The countryside charity
North and East Yorkshire

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Branch Chair
Mrs Jan Arger

Authority: North Yorkshire Council

Type of consultation: Planning Consultation

Full details of application/consultation: NY/2025/0030/ENV for the construction of a temporary wellsite for the appraisal of gas, including drilling operation, proppant squeeze, and flow testing operation, and site restoration

At land: at land east of The Mill Yard, Burniston Mill, Coastal Road, Burniston, Scarborough,

Type of response: Objection

Date of Submission: 12th April 2025

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.

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Comment

CPRE North and East Yorkshire ('CPRENEY') welcomes the opportunity to comment on this major planning application for the construction of a temporary wellsite for the appraisal of gas, including drilling operation, proppant squeeze, and flow testing operation, and site restoration at Land East of the Mill Yard, Burniston Mill, Coastal Road, Burniston, Scarborough, YO13 0DB. The application was submitted to North Yorkshire Council in their role as Mineral Planning Authority ('the MPA') by Egdon Resources Ltd on behalf of Europa Oil and Gas Limited ('the applicant').

A formal request was submitted in accordance with Regulation 6 of the Town and Country Planning (Environmental Impact Assessment) (England) Regulations 2017 as amended ('the EIA Regulations') for a Screening Opinion to determine whether the proposal constitutes development that would require Environmental Impact Assessment ('EIA') to the MPA who deemed that it would. The applicant, however, asked the Secretary of State for a second opinion who stated that it would not. CPRENEY believe that an error in judgement has been made in this instance give its location in a Heritage Coast and within the setting of the North York Moors National Park.

The Levelling Up and Regeneration Act (LURA) 2023, places a strengthened statutory duty on competent authorities to ensure that any proposals affecting nationally designated landscapes (including National Parks and National Landscapes - formerly Area's of Outstanding Natural Beauty) 'seek to further the purposes' of the designation, relating to the purpose to 'conserve and enhance the natural beauty' of the area. This means that the MPA must give substantial weight to the protection of the National Park by carefully considering proposed developments within its important setting.

The proposed wellsite currently comprises farmland adjacent to an existing ground-mounted solar photovoltaic array. The site lies to the south east of the village of Burniston and is accessed from the A165. The site falls within Burniston Parish Council administrative area and covers approximately 1.2 ha.

The applicant details the fact that the site is located within a 'sensitive environment' and CPRENEY ardently agree with this statement. The proposed site is located within and adjacent to a number of national and local designations for landscape quality, ecological importance and for conservation and heritage value.

The proposed site is a mere 800m from the North York Moors National Park, which with its raised topography will inevitably be impacted by the proposed development when looking both into and out of the nationally designated landscape. The site lies within the North Yorkshire and Cleveland Heritage Coast, and is adjacent to the long-distance and very well-frequented National Trail - the Cleveland Way, circa730m to the north east of the site, whilst the nearest Public Right of Way (ref:30.3/10/1) is approximately 400m to the west of the proposed wellsite site and follows part of the route of the former railway line (the Cinder Track) between Whitby and Scarborough which is designated as a Site of Importance for Nature Conservation ('SINC'). The Cinder Track also provides access to the Coast to Coast National Trail at various points along its route.

The North York Moors Landscape Character Assessment Update 2021, highlights that the proposed site is immediately adjacent to the 'LCT 4 Coastal Hinterland Landscape Character Type', being outwith the control of the National Park Authority ('NPA'). Within the assessment, which was examined as part of the evidence base for the NPA's Local Plan examination, LCT4b sets out that *'The Cinder Track (the recreational route which follows the former Scarborough-Whitby railway line) is an important feature of the LCA, and enables access into parts of the LCA which can't be reached by road. These areas often feel relatively remote and tranquil. It also provides access to sites such as Ravenscar and the nearby WWII Radar station. The LCA is popular for recreation, with coastal caravan sites at Saltwick and Northcliff and several others inland*.' Whilst the site is within the North Yorkshire administrative area and not within the National Park, the landscape and nature of the coastline does not change, this is illustrated by its inclusion within the North Yorkshire and Cleveland Heritage Coast. Therefore, CPRENEY

suggest that the LCA assessment of LCT4b is entirely relevant to the determination of this request.

