

Hovingham with Scackleton Parish Council

To: Ryedale District Council, ref 21/01658/CLEUD
Karen Hood,
Jill Thompson
cc: Claire Docwra

c/o Wyvern House,
Park St,
Hovingham
YORK YO62 4JZ
23rd February 2022

Reference application 21/0658/CLEUD for Certificate of Lawfulness

The Parish Council wishes to object strongly to the proposed Certificate of Lawfulness.

Objection 1: Contradictory evidence raising doubt

The LDC Application includes sworn affidavits and vehicle movement data that purport to show continual breach since 2011 and therefore for the last 10 years.

However, the Hovingham with Scackleton Parish Council (HSPC) received a letter dated 10th July 2012 (Appendix A1) (following breach complaints to his company by the HSPC) including his vehicle survey data which shows for the 3 days mentioned no breach occurred. He also writes that his management of drivers and his vehicle tracking system is to ensure no breaches take place (except for unforeseen traffic delays).

The evidence in this letter (that no breaches took place) contradicts the 2021 sworn affidavits, which claim that the breaches were continuous. Clearly both documents cannot be true, either the affidavits are false and there were not continuous breaches or the letter is false that breaches were occurring.

The HSPC is a statutory body, (Appendix A3) and in the same way that sworn affidavits (Appendix A4) are to be truthful, clearly the Mosey letter is made to a Statutory body and should also be truthful, otherwise it constitutes 'fraud by false misrepresentation'.

A similar letter to the Parish Council in (Appendix A2) states that the Mosey breach lorry movements were caused by a case of vehicle maintenance and ... of a one-off nature, while the 2021 sworn affidavits contradict this by saying the breach was continuous. This is also contradictory.

Objection 2. Failure to achieve the 10-year period of continuous breach:

The Moseys LDC Appendix B1 application Section 6 claims 'the use, building works or activity in breach of conditions began more than 10 years before the date of this application (dated 23/12/2021). Further Section 7 states, in the case of an existing use or activity in breach of conditions has there been any interruption? Which is answered 'No'.

Similarly, an RDC email from Jill Thompson 17th February (Appendix B2)

... I should emphasise that comments or 'objections' relating to concerns about vehicular traffic or routes are not relevant to the determination of the application. This solely relates to the consideration of evidence which informs whether a breach of the condition has occurred for a ten-year period.

Moseys letters (Appendix A1 and A2) provide evidence that contradict this date by showing the breach was not continuous and hence the required 10 years have not been met. At best the 10 years is achieved 10 years after the 10th July 2012 and, or 31st May 2013.

Objection 3: Incorrect details on the LDC application

The applicant's name in the LDC section 2 (see Appendix C) is given as 'Ian Mosey' whereas the Planning Application etc is in the name of Ian Mosey Ltd, these are not the same 'legal body'.

Objection 4: Misrepresentation as to lack of issues raised by local residents and businesses.

The O'Neil letter – Page 3 – (Appendix C1) claims that granting the LDC would be 'unlikely to cause any local concern'.

This we refute most strongly and have to comment that the anger and sense of outrage by residents is overwhelmingly contradicting O'Neil's unsubstantiated assumption, which made without any evidence presented.

We however can present evidence that granting the LDC would, and already is, causing extreme local concern and anxiety. Appendix C2 contains the relevant documents

Appendix C2.1 Letters of concerns from the Parish Council to Ian Mosey complaining of breaches

Appendix C2.2 Emails of concerns to our Local Councillors

Appendix C2.3 Emails of concerns from residents

Appendix C2.4 Hovingham Community Survey report of June 2019 page 11 Section 3, (a survey in late 2018 to which 77% of the village responded) which shows that HGV early and late movements was a concern to 85% of residents – this was their highest Traffic concern. The full report is available Hovingham Village Website ([www.hovingham.org.uk/2018 Report.pdf](http://www.hovingham.org.uk/2018%20Report.pdf))

Appendix C2.5 Comments logged on the RDC website to date showing 61 comments on the LDC of which 60 are opposed and one is neutral.

This evidence totally contradicts the unsupported contention in the O'Neil letter that there are no local concerns.

