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Branch Chair
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Authority: Ryedale District Council

Type of consultation: Planning Application

Full details of application/consultation 23/00046/MFULE - Installation and operation of a solar farm and battery energy storage system with associated infrastructure including substation, access tracks, pole mounted CCTV, fencing and landscaping for a period of 40 years

At land at: Land Off Great Sikes Road, Old Malton, Malton, North Yorkshire

Type of response: Objection

Date of Submission: 7th March 2023

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 and East 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
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Comment

CPRE North and East Yorkshire ('CPRENEY') welcomes the opportunity to comment on this application for the installation and operation of a solar farm and battery energy storage system with associated infrastructure including substation, access tracks, pole mounted CCTV, fencing and landscaping for a period of 40 years. The site is located on of agricultural land adjacent to Eden Camp (visitors attraction) Old Malton, approximately, 2.5kms north of Malton Town Centre.

The site is effectively in two parts and extends to 52.86Ha and would seek to generate up to 30.4MW of low carbon electricity. The substation and battery energy storage is to be located on a smaller parcel of land to the south of Freehold Lane and immediately adjacent to the western boundary of Eden Camp. It is to be accessed via a new track off Freehold Lane with additional tracks running between the battery equipment. The system will comprise 12no. battery containers and 24no. transformers. A substation is to be located to the immediate north of the battery equipment.

The larger (footprint) element of the proposal will consist of rows of solar panels arranged across the site with ancillary equipment. The panel will be mounted on aluminum frames supported by upright poles (at a depth of 1m) – however, the applicant has stressed in their Planning Statement ('PS') that should archaeological finds be present, they will mount the panels on concrete slabs to sit on the surface of the ground to avoid disturbance. The total height of the panels (above ground) would be 3.1m, angled to the south to take advantage of sunlight. A total of 18no. inverter-transformer stations will also be located around the site.

It is proposed that the site would be enclosed by a 2.5m high perimeter fence with pole mounted security cameras (3m in height) positioned around the site. Satellite dishes are also proposed around the site at a height of 3m each.

At the end of the 40-year life-span, the equipment would be removed and the site returned to its original state.

Several farmsteads lie within close proximity of the site, including Windmill Farm to the southern boundary, Grade II Listed Acomb House to the north, and Eden Farm to the east.

The site is not located in a national landscape designation.

The site is predominantly Grade 1 and 2 agricultural land in the Best and Most Versatile Land Classification system.

Furthermore, the proposed site is located within Flood Zones 2 and 3 on the Environment Agency's flood risk planning maps.

There are several Public Rights of Way (PROW) and Bridleways within the immediate vicinity of the site, including no. 25/60/15/1 and no. 25/60/16/1 which cross part of the site and the internal access track.

The applicant has proposed various landscaping matters which are detailed in various technical appendices submitted alongside the application and within a Landscape and Visual Assessment.

The proposed development has been subject to an Environmental Impact Assessment ('EIA'). The application was submitted to Ryedale District Council ('RDC'/ 'the Council') on behalf of Harmony Energy

Limited ('the applicant').

CPRENEY strongly objects to the proposals on the following grounds:

- The significant loss of BMV land and impact on soils;
- Detrimental impact on users of the PROW network;
- The loss of Biodiversity Net Gain (after 40 years);
- Impact on existing visitor attraction; and
- The proposals are contrary to local and national planning 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 planning system should contribute to achieving sustainable development. The National Planning Policy Framework ('NPPF') (2021) 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.'

The Development Plan relevant to this application consists of:

- The Ryedale Local Plan Strategy ('LPS') (February 2013).

CPRENEY do not object to the generation of renewable energy by solar arrays and consider that the generation and supply of low carbon energy will be core to achieving the UK goal of net zero carbon emissions by 2050 or earlier. This will require a transformation of our energy system over the next 20–30 years. The scale and immediacy of the threat to the climate and our countryside means that change is necessary.

The current model of renewable energy development has resulted in some poor outcomes for landscapes, the environment, and rural communities. CPRENEY wants to change this and believes it is possible to achieve the net-zero transition, including the introduction of new solar developments, in harmony with our wider environmental and social objectives.

This means taking a strategic planning approach to development of renewable energy assets at the local level and ensuring that local communities are empowered to help shape their local energy response. CPRENEY will, therefore, only support solar developments which:

- minimise impacts on landscapes, tranquility and heritage, through appropriately scaled development;
- minimise the impacts on the Best and Most Versatile agricultural land;
- bring net benefits to biodiversity;
- benefit the rural economy; and
- are supported or owned by local communities.

