



The countryside charity
North Yorkshire

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Branch Chair
Mrs Jan Arger

Authority: North Yorkshire County Council

Type of consultation: Planning Application

Full details of application/consultation: NY/2019/0002/ENV - 9.7 hectare quarry extension (Area 8) eastward from the current working Area 7 to provide 4.9 million tonnes of magnesian limestone followed by restoration of the land with engineered fill from existing adjacent waste treatment facility

At land at: land at Went Edge Quarry, Went Edge Road, Kirk Smeaton, Selby, WF8 3LU

Type of response: Objection

Date of Submission: 11th September 2021

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:



KVA Planning Consultancy
Katie Atkinson, BA (Hons), Dip TP, MA
MRTPI
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Comment

CPRE North Yorkshire ('CPRENY') welcomes the opportunity to comment on the planning application and accompanying documents submitted by Went Valley Aggregates Ltd.

It is noted that the agent for the applicant has commented on a recent submission by The Woodlands Trust. For clarification purposes, comments can be taken (as standard practise) right up to the day of committee as necessary by a Planning Authority even in such cases as when a planning committee report has been prepared. The officer is obliged to provide an oral update to the Committee in such cases and equally when a planning matter which may impact the recommendation by the Officer has been received. Whilst late submissions are understandably not ideal, it is correct that these responses are still worthy of consideration. Despite having been determined in May already by the Planning Committee, this application is being re-assessed and until it is determined again remains 'live' and as such is open to comment from anyone. CPRENY has not previously responded to this application. Like many others, CPRENY is a charity run by volunteers operating across the entire county and covering parts of the old north riding, including Middlesbrough. Due to capacity, the charity can simply not respond to every consultation it may wish to. The charity relies on its members to alert us to planning applications which may be of pertinence to the remit of CPRE. As such, this application has recently been forwarded to CPRENY and the Trustees have acted to respond at this time. Due to the time period that the application has been 'live' it is expected that members did not alert us sooner due to the pandemic and other matters of importance to them. Nevertheless, regardless of the point in time of the submission, it is open to interested parties to submit responses up until determination.

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 proposals do not meet the required tests set out in the NPPF in relation to Green Belt and as such will impact the 'openness' of the designation.
- The impact on the landscape; and
- The impact on Brockadale SSSI and nature reserve.

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.

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 July 2021, the Government published 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, 2018 and 2019 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-date, 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 219 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 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 joint MPAs. Once adopted it will set out the planning policies for minerals and waste developments across all three administrative areas. The plan has been through Examination in Public and consultation on main modifications is currently underway (until 15th Sept). Given 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 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 new 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 planning permissions helpfully set out in support of the applicant's new proposal. The proposal to extend the site by a further 9.7Ha will almost double what has already been approved in recent years which has already resulted in a doubling of the original size of application and will inevitably bring the site much close to the village of Kirk Smeaton – at a distance of only 1km according to the Planning Statement (PS) provided by the applicant. The extension will allow the applicants to extract a further 4,500,000 tonnes of limestone.

The overall size of the quarry, if approved, would be circa 20 Ha in size. The site is wholly within the West Yorkshire Green Belt.

CPRE 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 147 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 150 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 138), included within this is 'minerals extraction'.

CPRENY acknowledge that minerals can only be worked where sourced and are a finite resource. However, whilst CPRENY consider the applicant is not required to demonstrate that 'very special circumstances' exist (due to it being a mineral extraction development) the proposal should only be considered appropriate should

it be clear that the 'openness' of the Green Belt can be preserved. In this instance CPRENY do not believe a circa 20Ha site, 1km from the nearest settlement to be able to retain a feeling of openness. The visual effect of the proposal, including large, exposed soil areas, bunds and equipment will significantly impact the landscape during the 25-year operation stage – even when being developed in phases as has been proposed. This also appears to be the view of the NYCC landscape architect, Selby District Council and the Yorkshire Wildlife Trust (YWT) alongside various local Parish Councils and nearby residents. It is considered that the MPA should give due consideration to the visual impact on the Green Belt as directed by the 2018 Court of Appeal decision (Samuel Smith Old Brewery (Tadcaster) Ltd v North Yorkshire County Council and Darington Quarries Ltd.). The decision provides some guidance on how to consider the 'preserving the openness of Green Belt' in so much that it cannot be simply limited to spatial impact, the decision-maker must also consider visual impacts.