Conclusion.

Based on the objections listed below we ask that you decline the LDC application 21/0658/CLEUD for Certificate of Lawfulness.

- Objection 1: Contradictory evidence raising doubt
- Objection 2. Failure to achieve the 10-year period of continuous breach
- Objection 3: Incorrect details on the LDC application
- Objection 4: Misrepresentation as to lack of issues raised by local residents and businesses.

We would have liked more time to prepare our response but sadly this was not granted by RDC. Therefore, these objections only raise issues we can make in the time given.

Other evidence is currently being sought via Freedom of Information Requests and further research and if we have the opportunity, we will make further objections when our research supports this. We are also checking case law etc with regard to CLEUD applications and withdrawing a CLEUD application where it is found *where statements were false in a material particular or that material evidence had been withheld*.

Yours faithfully

Phil Chapman (Chair) and Mark Wilson (Vice-Chair) with support of all Parish Councillors

Hovingham with Scackleton Parish Council

Submission by Hovingham with Scackleton Parish Council opposing application RDC 21/01658/CLEUD

APPENDICES

- A1 Letter from Ian Mosey 2012
- A2 Letter from Ian Mosey 2013
- A3 Accuracy of Information supplied to a Parish Council
- B1 Application to RDC for Certificate of Lawfulness 21/01658/CLEUD
- B2 Statements attached to Application 21/01658/CLEUD
- B3 Jill Thompson's email of 17th February 2022
- C1 O'Neill Letter accompanying Application 21/01658/CLEUD
- C2.1 Letters between RDC and Parish Council and Moseys
- C2.2 Email to Local Councillors - Claire Docwra dialogue
- C2.3 Resident email and concerns
- C2.4 Community Survey 2018
- C2.5 Number of Comments registered on Ryedale Planning Website for 21/01658/CLEUD
- D1 Case to withdraw Certificate

Appendix A1 – Letter from Ian Mosey to Parish Council – 10th July 2012

IanMosey(Feed)Ltd

10 July 2012

Mrs Susan Wainwright
Clerk to the Parish Council
Hovingham with Scackleton Parish Council
Hall Farm
Hovingham
York
YO62 4LF

Dear Mrs Wainwright

IAN MOSEY FEED LORRIES – TRAFFIC

Thank you for your letter dated 21 June 2012 regarding Ian Mosey Feed lorries. We can assure you that all drivers of these lorries have been made aware of the current planning regulation. However, since your letter we have reinforced to them that they are not permitted to use Park Street, Main Street or High Street outside of the permitted hours. We have been monitoring (and will continue to do so going forward) this situation carefully using our vehicle tracking system and any driver found to be breaching the current planning regulation will be disciplined, unless, as I am sure you will appreciate, drivers experience unforeseen traffic delays.

We have taken the time recently to survey all traffic travelling on the above named roads between 5.00am and 6.30am. This was to ensure that residents of Hovingham are not confusing the sound of Ian Mosey Feed lorries with other HGVs, LGVs and cars using these roads. Indeed, we found that other HGVs, LGVs and cars are using these roads during these times. Our findings were as follows:

Mon 2 Jul 12

Along Park Street, to High St/Main St/Woods 18 cars, 6 Other HGV/LGV, 0 Ian Mosey Feed lorries
Along High St/Main St 39 cars, 7 Other HGV/LGV, 0 Ian Mosey Feed lorries

Wed 4 Jul 12

Along Park Street, to High St/Main St/Woods 20 cars, 11 Other HGV/LGV, 0 Ian Mosey Feed lorries
Along High St/Main St 35 cars, 27 Other HGV/LGV, 0 Ian Mosey Feed lorries

Fri 6 Jul 12

Along Park Street, to High St/Main St/Woods 13 cars, 11 Other HGV/LGV, 0 Ian Mosey Feed lorries
Along High St/Main St 36 cars, 21 Other HGV/LGV, 0 Ian Mosey Feed lorries



Registered in England and Wales
Registered Office Village Farm / Main Street
Gilling East / York YO62 4JH
Company No. 06833184
VAT No. GB 100 1005 14

