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The countryside charity
Northern Lincolnshire

29th January 2021

Dear Emmanuel

PA/2020/1975 - Planning permission to erect three timber cabins with associated parking at land west of Hill Side Plantation, Burton upon Stather Road, Walcot, Alkborough, DN15 9JT

KVA Planning Consultancy has been instructed to respond to the public consultation on the above-mentioned planning application to be submitted to North Lincolnshire Council on behalf of the Northern Lincolnshire district branch of CPRE The Countryside Charity (CPRENL).

A previous application (PA/2019/24) was considered by the Council in August 2019 and refused on the grounds that it was contrary to policies RD2 (development in the Open Countryside); LC4 (development affecting sites of local nature conservation importance); and HE2 (Development in Conservation Areas).

Given the number of statutory consultees including internal Council consultees who objected to the previous application or put in place a holding objection whilst requesting further information, CPRENL were surprised by the Officer's recommendation of approval for the last application. The Officer's report set out the concerns, however, did not provide any evidence of a planning balance exercise, therefore, it is not possible to work out what weight was placed on the benefits of the scheme (or even what those benefits were) and why they outweighed potential negative impacts. Moreover, permitting this application without a suitable HRA would mean that the Council had failed in its legal duty to comply with the Habitats Regulations as set out below.

Following a refusal of that application, the applicant has resubmitted this application in the hope of addressing the Council's concerns as set out on the Decision Notice. CPRENL do not believe the revised application adequately addresses those concerns or those of statutory consultees and that the applicant has simply resubmitted some of the documents from the previous application whilst not addressing some outstanding concerns at all.

CPRENL, therefore, objects to this proposal on the following grounds:

- The proposal is within the open countryside and the applicant has not justified that the impacts of the siting will not be to its detriment.
- The site is located on the Lincoln Edge Scarp and will detrimentally impact the Area of High Landscape Value.
- The applicant has not provided sufficient information to prove that the proposal will not detrimentally impact on potential archaeology or the setting of Alkborough Conservation Area;
- The applicant has not provided any information in relation to ecology or undertaken a Habitats Regulations Assessment; and
- The proposal would not be in conformity with the Development Plan, namely policies RD2, LC4, LV7 (Landscape Protection), HE2, CS6 (Historic Environment), LC5 (Species Protection) and CS17 (Biodiversity).

Planning Comment

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that: *'If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.'* In February 2019, the Government published the revised National Planning Policy Framework (NPPF) which set out the Government's planning policies for England. It clarifies the Government's expectations in the delivery of appropriate development by setting a clear presumption in favour of sustainable development and is a clear material consideration to be weighed in the planning balance when determining this application.

Paragraph 213 of the NPPF confirms that due weight should be given to relevant policies in existing plans according to the degree of consistency with the framework. The statutory development plan for North Lincolnshire Council comprises the policies of the:

- North Lincolnshire Core Strategy adopted in June 2011;
- The Housing and Employment Land Allocations Document, adopted March 2016; and,
- The saved policies of the North Lincolnshire Local Plan, adopted in May 2003.

The Council are in the process of preparing a new Local Plan. It is intended that when adopted, the new single Local Plan will replace the existing development plan documents currently used to determine planning applications. The Council consulted the public and stakeholders on its Regulation 18 'Local Plan - Issues & Options Consultation Document' which NLCPRE responded to in

March 2018. A further consultation was held in February 2020 on the 'Preferred Options Local Plan' to which CPRENL responded. However, in accordance with paragraph 48 of the NPPF, no weight can be attributed to the emerging document in determining this application, due to its early stage in plan preparation.

In policy terms, the site is located within the open countryside. Saved Local Plan Policy RD2 sets out what type of development will be supported in the open countryside. The application is effectively for a new development of tourism accommodation. The application does seek to diversify an existing agricultural business which is in line with the policy, although paragraph 6.9 of the supporting text is very clear that proposals which are in conformity with the policy criteria will only be permitted where *'new development should be carefully located having regard to existing settlement patterns and to historic, wildlife and landscape resources'*. CPRENL can see no evidence as to where the applicant has had any regard to wildlife – in fact, the planning statement sets out a statement from the applicant referring to rare birds seen on site on numerous occasions. This supports the requirement for a Habitats Regulations Assessment to be undertaken.

Furthermore, CPRENL consider that the applicant has not submitted an adequate LVIA by a suitably qualified practitioner which determines the significance of the site in the Area of High Landscape Value or from the Humber Bank and various public footpaths and surrounding areas.

The Heritage Statement appears to be a resubmission of the document submitted in support of the previous application and as such does not address the concerns of the Council's own Conservation Officer with regard to the Conservation Area or matters of Archaeology.