Further, the NPA have set out that forces for change outside of the National Park may impact upon the coastal hinterland LCT setting out in particular that '*Views from the LCT are vulnerable to visually-intrusive developments and land use changes outside the National Park, particularly around Whitby, Boulby and Burniston*.' This is entirely supported by the NPPF which sets out clearly at paragraph 189 that '*the scale and extent of development within all these designated areas should be limited <u>while development within their setting</u> should be sensitively located and designed to avoid or minimize adverse impacts on the designated areas*' (my emphasis).

Paragraph 191 of the NPPF sets out that '*Major development within a Heritage Coast is unlikely to be appropriate, unless it is compatible with its special character*.' A proposed hydrocarbon extraction site is considered to be a major development which would be completely incongruous with the special character of the Heritage Coast. Both the National Park and the Heritage Coast are areas of exceptional natural beauty and ecological significance.

The applicants propose a 1.4Ha wellpad which will contain a 38m high drill, 40m plus cranes, potential coil tubing tower (circ 12m in height), workover rigs (typically up to 25m in height), 2.5m security fencing, a shrouded ground flare and mill buildings, which will all be taller than the surrounding tree canopy cover as suggested by the various sectional and elevational drawings submitted in support of the proposals.

CPRENEY are of the opinion that the visual intrusion and industrial activity associated with the wellsite would detract from the scenic quality and tranquillity of these protected landscapes, contrary to the objectives of conserving the natural environment and as such contrary to both national and local planning policies.

CPRENEY has significant concerns relating to the highway implications of the proposal in all of its stages (currently proposed). In particular whilst the existing site access is to be utilised, it is considered that potential routes are highly unsuitable for the number of HGVs and OGV2s associated with the proposal. The proposed northwards route will require large vehicles to traverse local narrow roads, 'S' Bends and mini-roundabouts through small settlements and hamlets which often have parked vehicles on the road, meaning that cars must maneuver onto the opposite side of the road to pass safely. As a result of the nature of the narrow roads, cars travelling in the other direction, must wait for cars to pass before carrying on in a forwards direction. Furthermore, some of these routes would require large vehicles to pass school children and young families adding to intimidation on the roads at this location. The proposed southern routes would be equally as unsuitable given the need to traverse through the centre of the popular tourist destination of Scarborough which can be heavily congested throughout the year, not just at peak times.

Members have frequently informed CPRE that the PROWs and local road network to the site are highly frequented by non-motorised users (including horse-riders, cyclists, dog-walkers, joggers and walkers etc.) for recreational and amenity uses. CPRENEY are concerned that the number of large vehicles will conflict with those vulnerable users that the NPPF seeks to protect and prioritize, stopping them from accessing the countryside at this location which will detrimentally impact health ad well-being.

Furthermore, the Coastal Site of Special Scientic Interest (Iron Scar and Hundale Point to Scalby Ness) is only 800m to the east of the site, designated in 1986 by Natural England for the following reason '*Within the Iron Scar to Hundale sector of the site, the Aalenian to Bajocian units of the Jurassic are well displayed. <u>The best exposure of the Eller Beck Formation in Yorkshire is seen at Iron Scar and exhibits some of the most spectacularly-preserved trace fossils seen anywhere in the Yorkshire Middle Jurassic.</u> Hundale Point is the type locality for the Scarborough Formation, the most important marine horizon to occur within the dominantly non-marine Middle Jurassic rocks of Yorkshire which yields ammonite fossils of great importance for determining the exact age of the Yorkshire Middle Jurassic sequence*' (My emphasis).

The NPPF 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'* (paragraph 195). Paragraph 193 sets out at point b, '*development on land within or outside a SSSI, and which is likely to have an adverse effect on it, (either individually or in combination with other developments) should not normally be permitted.*' CPRENEY does not consider that the proposal for hydrocarbon extraction at this incredibly sensitive location qualifies it as an 'exception' where the benefits of the development in the specific location clearly outweigh both its likely impact on the features of the site for which it was designated.