E info@ianmoseyLtd.com
M 01347 888636

SALES
Blackdale Mill
Coulton
Hovingham
York
YO62 4NQ
T 01347 888636
E 01347 888736

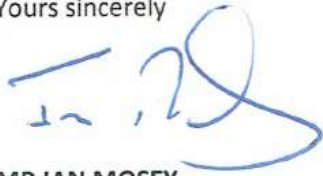
ACCOUNTS
Village Farm
Main Street
Gilling East
York
YO62 4JH
T 01439 788300
E 01439 788515

Appendix A1 – Letter from Ian Mosey to Parish Council – 10th July 2012 (continued)

Nevertheless, we will continue to monitor our Feed drivers carefully and continue to underline the permitted hours to them. We have also taken your suggestion onboard with regard to vehicle speed and have requested that all Ian Mosey drivers travelling on Park Street do not exceed 20mph at anytime.

If I may be of any further assistance, please do not hesitate to contact me by post, on 01347 888636 or at ianmosey@ianmoseyltd.com

Yours sincerely



MR IAN MOSEY
Director
The Ian Mosey Ltd group

Appendix A2 – Letter from Ian Mosey to Parish Council – 31st May 2013



01347 888636 www.ianmosey.com
01347 888276 info@ianmosey.com
Village Farm, Main Street, Gilling East, York YO62 4JH
Blackdale Mill, Coulton, Hovingham, York YO62 4NQ

31 May 2013

Mrs Susan Wainwright
Hovingham with Scackleton Parish Council
Hall Farm
Hovingham
York
YO62 4LF

Dear Mrs Wainwright

Thank you for your letter dated 13 May 2013 drawing to our attention Ian Mosey feed wagons operating outside the limits set by Ryedale District Council Planning Authority on 6 September 2011.

We have checked on our vehicle tracking system and it is correct that a few feed wagons have been operating outside of the limits set. This seems to have happened because we have had two feed wagons off the road recently due to accidents which had unfortunately put pressure on the rest of our fleet. These wagons have now been repaired and we also now have an additional two new feed wagons. This has taken pressure of our fleet. Drivers have also been reminded to adhere to the limits.

Yours sincerely

IAN MOSEY
Director

Appendix A3 – Information supplied to Parish Council

A local council is a universal term for community, neighbourhood, parish and town councils. They are **the first tier of local government and are statutory bodies**. They serve electorates and are independently elected and raise their own precept (a form of council tax).

Source: About Local Councils, www.nalc.gov.uk

Fraud by false representation is when someone: **Dishonestly makes** a false representation, and he/she. Knows that the representation is (or might be) untrue or misleading, and he/she. Does so with the intention of making a gain for himself/herself, or to cause a loss to another, or expose another to a risk of loss.

Fraud by false representation - 2006 Fraud Act

The defendant:

- **made a false representation**
- *dishonestly*
- *knowing that the representation was or might be untrue or misleading*

Source: Legal guidance on 2006 Fraud Act, Government Crown Prosecution Service website

Appendix A4 – Sworn Affidavits accompanying application (1 of 7)

External Haulier, Maryfield, 14 Lamberton Holdings, Lamberton, TD15 1XB

I have delivered animal feed on behalf of Ian Mosey since 2009, making deliveries several times a week. My business has six 26 tonne artic HGVs. When doing work for Ian Mosey, our first delivery lorries would typically arrive at the Blackdale Mill site between 5am and 6am. The last loads would typically leave the Blackdale Mill site between 6pm and 9pm. We have also delivered on Saturday afternoons after 1:30pm and Sundays, as and when required. This has been the case throughout my time delivering for Ian Mosey.

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

22.12.21

DATED

Appendix A4 – Sworn Affidavits accompanying application (2 of 7)

Director of Ian Mosey (Feed) Limited, Village Farm, Gilling East, YO62 4JH

I have worked for Ian Mosey (Feed) Limited for 21 years and have been a Director since April 2011. Ian Mosey (Feed) Limited's own HGVs, its supplier's HGVs and associated external haulier's HGVs have routinely arrived at and departed from the Blackdale Mill site between 6:00pm and 6:30am (next day) during Monday to Friday as well as after 1:30pm on a Saturday and all day Sunday. This has been ongoing since before April 2011 and has been necessary due to the "just in time" supply chain system we operate from the Mill. As we manufacture to a 24-7 schedule it has been necessary to take raw material deliveries and despatch animal feed during flexible time periods to support demand.

