

Appleton Mill Farm

YO62 6TG

01751-417537

Dear Sir:

June 4<sup>th</sup> 2019

**CL162 Appleton Spaunton Common Protection Association**

**Applications: NYM/2018/0787/FL & NYM/2018/0791/FL**

**I am responding on behalf of the Association to the amended application of which we have just been informed. The amendment does not alter our fundamental objection to this type of recreational development on Appleton Common.**

We wish to stress that we see this as a critical moment for the future of Appleton Common, particularly that part of it subject to the reclamation Master Plan . The fact that common land is a material consideration in dealing with a planning application is consistently underplayed in officer documents, and gets simply merged with standard National Park policies.

Turning to the current applications, it is no secret that the applicant wishes to develop this part of the Common commercially, the more intense the better. The present applications have been well crafted by his consultants to neutralize the effect of the National Park's excellent and visionary 2003 Landscape Master Plan. The applications have the effect of inserting a small jemmy in the door for future development and so negating the Authority's original intentions.

**The view of the Association is that Spaunton Quarry should be fully restored in accordance with the 2003 Landscape Master plan . It was an excellent plan: it preserved the interests of the Commoners and graziers: it preserved the social, cultural, and heritage identity of the Common: it was in accord with, and promoted the purposes for which the National Park was set up: and above all it expressed a serious vision for rewilding this new landscape and returning it to nature. The reclamation should have been completed in December 2007.**

When the applicant got permission for a huge extension to the mineral workings in 2003 and works began he accepted the landscape plan, which included demolition of redundant buildings. There has been a reprehensible history of delay and excuse to circumvent both the Master Plan and the contractual legal obligations. The present applications are yet another attempt to abort and circumvent the agreed scheme.

We beg the Committee to stick with the vision so admirably set out by the National Park in 2003, and incorporated in a legally binding contract, and refuse the applications, and also enforce against the applicant's long history of non compliance. The community has a right to expect that the Authority will honour its legal agreements.

Our understanding is that the finance to complete this most important part of the agreed landscape reclamation, in the southern quarter of the old quarry, is held on account by Cemex, the mineral operators. Consequently the work can be completed as soon as the applicant is prepared to fulfil his obligations to the National Park, the commoners, and the local community.

We feel that no planning application should be considered, unless and until, the landscape master plan has been completed in accordance with the conditions and the legal agreement which the applicant signed up to. The present applications should be treated, inter alia, as premature .

The Authority accepts that Common land is a material consideration in a planning application. The planning report pays lip service to this but fails to deal with what this means in practice, or what the implications are. The report focuses only on landscape considerations. It is almost blind to the social and community importance of our common land heritage; it significantly fails to appreciate the value of this to the wider public as a heritage and recreational asset. The application effectively removes 2.4 acres from the historic 12<sup>th</sup> century common and further fractures its historic identity. The Authority should rather be cherishing and nurturing this National Park asset, not treating it as just another few acres in the Park.

Three additional matters appear to be clouding your officer's thoughts.

1. The applicant intends to seek major boundary changes to our 12<sup>th</sup> century common. This will have to be considered by the Secretary of State. However at present it is irrelevant and should not divert us.
2. The Park, in very confused circumstances, approved 5 cabins circa 2007. This cannot be activated without the approval of the Secretary of State, which has not been given, and so should not be treated as a precedent or an excuse for further development.
3. Page 6 of Planning Report (Main Issues) states that a small caravan site would not compromise the Common land. But of course it would. It would change the feel and character by the presence of caravans and movement of caravans, the noise and activity associated with it. It would alter the historic identity and record. This is fundamentally contrary to the obvious intentions of the Authority's own Master Plan.