Furthermore, CPRENEY consider that renewable energy generation and climate change mitigation must be maximised within urban areas, including the retrofitting of existing stock, on land and rooftops of industrial and commercial estates and priority given to using previously developed land in line with CPREs 'brownfield first' policy. All new buildings (of any type) should have solar and / or other appropriate energy generation and efficiency measures incorporated into their design and build as standard.

The proposal subject to this application is for circa 53Ha in total of greenfield land currently used for arable farming, therefore, is not in line with the 'brownfield first' policy. According to the applicants detailed assessment, the land across the site has been categorised as a mix of Grade 1, 2, 3a and 3b on the Best and Most Versatile ('BMV') Agricultural Land Classification which is described as 'very good' 'good' and 'moderate' quality. The report sets out that 56% of the site is considered to be best and most versatile agricultural land.

The NPPF clearly directs Local Planning Authorities making decisions about the natural and local environment to:

- protect and enhance landscapes, biodiversity, geology and soils
- recognise soils as a natural capital asset that provide important ecosystem services
- consider the economic and other benefits of BMV agricultural land, and try to use areas of poorer quality land instead of higher quality land
- prevent soil, air, water, or noise pollution, or land instability from new and existing development

This concept is replicated in the Council's LPS Policy SP17 which only supports development which promotes 'the protection of the best and most versatile agricultural land'. Further, 'A Green Future: Our 25 Year Plan to Improve the Environment' sets out the government's 25-year plan to improve the health of the environment by using natural resources more sustainably and efficiently. It plans to: protect the best agricultural land; put a value on soils as part of our natural capital; and manage soils in a sustainable way by 2030 amongst other things. As such, BMV of Grade 3 and above is highly regarded and should be protected from development.

The applicants land assessment sets out that 33% of the site is Grade 3B and 11% is non-agricultural land. According to the applicants Appendix 8.1, paragraph 3.10 this includes land where the solar arrays are not actually proposed '*Eden Farm, a number of roads (Edenhouse Road, Borough Mere Lane and Fenton Lane), farm tracks, drainage ditches/hedges and a small woodland'* – as such, only the 3B section is effectively non-BMV developable land - which reduces the 44% implied in the Non-Technical Summary ('NTS') and the Planning Statement ('PS'). If the non-agricultural land is excluded from the applicant's calculations – the actual percentage of BMV land increases to 62.5% - which is circa two thirds of proposed development and thus contrary to national and local planning policy.

Notwithstanding the above, according to the applicants mapping within the relevant appendix, this land is

interspersed by the higher quality land, therefore, given the presumption against developing on BMV as dictated by national policy, this actually renders the development of 3B land only as unachievable and thus unviable at this specific location.

Furthermore, whilst information contained within guidance in relation to BMV agricultural land is contained in TAN 6 – Planning for Sustainable Rural Communities (2010), pertains to the Welsh planning system, the evidence is still pertinent in this case. Paragraph 6.2.2 of TAN 6 states *'that once agricultural land is developed, even for 'soft' uses such as golf courses, its return to agriculture as BMV land is seldom practicable'*. The Welsh Department for Climate Change recently objected to an appeal for a similar scheme (DNS/3245065 - Wessex solar energy (WSE Pembrokeshire Limited) land at Blackberry Lane, Nash, Pembrokeshire, SA27 4SJ) located on BMV.

The Inspector set out in his report (para 163) that the DCC objection amounted to [BMV] '*land is a finite and nationally significant resource which needs to be protected in order to secure future food supplies. The Department is concerned that the development could, through matters such as compaction, waterlogging and the mixing of top and sub-soils, cause structural damage to the soil and in doing so reduce its flexibility, productivity and efficiency to such an extent that it would no longer be BMV agricultural land*.'

