site.

CPRENY reiterate their view that up to date evidence should be submitted to the Council relevant to the current proposals in order to determine the full impact upon the character and appearance of the local area, including the change in amenity to local residents. Without this information, the Council should refuse the current proposals as an adverse effect cannot be ruled out.

The site in question has been the cause of much local anxiety over the past 20 years and has been subject to differing planning applications, none of which have come to fruition.

Conclusion

In summary, CPRENY strongly object to the revised proposal for additional tourist accommodation at this location.

The applicant has relied upon out of date and insufficient information to determine the full impact of the revised scheme and whether any proposed mitigation will be effective in:

- preserving and enhancing the landscape and setting of the Yorkshire Dales National Park; and
- the conservation of heritage assets within the vicinity of the site location; and
- conserving the biodiversity value of the site; and
- the preservation of Local Green Space including its open character, local significance and value to the community; and
- the preservation of the character and appearance of the local area.

As such, CPRENY consider that the revised application is not in conformity with Local Plan Policy EC3, EC4, EC4B, ENV1, ENV2, ENV3, ENV4, ENV10 alongside various paragraphs of the NPPF.

The applicant has not attempted to justify a demonstrable 'need' for the proposals at this location, showing that the benefit of which would satisfactorily outweigh the harm caused by the proposals. A specific analysis against adopted planning policy has not been submitted by the applicant by way of a Planning Statement.

Furthermore and as stated above, CPRENY believe that the determination of this application should not be undertaken until such time that the Council have received and understood Counsel's opinion as to whether the alteration and restructuring of Gallaber Flash to Gallaber Pond was lawful and has been made public. Any such determination prior to this decision may prejudice the outcome of cumulative assessments of the site (in terms of updated LVIA, heritage assessment and ecological studies) which CPRENY believe are essential to the understanding of the true impacts of the revised proposals.

CPRENY reserve the right to comment further should additional information be submitted in support of this application.