It is noted that ecology was scoped out at the screening stage. CPRENEY are concerned that the Preliminary Environmental Assessment submitted by the applicant in support of the proposal is incorrect. Members have reported a number of protected bird species in the vicinity including lapwing, curlew and barn owls, with adjacent landowners setting out that Great Crested Newts have been found and recorded in the immediate vicinity of the site. CPRENEY request that the MPA investigate this and evidence provided by such individuals rather than simply rely on the applicant's evidence. Such information should also be forwarded to the Council's ecologist for further comment.

Furthermore, a number of recreational and leisure facilities are located within close proximity of the site including the well-established and well-used Scarborough Rugby Club and Barons Gym, which, according to the proposed location plan is adjacent to the potential boundary for the horizontal drill. The site is used daily by many members of different sports clubs based at the site and also travelling clubs and school groups. Hydrocarbon development should not give rise to unacceptable impact on local and vulnerable communities or public health.

Indeed, the location is in general a popular tourism destination with numerous accommodations within the area ranging from adjacent caravan and camping sites, to country hotels and wedding venues.

The applicant's documents vary between claiming that the site will be restored following exploratory operations and stating that the applicants seek the *'retention of equipment on site.*' Whilst for exploratory activities at this stage, a future proposal for production phases is clearly therefore being considered (otherwise an exploratory well would not be the subject of this application). As such the argument put forward that there are unlikely to be any significant environmental impacts as a result of the temporary nature of the exploratory activities is self-evidently nonsensical. As such, the MPA should require the applicant to provide information relating to the construction of a wellsite which has a minimum lifespan of 25years, including exploration, appraisal and production activities and then afterwards requiring decommissioning and site restoration. As such the MPA should require a full EIA to be undertaken.

The applicant's proposed use of proppant squeeze technique for hydrocarbon extraction raises serious environmental and safety concerns. As a method of hydraulic fracturing, it poses significant risks to ground and water sources, and its implementation does not align with the long-term energy security and sustainability goals of the United Kingdom. The proppant squeeze technique involves injecting high-pressure fluid mixed with proppant materials into the underground rock formations to release trapped hydrocarbons and has been consistently shown to have detrimental effects on the environment. One of the gravest concerns is the potential for leakages and contamination. The high-pressure injection process can cause fractures in the surrounding rock, leading to unintended pathways for pollutants to enter groundwater systems. This can result in the contamination of drinking water resources, posing severe health risks to local communities and wildlife. Additionally, the chemicals used in the fracturing fluid can leach into the soil and water, further exacerbating environmental harm.

The drilling operations associated with hydraulic fracturing generate significant levels of noise (and will be 24/7 during this period) and air pollution. The release of methane, a potent greenhouse gas, during the extraction process contributes to climate change. Furthermore, the dust and particulate matter released into the air can adversely affect the health of residents living near the extraction sites.

Despite the applicants' claims, the use of proppant squeeze technique does not contribute to the long-term energy security of the United Kingdom. Recent figures indicate that the reliance on gas for energy has been decreasing as the country transitions towards renewable energy sources. According to the latest data, the usage of gas in the UK energy mix has seen a decline. In 2023, natural gas accounted for approximately 40% of the UK's energy consumption, down from over 70% a decade earlier. This decline is a result of increased investments in renewable energy infrastructure and a growing awareness of the need to reduce carbon emissions.

The application of the proppant squeeze technique for hydrocarbon extraction does not provide a sustainable solution for the UK's energy needs. The energy produced from such methods is finite and does not contribute to the resilience and security of the energy grid. In contrast, renewable energy sources such as wind, solar, and tidal power offer a more reliable and environmentally friendly alternative.

The applicant states that this is not an application for 'fracking' – a term commonly used instead of 'hydraulic fracturing.' Regulators, however, regard proppant squeeze as a form of 'low-volume fracking' because the injection pressure is high enough to fracture rocks, although because the volume of liquid injected into the rocks is below the limit set by the Infrastructure Act, it is not covered by the moratorium on fracking – which CPRENEY consider to be something of a loophole. However, proppant squeeze does require consent and a permit from the Environment Agency and the applicant must set out how it intends to minimise the risk of earth tremors from fracking and how the hydraulic fracturing process would be monitored. Again, CPRENEY consider it false to state that this is not fracking, acknowledging it does not represent an application for High Volume Hydraulic Fracturing into shale rock.