The vehicle movement data as submitted evidences the extent of our own Feedmill related HGV movements during the last 10 years. The data is provided from a data extract that we obtained from Masternaut which covers the period from 2011 to 2020. 2021 data is provided by the Samsara system. I confirm that the data as submitted is an accurate record of our Vehicle movements in that period.

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

21/12/21

DATED

Appendix A4 – Sworn Affidavits accompanying application (3 of 7)

Resident,

West Farm House, Park Street, Hovingham, YO62 4JZ

I've lived at West Farm House, Park Street, Hovingham, YO62 4JZ since 2000. During the last 10 years HGV vehicles serving Ian Mosey have routinely passed by my house between the hours 6pm to 6:30am (next day) Monday to Friday, and 1pm -6:30am (next day) Saturdays and Sundays.

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

_____ 21 / 12 / 2021 _____

DATED

Appendix A4 – Sworn Affidavits accompanying application (4 of 7)

**Lorry Driver and Transport Planner at Ian Mosey (Feed) Limited,
Malton, YO17 9BF**

16 Farm View,

I have worked full-time for Ian Mosey since 2009, working 48 hours a week plus overtime.

Initially I was a HGV driver but since 2013 have done a mixture of driving and transport planning. In my transport planning role I am responsible for organising which vehicles and driver make each delivery at the relevant times.

As a driver we either deliver using 18 tonne rigid HGVs or 26 tonne artics. I drove both types of vehicle. On my first load of the day I nearly always left the Blackdale Mill site between 5am and 6:30am, Monday to Saturday each week. My final load would usually return back to the Blackdale Mill site between 6pm and 9pm and sometimes later. This was my driving work pattern for all the time I have been here at Ian Mosey (Feed) Limited, and it also reflects what other drivers would do when I was planning them.

In 2012 we had a night driver who only delivered after 6pm. This would involve that driver having journeys back and forth to the Blackdale Mill site during the night in the week. Drivers also routinely work full days on a Saturday and sometimes on a Sunday.

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

21-12-21

DATED

Appendix A4 – Sworn Affidavits accompanying application (5 of 7)

**Customer / Supplier,
YO62 5EJ**

Director of Court House Farms Limited, Helmsley,

Ian Mosey have supplied our business with animal feed for 12 years. We collect the feed direct from Blackdale Mill several times a week. We collect at various times from early morning (5:30am) through to evening (8pm) depending on availability/ urgency of feed requirements. Flexibility of timings has been essential as production schedules do change and when we are low on feed we have to be able to collect regardless of the time. In addition to being a customer, we have also supplied wheat and barley to Ian Mosey for 12 years. We have always been allowed to deliver to Blackdale Mill in a flexible time period, arriving on site as early as 5:30am or as late as 8pm. We have also been able to deliver on a weekend at any time during the day. Our farm is near the A170 and we regularly see Ian Mosey feed lorries passing our farm between 6:00pm and 6:30am (next day).

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

21/12/21

DATED

Appendix A4 – Sworn Affidavits accompanying application (6 of 7)

Director of Ian Mosey (Feed) Limited, Village Farm, Gilling East, YO62 4JH

I have been a Director of Ian Mosey (Feed) Limited since its incorporation in 2009. Ian Mosey (Feed) Limited's own HGVs, its supplier's HGVs and associated external haulier's HGVs have routinely arrived at and departed from the Blackdale Mill site between 6:00pm and 6:30am (next day) during Monday to Friday as well as after 1:30pm on a Saturday and all day Sunday. This has been ongoing since before April 2011 and has been necessary due to the "just in time" supply chain system we operate from the Mill. As we manufacture to a 24-7 schedule it has been necessary to take raw material deliveries and despatch animal feed during flexible time periods to support demand.