The Inspector goes on to conclude on the matter at para 165 that '*I am nevertheless mindful that the structure of agricultural soil is fragile and easily damaged and that the construction of a development of the scale proposed is likely to result in a substantial amount of ground disturbance across the application site. This disturbance would arise from the engineering operations necessary to construct a solar park of the scale proposed and from the potential for widespread soil compaction caused by the movement and use of heavy vehicles and machinery required for the installation of the supporting posts and the excavation of trenches, access paths and foundations across the site. In my view the impact of these operations and the nature of the vehicles and equipment required are not comparable to agricultural practices and are likely to significantly damage the structure of the soil and result in the loss BMV agricultural land.*'

It is entirely incorrect for the applicant to set out that there are no brownfield or other suitable sites in the area which would be suitable for grid connection and thus appropriate for solar development of this scale. For example, the new Eden Business Park adjacent to the proposed site is still under construction with large, tall buildings suitable to host solar panels, yet only one out of six has panels. This would be an ideal site to secure a solar array of suitable scale, either ground mounted or via roof top of the new buildings, or both. As the site is within same landownership this seems like a missed opportunity. Perhaps the applicant could discuss alternative sites such as this with the Landlord. It has also recently been reported that the BMW and mini dealership in Malton is leaving the site as such a number of smaller sites may be better suited to the proposal and ensure retention of important greenfield sites and BMV land. Therefore, CPRENEY assert that the applicant cannot justify the proposal under LPS Policy SP17 in that it has been '*demonstrated that the use proposed cannot be located elsewhere and that the need for the development outweighs the loss of the resource*.'

As set out above, the proposed site impacts on the existing PROW network adjoining the site. The applicants LVIA has identified some moderate-adverse impacts on visual amenity and to landscape character from various viewpoints. In summary the LVIA sets out that up to 10 years from installation and prior to establishment of mitigation planting, that users of the PROWs adjoining the site, and, the PROWs South West of the site up to Broughton Road and the A64 will experience adverse effects, with the latter having adverse effects even after the establishment of such planting, Furthermore, users of the minor roads and PROWs within the Howardian Hills AONB will experience adverse effects as will the special

qualities associated with the designation of the AONB (protected landscape) up to 10 years prior to the establishment of planting.

CPRENEY are well aware that access to the countryside for both mental and physical health provides many benefits to our members and to visitors to the area alike, especially since the start of the COVID pandemic. As such, these benefits to health and wellbeing are material factors in the determination of planning applications. CPRENEY are concerned that users of the PROWs will be discouraged from using these routes at this location as a result of the proposal. It is acknowledged that mitigation planting has been proposed, however, 10 years is a long time to wait for growth and then, as can be seen from the applicants LVIA, the effects of the development, will not necessarily be made better at that location, where some areas considered to still have an adverse effect. The topography (flat) is such at this location that users are able to access the countryside easily including those with mobility impairment, as opposed to the steeper and undulating landscapes of the Howardian Hills AONB. Policy SP15 of the Council's LPS seeks to protect and enhance the PROW network.

It is also acknowledged that the impact of development activities within the setting of protected landscape can impact on the protected landscape itself. As such, the Council has a duty to ensure that such a proposal is appropriately sited and that it will not impact the landscape. Should this proposal be submitted, CPRENEY consider that as set out in the applicants LVIA, there will be negative impacts on the special qualities of the AONB will be detrimentally impacted.

The applicant has provided information setting out that the proposal will result in a biodiversity net gain of 105.39% as a result of biodiversity enhancements. It is understood that the Council has raised some concern in relation to nesting skylarks and it is hoped that the planning department will take these into account when determining the proposal.

The Environment Act 2021 is due to be transposed into planning law and a mandatory requirement for a 10% net gain in biodiversity will be required for all development. The applicant has provided a figure which is more than what is required. However, CPRENEY have significant concerns regarding the requirement to return the land back to its previous state (in this case to arable farm land), at the end of the 40-year life of the project. As set out above, there is no guarantee that the soils will be as productive as they currently are, but also, should the applicant manage to achieve the level of net gain proposed and introduce new habitats and species within the location, these will then be reversed and habitats and wildlife lost. Whilst planning law is what it is in relation to restoration, consideration should be given to the displacement and loss of wildlife and species at such time. Arable land production, which no doubt will be different in method in 40 years' time, does not necessarily compliment the retention of ecological networks and habitats as proposed. The site would not be '*left in a better condition that prior to the development*' as set out in paragraph 27 of the applicant's NTS. Therefore, the net gain element of the proposal should only be given limited weight in the planning balance when determining the application given that it is temporary. Policy SP14 of the LPS sets out that biodiversity will be conserved, restored and enhanced by (inter alia):

- *'Maintaining, creating and improving ecological networks and Green Infrastructure routes to assist the resilience of habitats and species in*
  the face of climate change
- *Supporting, in principle, proposals for development that aim to conserve or enhance biodiversity and geodiversity through the prevention of loss of habitat or species and the incorporation of beneficial biodiversity features*
- *Requiring a net gain in biodiversity to be provided as part of new development schemes*

- *Resisting development proposals that would result in significant loss or harm to biodiversity in Ryedale'*

The proposal to introduce a high net gain and then remove it seems illogical when in an environmental crisis.

