

Appleton Mill Farm

YO62 6TG

01751-417537

Dear Sir:

June 4th 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 12th 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 12th 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 12th 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.

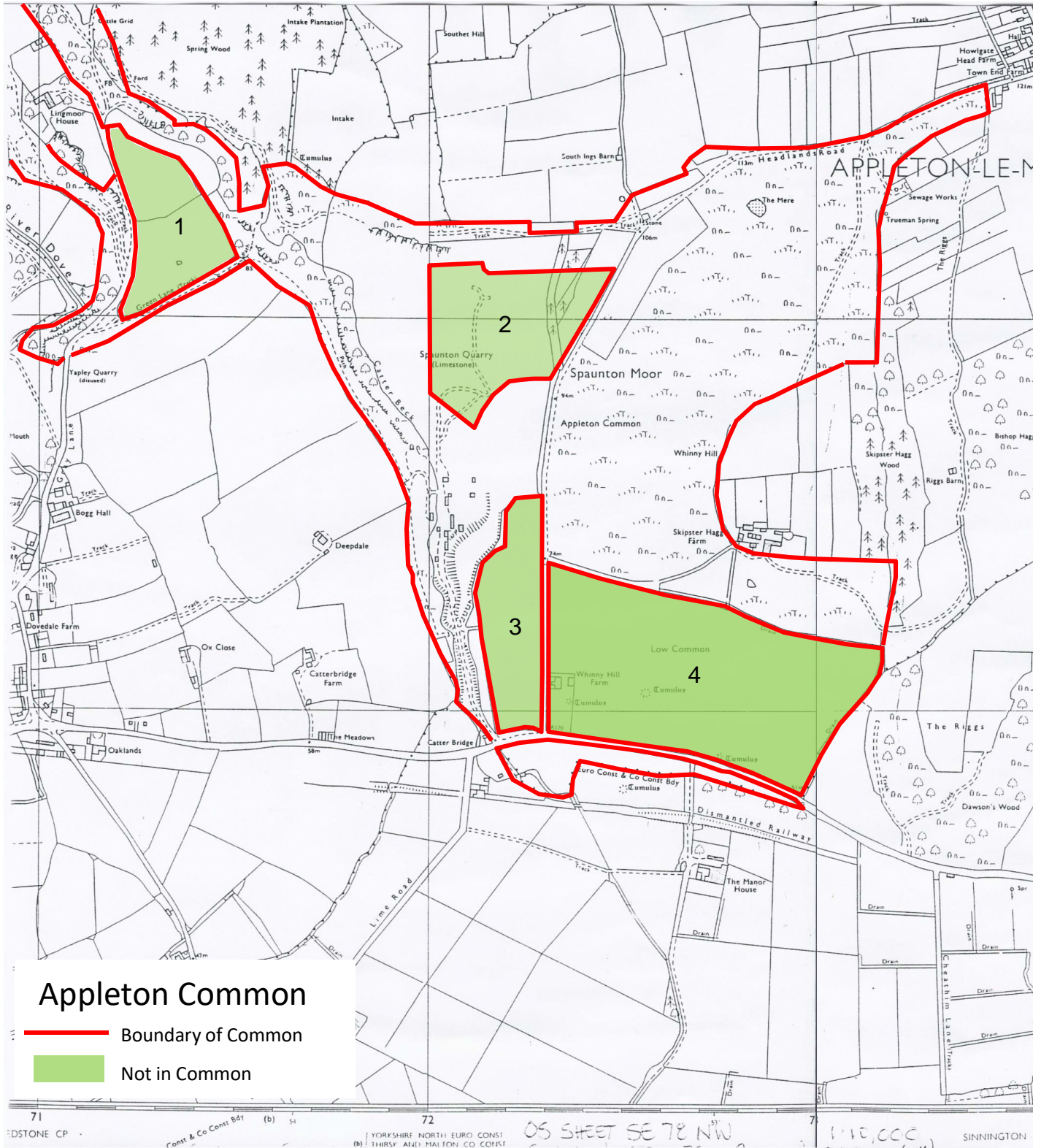
The 1965 Commons Registration Act

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.



Appleton Common

- Boundary of Common
- Not in Common

Date : 19/03/2019 - 21:16 (GMTST)
To : m.hill@northyorkmoors.org.uk
Subject : Fwd: CL 162 response to Application NYM/2018/0791/FL &
NYM/2018/0787/FL

Mark Hill:

I attach the response of the CL162 Appleton & Spaunton Protection Association to the above applications. The determination of these applications by the Authority is of great importance for the Common and for Appleton. We have tried to keep our response short but we would like to alert you to the following general matters, although I am sure you will be fully alert to them:

1. The applications virtually ignore the Common as if it had no relevance to the applicants proposals.
2. Reference is made to a land swap of common land which has not been agreed by anybody, and certainly no Authoritative body as far as I am aware, and which forms no part of these applications.
3. Your predecessor in 2007 is on record of having agreed with Mrs Taylor that the issue of the effect of an application on common land **was** a material consideration in any planning application. This is a view I share.
4. The applicant assumes that the 5 chalets going back to 2007 has been 'approved' as a done deal. I would hope that the committee will be clearly appraised of the fact that this is not so, since no approval, as far as I am aware, has been sought from or approved by the Secretary of State. Consequently I am at a loss to understand how it can be claimed that it has been started, or that the development can be carried out. No doubt you will correct me if I am mistaken in all this.