The vehicle movement data as submitted evidences the extent of our own Feedmill related HGV movements during the last 10 years. The data is provided from a data extract that we obtained from Masternaut which covers the period from 2011 to 2020. 2021 data is provided by the Samsara system. I confirm that the data as submitted is an accurate record of our Vehicle movements in that period.

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

22/12/21
DATED

Director, Ian Mosey (Feed) Limited

Appendix A4 – Sworn Affidavits accompanying application (7 of 7)

Supplier, **Old Goole Mill, Goole, DN14 8BD**

We have supplied Ian Mosey with raw materials since the year 2000. We usually deliver to the Blackdale Mill site 4-6 times a day (Monday to Saturday), using HGVs. Our first deliveries usually arrive at Blackdale Mill between 5am and 6am and our last loads arriving at the Blackdale Mill site between 6pm and 8pm, this has been the case for more than 10 years.

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

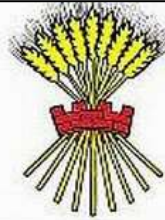
_____ 22/12/2021

DATED

Appendix B1 – Application 21/01658/CLEUD to RDC (Page 1 of 4)

Development Management
Ryedale District Council
Ryedale House
Malton
YO17 7HH
Tel: 01653 600666
Email dm@ryedale.gov.uk

**RYEDALE
DISTRICT
COUNCIL**



For office use only
App no:
Fee:
Date Received:

Application for a Lawful Development Certificate for an Existing use or operation or activity including those in breach of a planning condition.

Town and Country Planning Act 1990: Section 191 as amended by section 10 of the Planning and Compensation Act 1991.

Town and Country Planning (Development Management Procedure) (England) Order 2015

Publication of applications on planning authority websites.

Please note that the information provided on this application form and in supporting documents may be published on the Authority's website. If you require any further clarification, please contact the Authority's planning department.

1. Site Address

Number	<input type="text"/>
Suffix	<input type="text"/>
Property name	<input type="text" value="Blackdale Farm"/>
Address line 1	<input type="text" value="Coulton Lane"/>
Address line 2	<input type="text" value="Coulton"/>
Address line 3	<input type="text"/>
Town/city	<input type="text" value="Helmsley"/>
Postcode	<input type="text" value="YO62 4NQ"/>

Description of site location must be completed if postcode is not known:

Easting (x)	<input type="text" value="462640"/>
Northing (y)	<input type="text" value="475497"/>
Description	<input type="text"/>

2. Applicant Details

Title	<input type="text"/>
First name	<input type="text"/>
Surname	<input type="text" value="c/o Agent"/>
Company name	<input type="text" value="Ian Mosey"/>
Address line 1	<input type="text" value="Blackdale Farm, Coulton Lane"/>
Address line 2	<input type="text" value="Coulton"/>
Address line 3	<input type="text"/>

Appendix B1 – Application 21/01658/CLEUD to RDC (Page 2 of 4)

4. Description of Use, Building Works or Activity

Please note that following changes to Use Classes on 1 September 2020, the list includes the now revoked Use Classes A1-5, B1, and D1-2 that should not be used in most cases. Also, the list does not include Use Classes C2A and C4 or the newly introduced Use Classes E and F1-2. To provide details in relation to these or any 'Sui Generis' use, select 'Other' and specify the use where prompted. See help for more details on Use Classes.

Other

Other

Feed Mill

5. Description of Existing Use, Building Works or Activity

Please fully describe each existing use, building works or activity for which you want the lawful development certificate. Where appropriate, show to which part of the land each use, building works or activity relates

Immunity from enforcement action with respect to Condition 1 attached to planning permission reference 11/00498/73A dated 6 September 2011

6. Grounds for application of a Lawful Development Certificate

Under what grounds is the certificate being sought

- The use began more than 10 years before the date of this application
- The use, building works or activity in breach of condition began more than 10 years before the date of this application
- The use began within the last 10 years, as a result of a change of use not requiring planning permission, and there has not been a change of use requiring planning permission in the last 10 years
- The building works (for instance, building or engineering works) were substantially completed more than four years before the date of this application.
- The use as a single dwelling house began more than four years before the date of this application
- Other - please specify (this might include claims that the change of use or building work was not development, or that it benefited from planning permission granted under the Act or by the General Permitted Development Order).