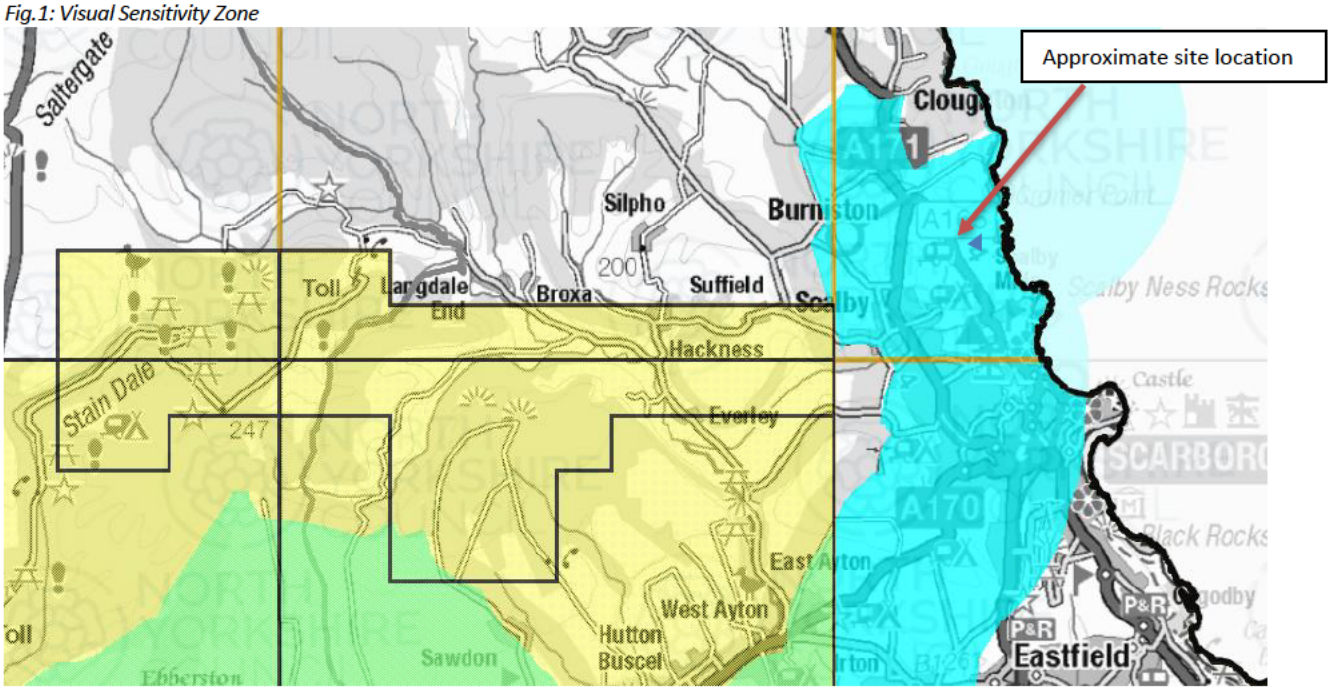
Paragraph 5.124f of the adopted North Yorkshire Minerals and Waste Joint Plan ('MWJP') sets out that for the purposes of the plan '*hydraulic fracturing includes the fracturing of rock under hydraulic pressure regardless of the volume of fracture fluid used*' which is in conformity with the Minerals Planning Practise Guidance definition and the opinion of CPRENEY as set out above.

Policy M16 was long debated at the Examination of the MWJP and sets out clearly at point Di) '*where proposals for surface hydrocarbon development meet other locational criteria set out in this policy but fall within a National Park or an AONB or the associated 3.5km visual sensitivity zone around these areas, as identified on the Policies Map ,or where located beyond this zone, are otherwise considered to have the potential to cause significant harm to a National Park and/or AONB, applications should be supported by a detailed assessment of the potential impacts on the designated area, unless it can be demonstrated that such an assessment is not required, taking into account the particular locational circumstances of the proposed site relative to the designated area. Where detailed assessment is required, this should include an assessment of views of and from the designated areas from significant viewpoints and an assessment of the cumulative impact of development in the area. Permission will not be granted for such proposals where they would result in unacceptable harm to the special qualities of the designated area or are incompatible with their statutory purposes in accordance with Policy D04.*'

Point Dii) states that '*Surface hydrocarbon development will only be permitted where the undeveloped character of the defined Heritage Coast will be protected*.'