For your information, Mrs Taylor's record of the events of 2007, reflect badly on the Authority in 2007. When the application was first considered by the committee the members were unaware as were the officers that it was on common land. When the application returned to committee the officer conducting the meeting was careful to underplay the significance of the fact that the chalets were on common land, and indeed that might well have been the officer's view, that it was much ado about nothing. In retrospect these things can seem rather different.

It would be appreciated if you could let us know as soon as you are able the date and

time when these applications are to be considered by your committee, and when the planning reports are likely to be available for us to see. Also if there is any further material forthcoming from the applicant we would wish to be consulted upon it. This is of particular moment as we may wish to write personally to your members, having seen the planning report, and to appraise the media of any concerns that we may still have. We do not intend to let the distinguished heritage, cultural and social value of the Common to be fractured as a result of neglect or indifference on our part.

I would be grateful if you would ask your administrative section if they would be good enough to acknowledge receipt of this email and its four attachments.

your faithfully

Jonathan Allison

Appleton le Moors

YO62 6TG

National Park

Helmsley

Dear Sir: **Consultation on Application NYM/2018/0791/FL** 18th March 2019

CL 162 Appleton & Spaunton Common Protection Association

From the Association's point of view the issues arising from this application are straightforward and can be summarised as follows:

1. Should 2.4 acres of Common Land be surrendered for commercial development ?
2. Should the historic boundaries of the Common be further eroded ?
3. Should the National Park stick to the Master Plan for landscape restoration that it approved in 2003, and which should have been completed in 2007. Should the owner's contractual obligations be now properly complied with. The effective contract was a large extension to the quarry subject to a landscape master plan being carried out by 2007.
4. Should the enforcement notice , finally issued in May 2017, be put into effect ?
5. In considering this applications should the National Park try to reconcile its land planning role and its role of preserving its Common Land heritage ?
6. Should the applications be refused, and allowed to go to appeal where the Secretary of State can determine both the planning and the common land issues ?
7. What should be the proper uses for the new Common landscape in Spaunton Quarry ?

Issue 1.

Twelfth century records confirm the existence of Appleton Spaunton Common, and its continuance to the present day, from the ownership of St Mary's Abbey to the present landowner. It has survived remarkably intact, although the war years emergency 1940 to 1947 saw the alienation of parts of Appleton Common. This is a serious heritage asset within the National Park, which the Authority should respect, nurture, and protect. It is part of our social, cultural, community, and historic inheritance. The Map shows the present Common and open access area and the areas lost to the Common.

The Authority makes much of its role, quite rightly, in protecting its heritage and promoting it as a visitor attraction, and this is an occasion when it should live up to its commitments, and refuse this application. Appleton Spaunton Common is a far more ancient piece of cultural heritage than any group of Grade one listed building in the National Park.

Issue 2. (Map) This map shows the quarry site in 1912 (County Record Office) with old quarries to the north. More important it shows how the Common reaches down to the A170 and across. It is the integrity of what remains of the southern part of the Common wedge that is at stake here, from a landscape, historical and cultural point of view: the area lies between the Appleton road to the east, and the Common boundary to the west, and the link over the road to the south. Consequently what remains of the Common's integrity should not be fractured by the introduction of private development which is unrelated to any National emergency and is not in the public interest.

It is considered that this should be a concern of the Authority with both its hats on, as Planning Authority, and as protector of the historical and cultural heritage of the Common.

Issue 3.

The National Park inspired a Landscape Master Plan in 2003. It was a good plan (map attached): it was positive and creative, and the Authority should stick to it. Above all it gloriously fulfilled National Park purposes in landscape terms and in contributing to the common good. It restored grazing for the common right holders, retained the boundaries of the common, and prepared the way for Open access.

If the present applications were approved the Authority would lose the ability to enforce the completion of the 2003 approved Master Plan, and in effect concedes the proposed break up of the Common at its southern end, through which the public now have open access.

If the present application were approved it might well not go ahead, possibly for financial reasons, or a change of policy by the landowner. Then the Authority could not use their enforcement powers to obtain the 2003 Master plan landscape, and could not obtain the new landscape scheme unless the development had commenced. It is not unreasonable to consider this situation because the landowner only in 2017 began to fulfil obligations to the Authority which should have been completed in 2007, and which are still incomplete: twelve years of natural regeneration have already been lost.

The Master Plan required the demolition of the quarry buildings. This was entirely sensible as they are alien to the landscape, incompatible with the Common land use, completely out of date, and in a state of advanced dereliction.

In short the Master Plan was a sound and progressive step in 2003, and it remains so today. The Authority should stick to its resolve, refuse the application, and compel the landowner to fulfil his contractual obligations entered into in 2003.

Issue 4.

The planning conditions arising from the NYM decision notice of January 2003 had to be complied with by December 2007 as regards removal of buildings and reclamation works. There was no appeal against these conditions. Twelve years later the conditions have still not been complied with in full. However early in 2017 the Association expressed serious concern because the ability of the Authority to take enforcement action was due to run out after ten years in December 2017. Acting in some haste the Authority succeeded in taking the necessary action to secure its position in May 2017. As a consequence substantial land reclamation did take place in the autumn of 2017, but it was not completed. Since then the Authority felt constrained, once more, to delay their enforcement proceedings because the owner, once more, put forward new ideas for development. This has been a consistent procedural pattern for twelve years. As there is a danger that this pattern could continue indefinitely it is the view of the Association that the Authority should proceed forthwith with their enforcement proceedings and bring this sorry state of affairs to a conclusion.