Is the certificate being sought for a use, operation, or activity in breach of a condition or limitation?

Yes No

Reference number

11/00498/73A

Condition number

1

Date (must be pre-application submission)

06/09/2011

Please state why a Lawful Development Certificate should be granted

The evidence submitted with the application demonstrates, this condition has not been complied with for continuous period of 10 years. The evidence is compelling and goes beyond the 'balance of probability' legal test

7. Information in support of a Lawful Development Certificate

When was the use or activity begun, or the building works substantially completed (date must be pre-application submission)?

18/12/2021

In the case of an existing use or activity in breach of conditions has there been any interruption?

Yes No

In the case of an existing use of land, has there been any material change of use of the land since the start of the use for which a certificate is sought?

Yes No

Residential Information

Does the application for a certificate relate to a residential use where the number of residential units has changed?

Yes No

Appendix B1 – Application 21/01658/CLEUD to RDC (Page 3 of 4)

4. Description of Use, Building Works or Activity

Please note that following changes to Use Classes on 1 September 2020, the list includes the now revoked Use Classes A1-5, B1, and D1-2 that should not be used in most cases. Also, the list does not include Use Classes C2A and C4 or the newly introduced Use Classes E and F1-2. To provide details in relation to these or any 'Sui Generis' use, select 'Other' and specify the use where prompted. See help for more details on Use Classes.

Other

Other

Feed Mill

5. Description of Existing Use, Building Works or Activity

Please fully describe each existing use, building works or activity for which you want the lawful development certificate. Where appropriate, show to which part of the land each use, building works or activity relates

Immunity from enforcement action with respect to Condition 1 attached to planning permission reference 11/00498/73A dated 6 September 2011

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Under what grounds is the certificate being sought

- The use began more than 10 years before the date of this application
- The use, building works or activity in breach of condition began more than 10 years before the date of this application
- The use began within the last 10 years, as a result of a change of use not requiring planning permission, and there has not been a change of use requiring planning permission in the last 10 years
- The building works (for instance, building or engineering works) were substantially completed more than four years before the date of this application.
- The use as a single dwelling house began more than four years before the date of this application
- Other - please specify (this might include claims that the change of use or building work was not development, or that it benefited from planning permission granted under the Act or by the General Permitted Development Order).

Is the certificate being sought for a use, operation, or activity in breach of a condition or limitation?

Yes No

Reference number

11/00498/73A

Condition number

1

Date (must be pre-application submission)

06/09/2011

Please state why a Lawful Development Certificate should be granted

The evidence submitted with the application demonstrates, this condition has not been complied with for continuous period of 10 years. The evidence is compelling and goes beyond the 'balance of probability' legal test

7. Information in support of a Lawful Development Certificate

When was the use or activity begun, or the building works substantially completed (date must be pre-application submission)?

18/12/2021

In the case of an existing use or activity in breach of conditions has there been any interruption?

Yes No

In the case of an existing use of land, has there been any material change of use of the land since the start of the use for which a certificate is sought?

Yes No

Residential Information

Does the application for a certificate relate to a residential use where the number of residential units has changed?

Yes No

Appendix B1 – Application 21/01658/CLEUD to RDC (Page 4 of 4)

8. Site Visit

Can the site be seen from a public road, public footpath, bridleway or other public land?

Yes No

If the planning authority needs to make an appointment to carry out a site visit, whom should they contact?

- The agent
 The applicant
 Other person

9. Pre-application Advice

Has assistance or prior advice been sought from the local authority about this application?

Yes No

10. Interest in the Land

Please state the applicant's interest in the land

- Owner
 Lessee
 Occupier
 Other

11. Authority Employee/Member

With respect to the Authority, is the applicant and/or agent one of the following:

- (a) a member of staff
(b) an elected member
(c) related to a member of staff
(d) related to an elected member

It is an important principle of decision-making that the process is open and transparent.

Yes No

For the purposes of this question, "related to" means related, by birth or otherwise, closely enough that a fair-minded and informed observer, having considered the facts, would conclude that there was bias on the part of the decision-maker in the Local Planning Authority.