As such the proposals are contrary to RD2.

The proposed site is located within the Lincoln Edge Scarp, an area identified by the Council previously as an Area of High Landscape Value. Policy LC8 was cancelled via a Direction issued by the Secretary of State in 2007 because of the introduction of the Planning and Compulsory Purchase Act 2004. However, the landscape itself and its quality has not altered therefore, is protected via Policy LC7 which seeks to ensure *'special attention will be given to the protection of the scenic quality and distinctive local character of the landscape. Development which does not respect the character of the local landscape will not be permitted.'* The applicant's LVIA does not adequately assess the significance of the landscape or sensitivity of the site with the proposed development in or set out sufficient information about the methodology used to make the limited assessment presented as required by the GVLIA-3 therefore should not be accepted by the Council. The limited appraisal submitted by the applicant does not set out the impact in terms of sensitivities to change that the proposal will have from various viewpoints including footpaths – including Bridleway 7, which passes

between Burton and Alkborough along the escarpment and is well used due to its scenic qualities. CPRENL believe that the impact of the proposals could, without proper assessment, deter people from visiting this area and this impact on both physical and mental health. The ongoing COVID pandemic has proved that access to the countryside is vital for wellbeing and health benefits and CPRENL would not wish members and visitors to the area to lose a particular scenic and tranquil place to walk.

CPRENL understand that any development will inevitably lead to an 'impact' and agree that this does not necessarily have to be detrimental. However, the evidence submitted currently does not allow CPRENL or the Council to ensure that the impact is in fact not to the landscape's detriment and as such that the benefits of siting o3 cabins here would outweigh concerns raised about the environment and landscape.

It is considered that the applicant should resubmit a thorough LVIA undertaken by a suitably qualified professional prior to determination of this scheme so that the Council can adequately assess the impact of the proposal. Without this vital evidence, the Council cannot determine that the impacts will be minimal as set out by the applicant or consider appropriate mitigation measures.

As such, in its current guise, the proposal is contrary to LC7.

The Heritage Statement submitted by the applicant is the same as that submitted previously to which the Council's own Conservation Officer objected to. CPRENL concur with the Council Officer and believe that the applicant has not sufficiently considered the setting of the adjacent Conservation Area. The setting of a heritage asset is defined in the NPPF as 'the setting of a heritage asset is defined as *'the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of the asset, may affect the ability to appreciate that significance or may be neutral.'*

The Conservation Area boundary is at the top of the scarp slope therefore the application site is immediately within its setting and to date has not been built on or farmed. CPRENL therefore consider that any development on the application site will have an impact on the setting of the Alkborough Conservation as this is the area immediately surrounding it.

The Council adopted the Alkborough Conservation Area Appraisal (CAA) in 2004 as Supplementary Planning Guidance . The CAA describes the landscape surrounding the conservation area as *'The area north of Scunthorpe, in the angle of the Trent and Humber, is characterised by two ridges running from north to south, each with a steep scarp to the west and a gentle dip slope to the east.'*

Alkborough and Burton-upon-Stather are the main settlements on the western ridge. Between them, the scarp is a cliff-like drop of 60 metres to the River Trent. Northwest of Alkborough, there is a large triangular apron of low-lying farmland, known as The Flats, below the scarp at the junction of the Trent and the Humber.

To the west, the fields are largely arable, divided by hedges and dry-stone walls. There are occasional woods, but trees tend to be concentrated in the settlements providing shelter and privacy. The hilltop location provides spectacular views to the west across the Trent to the landscapes of Yorkshire and Nottinghamshire, where power stations are notable landmarks. Views to the east are of the next scarp before Winterton and Winteringham. The whole of the scarp slope and the parkland of Walcot are designated in the North Lincolnshire Local Plan as an area of High Landscape Value'. It goes on to say 'there are constant reminders of the strategic scarp-top location in the dramatic views that open out, particularly to the west and north.'

The Council's CAA adds weight to the protection of this site for its high landscape value and spectacular views. CPRENL consider that this should weigh heavily against the proposal in the planning balance.

CPRENL consider that the proposal is contrary to Policy HE2 which sets out that *'all development proposals in, or which affect the setting of, Conservation Areas should preserve or enhance the character and appearance of the area and its setting'*. Also, against adopted policy CS6 stating that *'the council will seek to protect, conserve and enhance North Lincolnshire's historic environment as well as the character and setting of area of acknowledged importance including historic buildings, conservation areas...'* Also, contrary to paragraph 200 of the NPPF which relates specifically to proposals for new development within the setting of heritage assets, stating that proposals that *'preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably'*.