We would ask that the application be refused along the following lines:

1. The application is premature since the landscape Master restoration plan required by planning condition, and by legal agreement, to be completed by December 2007, has not been complied with.
2. The application is premature since the applicant intends to submit to the Secretary of State extensive proposals for the alteration of the 12<sup>th</sup> century boundaries of Appleton Common, until such time as any alterations have been agreed.
3. The application involves the loss of some 2.4 acres of Common Land, which should be available for grazing and for access to the public for open access recreational purposes.
4. The application is contrary to the intentions of the Authority in establishing the Landscape Master Plan as guiding the policy of this valley for natural regeneration, grazing, rewilding, and for open access public recreation in support of the fundamental purposes of the National Park.
5. The downslope river valleys through the Tabular Hills in this part of the National Park provide a natural landscape of exceptional beauty and inter connected ecologically significant woodland, flora, and wildlife habitat. The development would adversely affect the natural and ecological character to the detriment of the wider public interest.
6. The economic case for caravan development is not sufficient in this case to overcome the economic case for the development of this valley for grazing, for public open access, and for regeneration and rewilding.
7. The introduction of cabins and a caravan site would alter the character and ambiance of the southern access to the Common land by reason of all the activities, movement, and noise associated with such leisure development, which would be contrary to the spirit and intention of the Master Plan, and to the public's enjoyment of the restored natural environment of Catterbeck valley.

We fervently hope that the Authority will revert to the admirable principles as set out in the 2003 decision, legal agreement, and landscape conditions, refuse this application, and expedite their enforcement proceedings.

Yours sincerely

Jonathan Allison

Chairman of the CL162 Appleton Spaunton Common Protection Association

PS: attached is :

Our note on 'Why Spaunton Manor and Common is particularly special':

A plan which shows the common land with those parts that were lost during the war years.

## **Why Spaunton Manor and Common is particularly special?**

Spaunton Manor and Common comprises over 6000 acres and covers the Villages of Appleton le Moors, Hutton le Hole, Lastingham, Rosedale and Spaunton. The Manor was granted by William I in 1085 to Berenger-de-Todeni from Belvoir Castle. It then came into the possession of St Mary's Abbey at York, who owned it for over 400 years until Henry VIII's dissolution of the monasteries. In 1550 Edward VI gave Spaunton Manor to William Ford Grey of Wilton and John Bannester Esq. It then passed through various hands until the current owners the Darley family acquired it in 1780.

Spaunton is one of the few Manors' which throughout the centuries has retained its Court Leet. (A special annual Court in which the Lord of the Manor has jurisdiction over local disputes). Today the Court's role is to protect the Manorial Land within the Manor (that is the common and wastes of the Manor which includes village greens and verges) and to protect the rights of those who have "common rights" i.e. the rights held in common by a number of different properties over the common.

Common land is unique, it is historical land, which has remained largely undisturbed through the centuries, a remnant of medieval times when people relied on 'commons' for their survival. It is land where the owners (Commoners) of nearby properties have rights e.g. to graze animals, fish, collect wood and bracken, take soil or stone or dig peat. Those rights still exist, although in most cases they are not exercised as they were in the past. They also play a key role in supporting farming in the Manor through active grazing.

### **What rights do the public have on common land?**

In addition to the specific rights attached to certain properties, the general public has the right to walk on all 'commons' under the Countryside and Rights of Way Act 2000. On many commons, there is also the right to ride horses under Section 193 Law of Property Act 1925.

### **The 1965 Commons Registration Act**

Most 'commons' are based on ancient rights, that is to say common law, which pre-dates statute law laid down by Parliament. The exact rights which apply to individual commons were in some cases documented, but more often were based on long-held traditions. A major reform was started in 1965 with a national register of common land which recorded the land ownership and the rights of any commoners. Under this all 'common rights' had to be registered and quantified and this was subject to Judicial Review. One consequence was the loss of many historical rights attached to properties across the Spaunton Estate as a result of changes in land holdings and earlier failures to properly register rights.

### **Commons Act 2006**

This important piece of new legislation is intended to:

- Enable commons to be managed more sustainably by commoners and landowners working together through commons councils with powers to regulate grazing and other agricultural activities
- Provide better protection for common land and greens - this includes reinforcing existing protections against abuse, encroachment and unauthorised development
- Recognise that the protection of common land has to be proportionate to the harm caused and that some specified works can be carried out without the need for consent
- Require commons registration authorities (NYCC) to bring their registers up-to-date by recording past changes affecting the registers, and to keep the registers up-to-date by recording new changes - commons registration authorities will have new powers to correct many of the mistakes in the registers.
- Set out new, clearer criteria for the registration of town or village greens
- Prohibit the severance of common rights, preventing commoners from selling, leasing or letting their rights away from the property to which rights are attached.