The Council's interactive Policies Map clearly shows that the site is within the 3.5km visual sensitivity zone – as shown in figure 1 below, and as such are considered to have the potential to cause significant harm to the National Park.

Fig.1: Visual Sensitivity Zone



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In accordance with the policy extract above, Policy D04 deals specifically with development proposals affecting the North York Moors National Park. Part 3 sets out that '*proposals for development outside of the National Parks will not usually be permitted where it would have an unacceptable harmful effect on the setting of the designated area.*' Paragraph 9.27 of the JMWP explains that the scale, nature and location of a proposed development could detract from the special qualities (including but not limited to tranquillity, dark skies) and the impacts on these qualities from public vantage points including PROWs.

CPRENEY consider that the proposal at this location is not supported by the strengthened duty of the LURA as it simply will not further the purposes of the designation.

Policy M17 sets out instances where other spatial and locational criteria applying to hydrocarbon development will be considered, including accessibility and transport matters and the cumulative impact of the proposals – including all aspects of the same development. Point 2i goes on to state that '*applications for appraisal and production activities should specifically address the potential for cumulative impacts of development upon climate change and where appropriate, propose such mitigation and adaption measures as may be available and consistent with Policy D11.*'

Notwithstanding the above, the Supreme Court handed down its judgment in *R(Finch) v Surrey County Council and ors [2024] UKSC 20* on 20 June 2024, concluding that Surrey County Council's decision to grant planning permission for a project to expand oil production from the Horse Hill well site near Horley was unlawful because it failed to assess the effect of combustion of the oil produced from the proposed well site, and in particular, the inevitable greenhouse gas emissions that will arise as a result (the 'downstream' emissions). Surrey County Council decided that an EIA did not need to include an assessment of the greenhouse gas (GHG) emissions that would occur when the oil extracted from the wells was burnt elsewhere as fuel. It only considered the site's direct releases of greenhouse gases during the lifetime of the project.

Lord Leggatt noted that it was an agreed fact that if the project goes ahead, it is inevitable that the oil produced from the well would be refined and eventually undergo combustion, producing greenhouse gas emissions. It was also agreed that the amount of the emissions could be estimated using an established methodology. Lord Leggatt also concluded that the EIA does not impose a geographical limit on the scope of the environmental effects of a

project, meaning the council was wrong to confine the EIA to emissions expected to occur on the site.

The judgement also went on to reject an argument from the Court of Appeal that the emissions occurring on combustion could not be regarded as effects of the project because what is burnt as fuel will not be the crude oil produced from the well site but an end product made at a separate facility where the oil will be refined. Lord Leggatt reached this conclusion because there was no conjecture about how the oil would be used, unlike materials extracted in a steel plant, for instance, which could be used in a host of different products.

The applicant has submitted a 'Appraisal Well Emissions Report' as part of the supporting information. However, this document, does not consider the end use of the potential oil extracted and appraised. CPRENEY consider that even though this is an exploration application – it is nonsensical to expect the applicant not to sell the produced oil to be combusted elsewhere and release greenhouse gas emissions.

The applicant should be expected to produce additional information assessing the full downstream implications of the proposal prior to determination.

CPRENEY conclude that there are multiple planning considerations of significant importance surrounding the site, which cumulatively result in a highly sensitive location to the potential impacts of this major development.

The use of the proppant squeeze technique (a form of hydraulic fracturing) for hydrocarbon extraction presents substantial environmental risks and does not align with the UK's long-term energy security goals. It is imperative that North Yorkshire Council rejects this application in favour of promoting sustainable and renewable energy solutions. Transitioning to renewable energy is crucial for protecting our natural resources, ensuring public health, and achieving energy independence.

The Council must act decisively to safeguard the environment and promote the well-being of its residents by supporting policies and practices that prioritize sustainability and the preservation of our invaluable natural heritage, unique landscapes and biodiversity.

CPRENEY reserves the right to comment further should additional information be submitted to the MPA.