Furthermore, the applicant has completely failed to assess the archaeological interest of the site in the resubmitted Heritage Statement. This was commented upon by the Council's in-house Archaeology Team in the previous application yet has not been addressed.

Habitats Regulations Assessment (HRA) is the process by which North Lincolnshire Council, as the 'competent authority', are legally required to assess the potential impacts on internationally important sites of plans and projects (including planning applications) under the Conservation of Habitats and Species Regulations 2017, often known as the 'Habitats Regulations'. The requirements are set out within Regulations 63 and 64 of the Habitats Regulations, where a series of steps and tests are followed for plans or projects that could potentially affect a European

site. The HRA must determine the impacts of ‘any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other projects’ (Article 6(3) of the Habitats Directive) on Special Areas of Conservation ‘SAC’ Sites as well as ‘Special Protection Areas’ (‘SPA’s) designated for protection of wild birds under the Birds Directive 2009/147/EC.

The council will require sufficient detailed information to be provided by the applicant prior to planning permission being determined, in order for them to be able to make the assessment. This will include specialist technical reports. The council must be able to consider the effects of the new development on its own merit as well as considering how the proposals could affect European sites ‘in combination’ with other developments that could have a similar effect on the site and are not yet within the existing background, or baseline, impacts (i.e. are within the planning system or are consented but not yet built or operational).

The application site is in close proximity to European designated sites of the Humber Estuary SPA, SAC and the site is also listed as Humber Estuary Ramsar site and notified at a national level as Humber Estuary Site of Special Scientific Interest (SSSI). In addition, Alkborough Flats has been provided as compensatory habitat for habitat lost elsewhere within the Humber Estuary SAC, SPA and Ramsar site and therefore the site is afforded the same level of protection as those designated in accordance with national policy.

Natural England, the RSPB and the Council’s own ecologist objected to the previous application on the grounds that the applicant had not submitted a HRA and potential impact on protected landscapes and species. It is considered that there may be significant impacts on otter, water vole and birds specially protected under Schedule 1 of the Wildlife and Countryside Act 1981 (as amended), including: Bittern, Marsh Harrier, Cetti’s Warbler, Garganey Duck, Black-Necked Grebe, Spoonbill and Bearded tit.

Permitting this application without HRA would mean that the Council would have failed in its legal duty to comply with the Habitats Regulations as set out above. CPRENL therefore urge the Council to request the relevant vital information from the applicant or refuse the proposals as it cannot be guaranteed that there will not be a negative impact upon the designated sites and species.

As it stands the proposals must be considered contrary to Policies LC5 and CS16 of the Development Plan which seek to give protection to biodiversity and protected species. Also, paragraphs 175, 176 and 177 of the NPPF which clearly sets out that the ‘*presumption in favour of sustainable development does not apply where the project is likely to have a significant effect on a habitats site ...*’ The applicant’s planning statement completely fails to address this matter and gives no

consideration to biodiversity and species protection at all, despite starting the document with an admission by the applicant that the site is often frequented by rare species of birds.

CPRENL are not aware that the applicant has submitted any information in relation to the economic benefits or any other benefits associated with the provision of 3 timber cabins at this location. Apparently, the project will create 2 part time posts (cleaning and administration) however, it is hard to imagine administration will not be undertaken in house by the applicant. What is more, no information has been provided in terms of management of the site to give the Council an indication of number of expected visitors, length of stay or potential income generated to understand the wider benefits of the scheme. The applicant has indicated they would supply a 'welcome box' to reduce the need for additional car journeys which would therefore limit further spending with local stores.

With the limited information presented, CPRENL do not consider that there are sufficient benefits of the scheme to outweigh the concerns set out above in the planning balance.

Conclusion

CPRENL welcome the opportunity to comment on this application for 3 timber cabins with associated parking at land west of Hill Side Plantation, Burton upon Stather Road, Walcot, Alkborough.

Considering the policy assessment set out above, it is the option of CPRENL that the proposal is completely at odds with the policies of the development plan in force and national planning policy.

The applicant has failed to provide sufficient and suitable information to fully determine the proposal will not detrimentally impact upon the Humber Estuary SSSI, the Alkborough Conservation Area, the Area of High Landscape Value, the open countryside and protected species found within the area.

CPRENL therefore feel that the Council was correct to refuse the proposal in its previous guise and urge the Council not to allow the resubmitted application for the grounds set out above.

The Council should not determine this application favourably without having undertaken a full HRA in line with their legal obligations as set out in the Habitats Regulations.



CPRENL would wish to be kept informed should any further information be submitted in support of the application.

Yours sincerely

Katie Atkinson, MRTPI
Director
KVA Planning Consultancy

On behalf of: David Rose, Chairman of Northern Lincolnshire CPRE