The Authority are asked to refuse the application and proceed with the enforcement proceedings as fast as the administrative system allows.

Issue 5.

The Authority appears to have had difficulties reconciling its planning function and its role as protector of the landscapes of common land over recent years. When the application for the chalets

were submitted on the common in 2007 it took Mrs Ann Taylor from Appleton to alert your officers to the fact that the application affected common land. There was a further instance at Glaisdale which went to appeal and a maladministration case.

It is accepted that improvements have taken place, but your officers still seem stuck in a mindset which delegates responsibility for development on Common land to the Secretary of State. It is the view of the Association that the National Park should take a positive lead in protecting and promoting common land. Since this application is not in the interests of the common, the graziers, or the public, the Authority are asked to take the lead and refuse it. Then the Park should proceed to take a positive role in promoting the distinguished heritage value of the common for the public.

Issue 6.

Yes. The application should be refused for the reasons given above, and enforcement proceedings should be pursued with as much vigour as the administrative system allows. If the landowner wishes to go to appeal then inevitably the Secretary of State will be drawn in but the Authority will have the credit for promoting National Park purposes and protecting its cultural and social heritage.

Issue 7.

The proper uses of this reclaimed land are for the grazing for common right holders, for those forms of recreation suitable on common land, for open land access, for equestrians use, for naturalists, geologists, rambles, all those people for whom the national parks were created in the first place. The landowner has benefitted richly from the proceeds of quarrying over many years, but now is the time for the common to be restored and enjoyed by a wider public. Surely that is what the National Park was set up for, and for which the Authority promoted its Master Plan in 2003 for the Quarry restoration.

Some inspiration could be derived from examples from elsewhere. Threshfield Quarry has been restored in the Dales National Park, opening up footpaths and developing an emphasis on education, cultural heritage, arts and the natural environment. It is supported by Heritage lottery, and is listed on Tripadvisor. The Common, with its rich history, its contemporary uses, its geology, its Lord of the Manor and Court Leet, and its ecological diversity represents a splendid opportunity to promote National Park purposes.

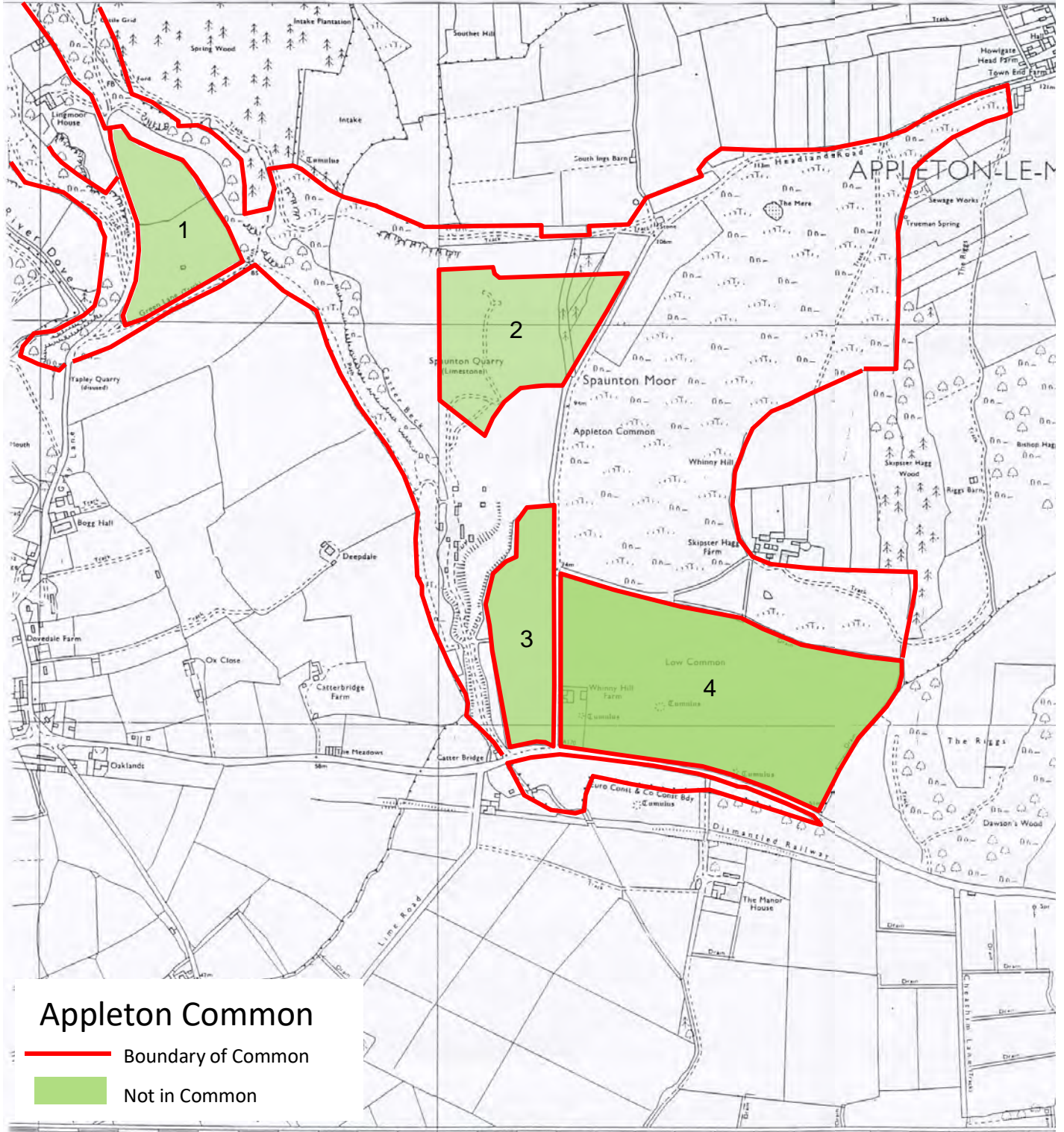
In this submission the Association considers that it is supporting National Park purposes, and the public good, and urges the Authority to stick to its Master plan and make up for the 12 years that have been lost since this matter ought to have been brought to a conclusion in December 2007.