The planning process should also allow existing development the ability to operate and expand appropriately in sustainable ways without being constrained by new development. CPRENEY are concerned that the existing Eden Camp Modern History Museum visitor attraction will be impacted by the proposed siting of the battery compound. The applicant sets out that '*The system will comprise 12no. battery containers and 24no. transformers. A substation is to be located to the immediate north of the battery equipment'*. It is not apparent from the LVIA that this element of the proposal has been considered from the attraction. Each battery /energy storage container (similar to a shipping container in appearance) is 3m in height and 6m in length and the transformers are a further 3m in height from ground level.

The applicant has set out in their PS that the proposed battery intis are lithium-iron-phosphate chemistry batteries, however, it is understood that whilst fire-preventative measures are in place, there is still a viable risk. Given the proximity to the camp and surrounding woodland (which CPRENEY would not wish to be removed), and the artefacts and buildings of historic and cultural importance, plus the risk to life of staff and visitors to the site, this element of the proposal is entirely within the wrong location.

CPRENEY are also concerned that in rural locations, background noise levels tend to be typically low. The noise associated with the substation transformer can typically generate noise levels ranging from 70 to 80 dBA which can be audible at distances of 305 m (1000 ft) or more (according to the Electrical Engineering Portal). As such it is considered that events held at the existing adjacent business may be detrimentally impacted by such noise. The decibel chart below sets out the equivalent noise for 80dBA.

Garbage disposal, dishwasher, average factory, freight train (at 15 meters). Car wash at 20 ft (89 dB); propeller plane flyover at 1000 ft (88 dB); diesel truck 40 mph at 50 ft (84 dB); diesel train at 45 mph at 100 ft (83 dB). Food blender (88 dB); milling machine (85 dB); garbage disposal (80 dB).	80	2 times as loud as 70 dB. Possible damage in 8 hour exposure.
Passenger car at 65 mph at 25 ft (77 dB); freeway at 50 ft from pavement edge 10 a.m. (76 dB). Living room music (76 dB); radio or TV-audio, vacuum cleaner (70 dB).	70	Arbitrary base of comparison. Upper 70s are annoyingly loud to some people.
Conversation in restaurant, office, background music, Air conditioning unit at 100 feet.	60	Half as loud as 70 dB. Fairly quiet.

https://decibelpro.app/blog/how-loud-is-80%_decibels/#:~:text=80%20decibels%20is%20fairly%20loud,take%20examples%20from%20everyday%20life.

Paragraph 174 of the NPPF sets out that existing development should not be put at unacceptable risks from, or be adversely affected by, unacceptable levels of soil, air, water or noise pollution which is reinforced through the Councils LPS Policy SP20 which also refers to resisting development which will result in an unacceptable risk to human life, health and safety.

The Council's Economy section of the LPS sets out that Eden Camp (amongst other attracting in Ryedale) is one of the '*more notable examples of specialist visitor attraction'* (para. 5.29) going on to say that tourism is an integral and valuable part of the District's economy with visitors contributing an estimated

£390 million to the local economy and generating a value equivalent of 8,500 jobs. Approximately, 15 million visitors are attracted to Ryedale annually. As such, it is considered that any proposal which negatively impacts on the specialist attraction should be refused.

Conclusion

CPRENEY welcomes the opportunity to comment on the proposal for the installation and operation of a solar farm and battery energy storage system with associated infrastructure including substation, access tracks, pole mounted CCTV, fencing and landscaping for a period of 40 years at land off Great Sikes Road, Old Malton, Malton, North Yorkshire.

For the reasons set out above CPRENEY strongly object to the proposal at this location. CPRENEY do not object to the generation of renewable energy by solar arrays and consider that the generation and supply of low carbon energy will be core to achieving the UK goal of net zero carbon emissions by 2050 or earlier. However, at this location, it is considered that the significant loss of BMV arable land, the detrimental impact on users of the surrounding PROW network, the eventual loss of recently instated biodiversity net gain after 40 years, the detrimental impact on the adjacent existing visitor attraction do not outweigh the benefits of the scheme and as such should be refused. As proposed, the development would not be in conformity with local or national planning policies.

CPRENEY reserve the right to comment further should additional information be submitted in support of the proposal.