



The countryside charity
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Branch President
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Authority: North Yorkshire County Council

Type of consultation: Planning Application

Full details of application/consultation: NY/2019/0091/ENV - The extraction and export of pulverised fuel ash ('PFA') from Lagoons C and D and Stages II and III of the Gale Common Ash Disposal Site and associated development, including the provision of processing plant, extended site loading pad, upgraded site access arrangement and facilities, additional weighbridges and wheel wash facility, extended site office and other ancillary development; highway improvement works on Cobcroft Lane/Whitefield Lane between the site and the A19 and at the Whitefield Lane junction with the A19; and a new access from Cobcroft Lane, car parking and ancillary development in connection with proposals for public access to Stage I.

At land at: land at Gale Common Ash Disposal Site, Cobcroft Lane, Cridling Stubbs, Knottingley, North Yorkshire, WF11 0BB

Type of response: Objection

Date of Submission: 1st 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.

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.

External planning consultant used in this response:



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Comment

CPRE North Yorkshire ('CPRENY') welcomes the opportunity to comment on the planning application and accompanying Environmental Statement ('ES') submitted by of EP UK Investments Ltd ('the applicant').

Having had the opportunity to consider the documents submitted on behalf of the applicant in support of the planning application, CPRENY object to the proposals for the following reasons:

- The detrimental impact of the proposals on the surrounding landscape and countryside.
- The proposals do not meet the required tests set out in the NPPF in relation to Green Belt.
- Noise impacts from the proposals on nearby residents; and
- The detrimental impacts from the proposed transportation routes and highway safety implications for adjacent residents and users of the local road network, including pedestrians.

It is considered that the proposals are not in conformity with national or local planning policy in relation to the above grounds of objection, therefore, CPRENY respectfully request that the proposals be refused.

Furthermore, it is considered that the applicant has not adequately assessed the opportunities to remove the product and transport it by barge as an alternative to road transportation which would have the effect, of reducing the proposals impact on climate change.

The site is located within the Selby District Council administrative area and within a Green Belt designation. It is bounded to the north by Cobcroft Lane and the M62 Motorway, woodland, arable land and the village of Cridling Stubbs to the west, woodland and arable land to the south and east. Several (approximately 13) residential properties are located at the eastern of Whitefield lane near the junction with the A19, in the village of Whitley.

The surrounding countryside is mainly in arable usage and is relatively flat apart from the landforms created by the ash disposal site. There are no Public Rights of Way ('PROWs') within the site, although there are several in the immediate vicinity. There are no national or international designations within the site area proposed for extraction, although there are two Sites of Special Scientific Interest ('SSSi') within 5km of the proposed site, Forlorn Hope Meadows SSSI (3km to the south) and Brockdale SSSI (3.8km to the south west). There are two local designations of Sites of Importance for Nature Conservation ('SINCs') within the site – Great Lawn Rein (50m north-east of Stage II ash disposal area) and Grant Spring (50m south-west of Stage III ash disposal area) – both of which are recognised ancient woodlands.

There are no heritage assets within the site. However, Whitley Thorpe moated Templar Grange Site is located 600m to the south-east of the site and the remains of a medieval settlement and Victorian Icehouse (Icehouse Park) lies 1km to the south-west of the site. The Womersley Conservation Area is located circa 1km to the south of the site and Knottingley Conservation Area is circa 4.5km to the north-west.

Planning Context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

In February 2019, the Government produced a revised National Planning Policy Framework ('NPPF' or 'the Framework') setting out the Government's planning policies for England and how these should be applied, this replaced the 2012 and 2018 documents and is, therefore, a relevant material consideration to the determination of 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-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.'*

Paragraph 213 of the NPPF clarifies that existing policies should not be considered out-of-date simply because they were adopted 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 that this application should be determined against consists of the following documents:

- The saved policies of the North Yorkshire Minerals Local Plan (adopted 1997);
- The saved policies of the North Yorkshire Waste Local Plan (adopted 2006);
- The saved policies of the Selby District Local Plan (adopted 2005); and
- The Selby District Core Strategy Local Plan (adopted 2013).

North Yorkshire County Council, alongside the City of York Council and the North York Moors National Park Authority, are in the process of producing a Minerals and Waste Joint Plan ('MWJP') for North Yorkshire as the MPAs. Once adopted it will set out the planning policies for minerals and waste developments across all three administrative areas. The plan has recently been through Examination in Public, although consultation on any further modifications is awaited. However, due to its advanced stage in preparation, it should be considered a material consideration and given due weight in the planning balance when determining the application in accordance with paragraph 48 of the NPPF. However, until the MWJP has been found sound by the independent Inspector and been adopted by the Council, the above documents remain in force as the Development Plan.

Selby District Council are also in the process of preparing a Sites and Policies Local Plan to deliver the strategic vision set out in the Selby District Core Strategy. However, this Plan is not considered to be at an advanced stage of preparation, therefore, as such cannot be given weight in the determination of the application.

The site has a long history of ash disposal and Stage 1 of the existing site has already been restored. The proposal to extract the ash from the disposal site will increase the site to approximately 312 ha of land and will allow extraction of circa 1 million TPA over the lifetime of the proposal (some 25 years plus). It is accepted that the principal of extraction of PFA has already been established on part of the site.