Officers are requested to make it clear to members that the planning permission given for 5 chalets in 2007 cannot be implemented without the consent of the Secretary of State, and that it was passed in dubious circumstances because the Park had failed to appreciate that the development was on Common land.

Yrs

Jonathan Allison

Chairman of the Appleton Spaunton Commons Protection Association.



Appleton Common

- Boundary of Common
- Not in Common



NYMNPA
 Ref: 23 DEC 2002
 Date: _____
 Issue: _____

Legend

- Site Boundary
- Final Contours
- Existing Pasture
- Existing Calciolous Grassland
- Existing Scrub
- Existing Woodland
- Proposed Calciolous Grassland
- Proposed Pasture
- Proposed Woodland Planting
- Location of Wildflower Inoculation Plots (20 No. Plots of 20 No. Plugs Per Plot)

Overburden Slope seeded with Calciolous seed mix

Quarry Floor Restored to Grassland

Valley formed between existing Face and Tip Spur

Seasonal Wetland

Cpt 7

Cpt 1

Seasonal Wetland

Cpt 2

Cpt 3

Woodland Ride

Cpt 5

Woodland Ride

Cpt 6

Cpt 3

Cpt 4

Stocking Area Restored to Calciolous Grassland

Existing Trees Removed to Form an Open Ground Link to Appleton Common

Plant Area Restored to Calciolous Grassland



Proposed woodland planting

Cpts 1,2,3,5,6 and 7:

Species	% of Mix
Conifers	
20	
Norway Spruce (<i>Picea abies</i>)	5
Hybrid Larch (<i>Larix x eurolepis</i>)	5
European Larch (<i>Larix decidua</i>)	5
Western Hemlock (<i>Tsuga heterophylla</i>)	5
Broadleaved	
70	
Common Alder (<i>Alnus glutinosa</i>)	20
Oak (<i>Quercus robur</i>)	15
Sycamore (<i>Acer pseudoplatanus</i>)	15
Ash (<i>Fraxinus excelsior</i>)	12
Yew (<i>Taxus baccata</i>)	4
Birch (<i>Betula pendula</i>)	4
Shrubs	
10	
Field Maple (<i>Acer campestre</i>)	2
Hazel (<i>Corylus avellana</i>)	2
Hawthorn (<i>Crataegus monogyna</i>)	2
Holly (<i>Ilex aquifolium</i>)	1
Goat Willow (<i>Salix caprea</i>)	1
Gelder Rose (<i>Viburnum opulus</i>)	1
Dog Rose (<i>Rosa canina</i>)	1

Cpt 4 - Conifers Only

Notes:

- 1) All stock to be planted at 2.5m centres on a staggered grid
- 2) All stock to be protected from both Rabbit and Deer browsing by either spiral guards/shelter guards or rabbit/deer proof fencing, whichever is the most cost effective option
- 3) All broadleaf species to be 450-600mm transplants stock
- 4) All coniferous/evergreen species to be 300-450mm cell-grown stock
- 5) Weed free circles to be maintained around all stock for 3 years following planting

Proposed New Grass Seeding:

Calciolous Mix

Species	% Mix
Red Fescue (<i>Festuca rubra</i>)	40%
Sheeps Fescue (<i>Festuca ovina</i>)	30%
Common Bent (<i>Agrostis capillaris</i>)	30%

(Sown at a rate of 2 g per square metre)

Ryegrass as Follows	% Mix
Premium intermediate	20%
Napolean intermediate tetraploid	20%
Calibra intermediate tetraploid	20%
Aliso late	20%
Millennium Late tetraploid	20%

(Rate 3.5 g per square metre)

Wildflower Inoculation Plots:

Species	No per Plot	Total No.
Bluebell	4	80
Primrose	4	80
Common Dog Violet	4	80
Bugle	4	80
Lesser Cellandine	4	80

The above species of local provenance to be obtained from Gerald Towle at Hartoft Farm (telephone 01751 417 843). An order is required to be made with the supplier in January / February prior to planting

The plugs are to be planted in May, evenly spaced and distributed across an approximate plot size of 2m x 2m. Plugs to be watered in after planting, and rabbit fenced as necessary.