It is considered that the sheer scale of the proposals at this site would not enhance the landscape at this location which is locally valued and designated under Policy ENV15 of the Saved Selby Local Plan as 'Locally Important Landscape Area'. The policy sets out that when determining any proposals within these areas priority should be given to the conservation and enhancement of the character and quality of the landscape. Similarly, the Selby Core Strategy Policy SP18 seeks to protect the high quality and local distinctiveness of the natural environment. These policies are therefore relevant to the determination of this application. CPRENY are aware that the extension site affords clear views over the woodland forming the northern boundary and land which makes up the nature reserve (managed by the YWT) from the adjacent Went Edge Road. Further, when viewing the proposed extension site from within the nature reserve, the site is clearly visible. The site is currently in arable use and as such the open views towards the Brockadale Plantation and nature reserve are enjoyed by all road users including those who access the road from the village and surrounding properties for leisure and recreational activities.

CPRE campaign for the ordinary valued landscapes which are not necessarily covered by national designation but are equally as important to the quality of life and amenity of residents.

Members have alerted CPRENY to the fact that the field adjacent to the eastern edge of the site is owned by the charity Plantlife, part of which forms the nature reserve managed by the YWT. There is a public right of way through the field leading to the nature reserve. The applicant has proposed to construct an earth bund to screen the site from the public right of way. It is considered that this apparent manmade feature in the local landscape will not only interrupt the openness of the Green Belt but look totally incongruous with the flat topography at this location. The field (and nature reserve) is home to a rich tapestry of flora and fauna which attract visitors in its own right.

CPRENY are also concerned about the cumulative impact of mineral extraction in the vicinity on the landscape, especially as several have been extended already and more are within the planning system at present. These sites are also within the Green Belt and cumulatively will impact openness. CPRENY also has associated concerns about the cumulative impacts of traffic on the local road network and consider both of these factors should be considered when determining this application.

The NPPF clearly sets out at paragraph 174 that decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.

CPRENY has significant concerns regarding the impact of the proposals on the adjacent Brockadale SSSI and nature reserve managed by YWT. The site is home to a number of rare and endangered species including: the minute snail, purse web spider, badgers, stoats, fungi, various fish and over 300 species of plants. The site is also home to recognised ancient woodland and grasslands. CPRENY are concerned that the proposed extraction operation will detrimentally impact the SSSI, particularly by the encroachment of dust on the protected habitats which will impact the ability of protected species to breed or feed. Whilst Dust

Management Plans can be conditioned, CPRENY would be concerned that given the potential for certain wind conditions, not all dust can possibly be extracted or dampened from the site to avoid infiltration to the surrounding environment. Indeed, members have reported dust gathering on cars and windowsills as a result of the operations.

The NPPF sets out at paragraph 180 that development on land within or outside a SSSI 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 being where the benefits of the proposal outweigh both its impact on the features of the site that make it of special scientific interest.

CPRENY would urge the Council to take notice of the recently dismissed appeal at the Askham Bog Nature Reserve and SSSI (Section 78 appeal by Barwood Strategic Land II LLP – APP/C2741/W/19/3233973). The Planning Inspector stated that *“the appellant has failed to demonstrate the benefits or wholly exceptional circumstances necessary to comply with the NPPF paragraph 175. It follows that there is a real possibility of harm. In order to protect irreplaceable habitat, the precautionary principle must apply and the appeal should be dismissed.”* CPRENY would therefore, respectfully ask the Council to apply the precautionary principle in this case in a similar way and refuse the application at this time.

Finally, given the MPA does not have an enforcement team at present, it is not understood how the Council will enforce the planning conditions which may be attached to any award of planning permission, especially when members of the public and Parish Council repeatedly report breaches of condition attached to previous permissions which are not able to be enforced. In light of this, CPRENY are concerned that any proposed mitigation required to make the proposals acceptable, cannot be enforced and as such the proposal should be refused.

In conclusion, 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, particularly in relation to the Green Belt, impact on the landscape and the nationally recognised Brockadale SSSI and nature reserve.

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