The natural topography surrounding the location of the site means that the proposed landforms, particularly the restored Stage 1 mound, will be extremely visible from the surrounding area, including from the adjacent PROWs. The applicant's assessment has determined that the Proposed Development is likely to result in significant long-term adverse effects on the users of footpaths during parts of the operation stage. Users of PROW 35.73/2/1 at Viewpoint 2 and users to the south-west of the Gale Common Ash Disposal Site at Fulham Lane, Womersley, Viewpoint 3, will also experience adverse significant effects during the operations stage, lasting between 17-20 years, in the Stage II disposal area as a result of the close distance and limited proposed screening vegetation.

Properties close to Viewpoint 6, will, similarly experience adverse significant effects for the duration of operations in the Stage II and III disposal areas as a result of the close distance and limited vegetation which could be for up to 23 years if stages are worked consecutively as indicated is the preference in the applicant's Planning Statement ('PS').

It is considered that the sheer scale of the proposals at this site do not enhance the landscape at this location which is locally valued. CPRE campaign for the ordinary valued landscapes which are not necessarily covered by designation but are equally as important to the quality of life and amenity of residents.

CPRE also campaign for the protection of Green Belts both nationally and locally. The Green Belt location is a key factor when determining this proposal. The Government places substantial weight on maintaining and protecting Green Belt land. Paragraph 143 of the NPPF sets out that *'inappropriate development is by definition, harmful to the Green Belt and should not be approved except in very special circumstances.'* Paragraph 146 states that some developments in the Green Belt may not be 'inappropriate' if they *'preserve the openness and do not conflict with the purposes of being included'* within a Green Belt designation (as set out in paragraph 134), included within this is 'minerals extraction'. CPRENY consider that as the proposed development does not equate to 'mineral extraction' it is not 'appropriate development'. It is in fact a 'waste extraction' proposal – (although it is recognised that the proposals involve mineral waste as a secondary product). Paragraph 143 of the Framework is triggered, and the applicant needs to satisfy the MPA that 'very special circumstances' ('VSC') exist. CPRENY do not agree with the applicant at paragraph 8.49 of their PS which states that *'it is not necessary to demonstrate very special circumstances'*. It is noted that the Planning Officer at Selby District Council also agrees with the need to demonstrate VSC.

CPRENY consider that the applicant has not sufficiently *'reduced to a minimum'* noise levels during that period associated with night-time operations (22:00-07:00hrs) for properties at Grange Meadows and Grange Farm which have been set limits of 42dBa. The Minerals Planning Practice Guidance clearly sets out that 42dBa is an absolute cap and that the onus is on the operator to ensure levels are reduced to a minimum before onerous burden is encountered. It is not considered that the applicant has demonstrated *any* onerous reason as to why they could not lower noise levels below the threshold of 42dBa and as such the proposals should not be considered acceptable. The proposal will be a noise generating activity and as such the applicant has suggested noise mitigation measures, although CPRENY has some reservations about the extent to which these limits will mitigate noise. It is considered that the applicant has not reduced the noise levels sufficiently at adjacent properties and that night-time nuisance will occur which could seriously impact on the health and well being of residents. Given the lifetime of the proposals this could occur over a lengthy period.

The proposals will generate substantial traffic (namely HGV) movements during the operational periods – approximately 266 two-way movements per day, plus 47 staff traffic movements. Paragraph 108 explains that when assessing sites for specific development proposals, it should be ensured that (inter alia): *'safe and suitable access can be achieved for all users; and any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.'* It even goes as far as stating in paragraph 109 that development should *'only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'* Policy D03 of the emerging MWJP sets out that *'where alternatives to road transport are not possible, proposals will be permitted where is existing network capacity, appropriate access arrangements and suitable on-site arrangement'*.

The applicants have suggested a preferred transportation route which would result in the entirety of vehicular movements associated with the site being forced to traverse through the village of Whitley. The applicant has proposed to widen the access arrangements to allow a two-way passage of vehicles, however, whilst these mitigation measures are welcomed, they are not considered enough to mitigate the impacts and noise from

266 two-way vehicular movements per day. It is thought that this increased number of vehicles along this section of the road will be intimidating for occupants accessing their properties and for other users traversing the route, including non-road users of the pedestrian footways to the edge of the road including parents taking children to and from the primary school.

CPRENY welcomes the fact that the applicant has considered using existing waterway and railway infrastructure during the development process for the application and similarly the proposed condition 11 in the applicant's PS. However, CPRENY believe that this should be reconsidered in more depth. Should it prove to be not possible at this time, the proposed condition should be extended to include relevant rail authorities in line with policy. CPRENY also supports Whitley Parish Council's suggestion that the MPA should require the applicant to review transportation matters after every 5 years of operation by way of this condition in the interest of reducing impact of climate change, if minded to approve the proposal.

For the reasons set out above, CPRENY believe that the application should be refused as the proposal is contrary to both local and national planning policies.

CPRENY would wish to be kept informed should any additional information be submitted in support of the proposals.