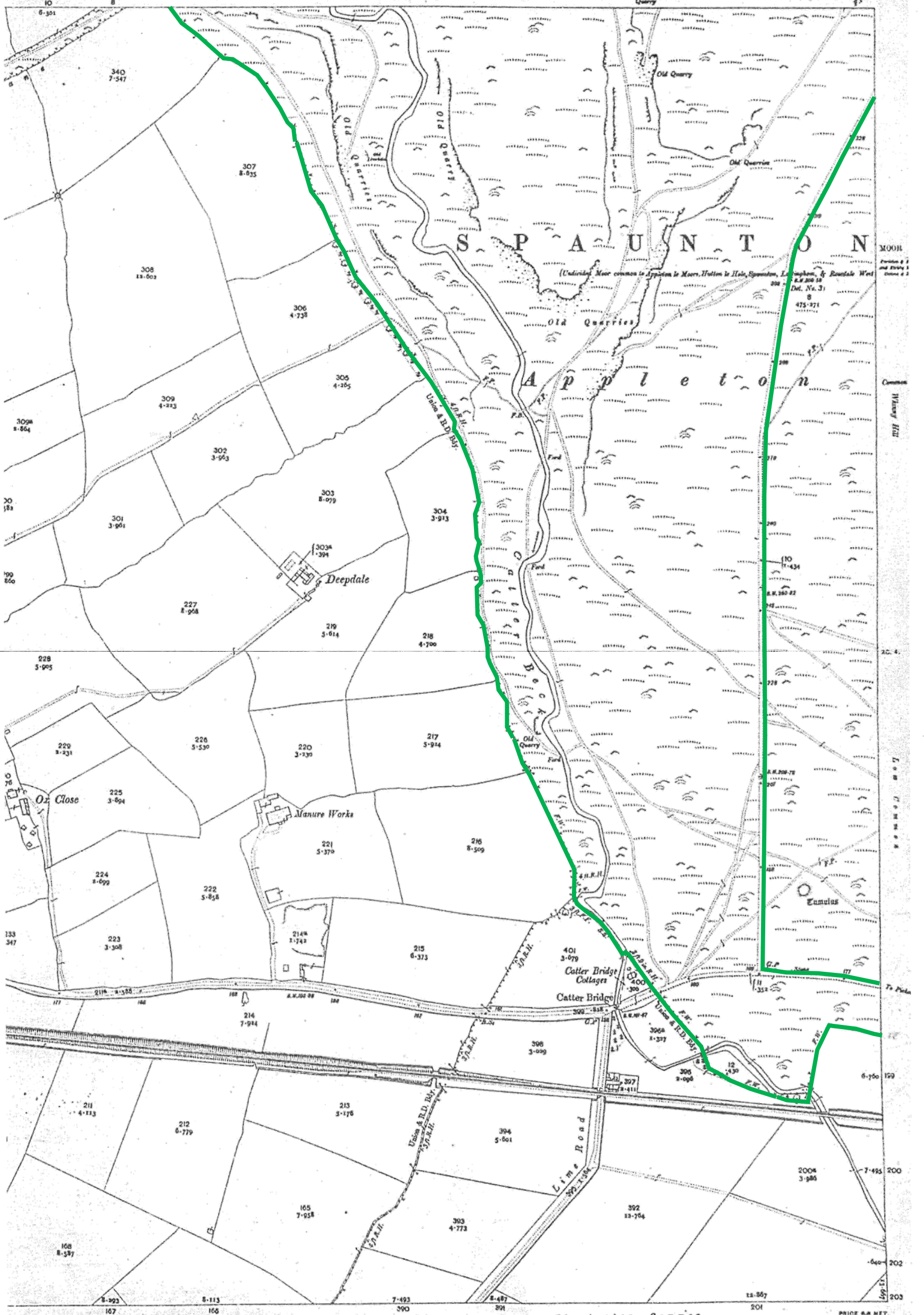
REVISIONS			
F			
E			
D	Open Link Amended to Appleton Common Link	Nov 2002	JH/CAW
C	Redrawn - Revised to NYM NPA Comments	Sept 2002	JH/CAW
B	Revised to Landowners Instruction	July 2002	JH/CAW
A	Revised to J Holyoak Instruction	July 2002	JH/CAW



RMC Aggregates (UK) Limited

Planning Department
 RMC House, Church Lane,
 Bromsgrove, Worcestershire, B61 8RA

Drawn By	JH/CAW	Company	RMC Aggregates (Northern) Limited
Date	October 2000	Site	Spaunton Quarry
Scale	1 : 2 500	Project	Proposed Restoration
Original Size	A1	Title	Restoration Master Plan
File Reference	1620	Drawing Number	SU 12 / 9 D



MOOR
Parish of 2
and 3rd
Class 4 & 5

Common
Whitby 1847

20 4

10 0 7

7 1/2

7 495 200

6 400 202

1 1/2 203

PRICE 1/6 NET

Mr M Hill
North York Moors National Park
Development Control
The Old Vicarage Bondgate
Helmsley
York
YO62 5BP

Our ref: RA/2019/139793/01-L01
Your ref: NYM/2018/0787/FL
Date: 04 March 2019

Dear Mr Hill

**APPLICATION FOR ALTERATIONS TO AND CHANGE OF USE OF 2 NO.
BUILDINGS FORMERLY USED IN CONNECTION WITH MINERAL EXTRACTION TO
AGRICULTURAL USE TOGETHER WITH CONSTRUCTION OF EXTENSIONS TO
ONE OF THE BUILDINGS**

LAND AT SPAUNTON QUARRY, KIRKBYMOORSIDE

Thank you for your consultation regarding the above proposal which was received on 15 February 2019.

We have reviewed the information submitted with the application and we have no objection to the proposal. Our detailed comments are as follows.

Flood Risk

Our Flood Map for Planning shows the site lies within Flood Zone 1, 2 and 3, the low, medium and high probability zones.

The application is for the change of use and extension to one building for agricultural use, which is considered to be a 'less vulnerable' land use in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance: Flood Risk and Coastal Change.

It is therefore necessary for the application to be supported by a site-specific flood risk assessment (FRA), which can demonstrate that the 'development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall'.

Flood Risk Assessment

An FRA by Rural Solutions, dated 11/01/2019, page 163, has been submitted in support of the application.

We have reviewed this FRA and given the scale of development and the less vulnerable use we have **no objections** in this regard. We consider that the proposed development

Environment Agency
Lateral 8 City Walk, LEEDS, LS11 9AT.

www.gov.uk/environment-agency

Cont/d..

will only meet the requirements of the National Planning Policy Framework if the development is carried out in accordance with this FRA and it is listed as an approved plan/document in any permission granted.

Flood Risk Advice to LPA/Applicant

Prior to determining this application we recommend that consideration is given to the issues below. Where necessary, the advice of relevant experts should be sought. We suggest that the applicant consider access and egress in the event of a flood event, as well as rescue or evacuation arrangements.

Flood warning and emergency response - advice to LPA

We do not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users covered by our flood warning network.

The planning practice guidance to the National Planning Policy Framework states that, in determining whether a development is safe, the ability of residents and users to safely access and exit a building during a design flood and to evacuate before an extreme flood needs to be considered. One of the key considerations to ensure that any new development is safe is whether adequate flood warnings would be available to people using the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions. As such, we recommend you consult with your emergency planners and the emergency services to determine whether the proposals are safe in accordance with the guiding principles of the Planning Practice Guidance (PPG).

Floodline Warnings Direct (FWD)

The applicant/occupants should phone Floodline on 0345 988 1188 to register for Floodline Warnings Direct, or visit <https://flood-warning-information.service.gov.uk/warnings>. It is a free service that provides flood warnings direct by telephone and mobile.

It also gives practical advice on preparing for a flood, and what to do if one happens. By providing an advanced warning, it will allow protection measures to be implemented such as moving high value goods to an elevated level as well as evacuating people off site.

We trust the above advice is useful.

If I can be of any further assistance, please don't hesitate to contact me.

Yours sincerely

Mr Fraser Tomlinson
Sustainable Places Planning Adviser

**NORTH YORKSHIRE COUNTY COUNCIL
BUSINESS and ENVIRONMENTAL SERVICES**



**LOCAL HIGHWAY AUTHORITY
CONSIDERATIONS and RECOMMENDATION**

Application No: **NYM/2018/0787/FL**

Application for alterations to and change of use of 2 no. buildings formerly used in

Proposed Development: connection with mineral extraction to agricultural use together with construction of extensions

Location: buildings at Land at Spaunton Quarry, Kirkbymoorside

Applicant: WINN DARLEY

CH Ref: N/A **Case Officer:** Stephen Boyne

Area Ref: 3/7/5E **Tel:**

County Road No: Private off A170 **E-mail:**

To: North York Moors National Park Authority
The Old Vicarage
Bondgate
Helmsley
YO62 5BP

Date: 7 March 2019

FAO: Mr M Hill **Copies to:**

There are **no local highway authority objections** to the proposed development

Signed:

Issued by:

Kirby Misperton Highway Office
Beansheaf Industrial Park
Tofts Road
Kirby Misperton
YO17 6BG

For Corporate Director for Business and Environmental Services

e-mail:



Hamley
Appleton le Moor
York
Appleton le Moors
YO62 6TG

National Park

Helmsley

Dear Sir: Consultation on Application NYM/2018/0787/FL 24th Feb 2019

CL 162 Appleton & Spaunton Common Protection Association

The planning conditions arising from the NYM decision notice of January 2003 had to be complied with by December 2007 as regards removal of buildings and reclamation works. There was no appeal against these conditions. Eleven years later the conditions have still not been complied with in full. However early in 2017 the Association expressed serious concern because the ability of the Authority to take enforcement action was due to run out after ten years in December 2017. Acting in some haste the Authority succeeded in taking the necessary action to secure its position in May 2017. As a consequence substantial land reclamation did take place in the autumn of 2017, but it was not completed. Since then the Authority felt constrained, once more, to delay their enforcement proceedings because the owner, once more, put forward new ideas for development. This has been a consistent procedural pattern for eleven years. As there is a danger that this pattern could continue indefinitely it is the view of the Association that the Authority should proceed forthwith with their enforcement proceedings and bring this sorry state of affairs to a conclusion.

The fact is that there was a well thought out plan in 2003 for a coordinated approach to this valuable area of new valley and common land, and this is close to being achieved. If the estate wishes to introduce changes to this vision then it is important that they are properly coordinated so that both the National Park and the Secretary of State, as well as all those with a stake in the future of the Common can make a reasonable assessment of them. Consequently the Association believes that the present application should be refused as premature or deferred until a properly coordinated plan for final settlement of the Estates proposals for the common land is put forward.

However there is the great disadvantage that if the application is deferred then the enforcement proceedings may go once more into administrative limbo and no progress will be made.

Secondly the Association considers that the present application is more of a Phantom than solid flesh and blood. It is hard to see how the relatively small number of sheep that will graze the reclaimed land, and very occasionally use the new shed facilities, will justify the substantial investment currently proposed for these derelict buildings. The assertion that the owner is running an agricultural business may not meet the Park's criteria. In short the agricultural case for the need for these shed facilities on this common land site seems decidedly thin. Introducing the idea that the common right holders would use the refurbished sheds is unlikely because the location is unsuitable and it misrepresents the independent way the flock masters operate.

Some of our members are concerned that with planning permission the shed site could be sold on, perhaps to a fracking company.

Consequently one of two things are likely to happen:

- a) The development will not take place and the Authority will be left with derelict buildings used as a hostage to promote a case for further development in the future, as well as losing the power to enforce the original permission in the meantime.
- b) The development will take place (if financed by Cemex in place of their obligation to demolish and complete the reclamation works and the 2003 vision)) The development will then be grossly underused, and will then be used to justify further and more extensive development.

Bearing in mind that it is the declared policy of the National Park "to improve the landscape character and appearance of this part of the Park and for the Common land usage to be restored at a not too distant future date. (Letter 6th Feb 2017) a comprehensive settlement of the issues seems now essential.

For this reason the Association requests the Park to defer this application so that the applicant can submit his other proposals and thus demonstrate a coordinated approach to the area which is in his ownership and is common land. If this is not done within a specific period of time, say one month, then the present application should be refused, and enforcement to take effect to complete the ground works and demolition of the derelict sheds and buildings. This seems a reasonable approach in view of the protracted and unsatisfactory history of this site since 2007, the need to resolve all the issues, and to give effect to the admirable aim of completing the improvement of the landscape character of this part of the Park following quarrying and in accordance with the 2003 Master Plan. This 2003 plan retains the landscape connectivity and integrity of these down slopes of the Tabular hills.

Since the owner in this application has stated that all quarrying functions have ceased, then as soon as the Park is satisfied that the conditions have been complied with, and Cemex has fulfilled its obligations, then public access to all parts of that part of the Common within the quarry will be legally confirmed. At present public access is taking place without the completion of the above proceedings. However the present application accompanying document concedes (Para 2.6) that there is extensive public access through the southern part of the quarry, and that over half of the quarry area is open access.

The lengthy accompanying statement to this application does not face up to the very major fact that the application concerns 4 acres of Common Land. Consequently the assertion (Para 2.13) that the proposal sustains the cultural heritage of the site and the area, is clearly nonsense. The Association hopes that the National Park, in recognition that the Common is a very important part of the cultural heritage of this area, will not tolerate the further erosion of Common land for any individual benefit, and will stick with its 2003 Master plan.

Yours sincerely

Jonathan Allison

(Chairman of the Appleton Spaunton Common Protection Association)



Our ref: NYM/2018/0787/FL
Internal - Yorkshire Wildlife Trust
Yorkshire Wildlife Trust
fao: Sara Robin
1 St George's Place
York
YO24 1GN

Date: 14 February 2019

This matter is being dealt with by: Mr M Hill

Dear Sir/Madam

**Application for alterations to and change of use of 2 no. buildings formerly used in connection with mineral extraction to agricultural use together with construction of extensions to one of the buildings at Land at Spaunton Quarry, Kirkbymoorside,
Grid Reference 472018 486384**

I have received the above application. The details including forms, supporting information and plans for the application are available under the application reference number on the Authority's website using the following link:

<http://planning.northyorkmoors.org.uk/Northgate/PlanningExplorer/ApplicationSearch.aspx> and by following the instructions given.

Should you wish to view the electronic file at the Authority's offices, please call to make an appointment between the hours of 9am and 5pm Monday to Friday.

If you are being consulted by email please allow 24 hours for these plans to be made available.

I would be grateful for any comments you may have on this application within 21 days of the date of this letter.

If you wish to extend the period in which to submit your comments or have any queries on this application please contact the Planning Officer named above

who is dealing with the matter. You may reply by letter, fax, email

(planning@northyorkmoors.org.uk) or by using the Authority's online consultation response form.

Yours faithfully

Mr M Hill

Head of Development Management

Comments:

I have read the survey by Naturally Wild which was carried out on 24th September 2018. The survey just assesses the buildings on site for use by bats. I am happy with the conclusions that none of the buildings are likely to contain bat roosts as the photos show that the roofing materials are mostly corrugated iron and the agricultural barns are open sided and have negligible value for roosting bats. The survey does not include any results of trees which were surveyed however it appears that this application does not involve tree removal, however if trees are to be removed the survey will need to be updated.

There will be potential for extremely valuable limestone grassland to regenerate in a quarry of this type which will support invertebrates and hence bat populations. The survey by Naturally Wild does not appear to assess fully the botanical value of the site, there is no list of plants present or any detail of grassland habitats in the quarry. To establish appropriate grassland with similar species to the grassland in the wider area further information will be required. Using green hay from nearby areas could be a suitable technique to establish grassed areas around the buildings. The mosaic habitat which is present within the quarry and the nearby Ancient Woodland provide excellent conditions for invertebrates and bat habitat. Enhancement for bats within the development site could include the provision of roosting opportunities in the retained buildings and possibly tree mounted bat boxes. A condition to this effect may be appropriate.

A bat informative should be included:

“All bats and their roosts are fully protected under the Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000) and are further protected under Regulation 39(1) of the Conservation (Natural Habitats etc) Regulations 1994. Should any bats or evidence of bats be found prior to or during development, work must stop immediately and Natural England contacted on 0300-060-3900 for further advice. This is a legal requirement under the Wildlife and Countryside Act 1981 (as amended) and applies to whoever carries out the work. All contractors on site should be made aware of this requirement and given information to contact Natural England or the Bat Conservation Trust national helpline on 0345 1300 228”

Sara Robin
Conservation Officer (Planning)
Yorkshire Wildlife Trust
1 St George's Place
York
YO24 1GN

Hamley
Appleton le Moors
YO62 6TG

National Park

Helmsley

Dear Sir: Consultation on Application NYM/2018/0787/FL 24th Feb 2019

CL 162 Appleton & Spaunton Common Protection Association

The planning conditions arising from the NYM decision notice of January 2003 had to be complied with by December 2007 as regards removal of buildings and reclamation works. There was no appeal against these conditions. Eleven years later the conditions have still not been complied with in full. However early in 2017 the Association expressed serious concern because the ability of the Authority to take enforcement action was due to run out after ten years in December 2017. Acting in some haste the Authority succeeded in taking the necessary action to secure its position in May 2017. As a consequence substantial land reclamation did take place in the autumn of 2017, but it was not completed. Since then the Authority felt constrained, once more, to delay their enforcement proceedings because the owner, once more, put forward new ideas for development. This has been a consistent procedural pattern for eleven years. As there is a danger that this pattern could continue indefinitely it is the view of the Association that the Authority should proceed forthwith with their enforcement proceedings and bring this sorry state of affairs to a conclusion.

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Yours sincerely

Jonathan Allison

(Chairman of the Appleton Spaunton Common Protection Association)

From: [Elsbeth Ingleby](#)
To: [Mark Hill](#)
Cc: [Planning](#); [Mark Antcliff](#)
Subject: Spaunton Quarry apps - NYM/2018/0791 and 2018/0787
Date: 04 March 2019 16:43:18

Dear Mark,

Having looked through both of these applications and consulted some of the historical information we have relating to the site in general I have no major concerns with these proposals, although there are a few particular items I would like to pick up on for each.

NYM/2018/0787/FL (change of use of 2 existing buildings with extension to one)

The existing buildings to be modified through this application have been found to have negligible interest for bats, but are used by nesting birds. Works to the buildings should only be commenced outwith of the bird nesting season (March to September). If works to the structures are to commence between March and September, then the buildings must be assessed by a suitably competent person immediately prior (within 24 hours) of works commencing. If any bird nests are found then an ecologist must be consulted and

the area must be left undisturbed until the chicks have fledged and the site abandoned.

The buildings to be developed appear to be valuable to nesting birds, and it is not clear that any open buildings are to remain on site to provide alternative nesting habitat for birds likely to be displaced as a result of the proposed works to these buildings. Given the proposed agricultural use of the buildings, it does not seem unreasonable that nesting birds could be tolerated within the buildings after development and thus it is respectfully suggested that a suitable sized opening is retained (the applicant's ecologist could advise on a size to permit bird movement but not compromise security) in either or both of the buildings in order to permit access and egress by birds and thus permit the structures to continue to support local bird populations. Without this inclusion, it is likely that permitting the development will lead to the loss of biodiversity in the immediate area. As an alternative, external bird boxes could be erected to the exterior of the buildings, however this is unlikely to directly replace the existing bird use (for example for swallows) and thus is a less desirable alternative.

A bird and bat informative should be included with the decision notice if the application is approved.

If you have any queries regarding any of the above, please let me know.

Best wishes,

Elspeth

Elspeth Ingleby

Ecologist

North York Moors National Park Authority

The Old Vicarage, Bondgate, Helmsley, York YO62 5BP

Telephone: 01439 772700

Please note: I work 2 days per week on Ecology matters. My normal working pattern is Monday and Thursday.

From: [Planning](#)
To: [Planning](#)
Subject: Comments on NYM/2018/0787/FL - Case Officer Mr M Hill - Received from Sara Robin at 1 St Georges Place, York, N Yorks, YO24 1GN
Date: 04 March 2019 16:35:58

Comments:

I have read the survey by Naturally Wild which was carried out on 24th September 2018. The survey just assesses the buildings on site for use by bats. I am happy with the conclusions that none of the buildings are likely to contain bat roosts as the photos show that the roofing materials are mostly corrugated iron and the agricultural barns are open sided and have negligible value for roosting bats. The survey does not include any results of trees which were surveyed however it appears that this application does not involve tree removal, however if trees are to be removed the survey will need to be updated.

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Sara Robin
Conservation Officer (Planning)
Yorkshire Wildlife Trust
1 St George's Place
York
YO24 1GN

Comments made by Sara Robin of 1 St Georges Place, York, N Yorks, YO24 1GN

Preferred Method of Contact is Post

Comment Type is Comment