Do any of the above statements apply?


12. Declaration

I/we hereby apply for a Lawful Development Certificate as described in this form and the accompanying plans/drawings and additional information. I/we confirm that, to the best of my/our knowledge, any facts stated are true and accurate and any opinions given are the genuine opinions of the person(s) giving them.

Date (cannot be pre-application)

23/12/2021

Appendix B2 – Email from Jill Thompson – 17th February 2022



Thu 17/02/2022 08:34
Jill Thompson <jill.thompson@ryedale.gov.uk>
RE: RDC Application 21/01658/CLEUD

To: 'philc@apcp.com'
Cc: Cllr Claire Docwra

Market

i You replied to this message on 18/02/2022 11:36.

Thank you for your email Mr Chapman.

I do just need to clarify that the above application is not a planning application and that the Local Planning Authority is not consulting on the planning merits of this application. Certificates of lawfulness aim to establish whether something is lawful and they are determined on the basis of evidence and on the balance of probability.

Planning issues/ implications do not form part of the determination of the application and any objections that we receive which relate to such matters are not relevant and cannot be taken into account. For this reason it is not a statutory requirement that a Local Planning Authority should consult on a certificate of lawfulness application (although Ryedale does notify parish councils covering the area in which the application site is located).

I understand that the Case Officer has agreed that the local Parish Council can submit comments by the 24 February and if you wish to submit comments please do so by this date. I should emphasise that comments or 'objections' relating to concerns about vehicular traffic or routes are not relevant to the determination of the application. This solely relates to the consideration of evidence which informs whether a breach of the condition has occurred for a ten year period.

I appreciate that this is frustrating but it is important that I clarify that this process is not the same as the planning application process. Apologies if you are aware of this .

Regards
Jill

From: Phil Chapman [<mailto:philc@apcp.com>]
Sent: 16 February 2022 12:04
To: Jill Thompson <jill.thompson@ryedale.gov.uk>
Cc: 'Claire Docwra' <docwraa@aol.com>; Mark Wilson <markwilson@fastmail.co.uk>
Subject: RDC Application 21/01658/CLEUD

Dear Jill

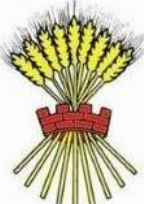

Hovingham with Scackleton Parish Council are very concerned about not being formally invited to take part in the consultation on this application and only heard about it from a concerned resident last Friday, although we were "an interested party" on the previous planning applications.

There are considerable concerns, both from residents and the Parish Council, regarding the application and need a reasonable time to prepare a response and document the significant number of complaints made regarding breaches of the conditions to application 11/00498/73A and observed by Claire Docwra, our current District Councillor, and Robert Wainwright, our previous District Councillor.

Please can you confirm if the deadline has been extended and to what date.

Very best regards

Phil





Chartered Town Planning Consultants

Planning Department
Ryedale District Council
Old Malton Road
North Yorkshire
YO17 7HH

Our ref: rddf2112.lpa.tr
Date: 23rd December 2021

Dear Sir/ Madam

APPLICATION FOR A CERTIFICATE OF LAWFUL DEVELOPMENT IN RELATION TO CONDITION 1 (HOURS OF VEHICULAR MOVEMENTS) OF PLANNING PERMISSION 11/00498/73A DATED 6TH SEPTEMBER 2011 – BLACKDALE FARM, COULTON LANE, COULTON, HELMSLEY YO62 4NQ

I am pleased to submit a certificate of lawful development under Section 191(1)(c) of the Town and Country Planning Act 1990 as amended (the Act).

Application

A Certificate of Lawful Use is sought in relation to vehicle movements associated with a feed mill and associated feed bins operating continually beyond the hours in the relevant planning condition for in excess of ten years at Blackdale Farm, Coulton. The relevant condition is condition 1 of planning permission 11/00498/73A worded as follows:

Vehicular movements associated with the feed mill and associated feed bins shall only occur between the hours of 0630 – 1800 Monday to Friday, and 0630 – 1300 on Saturdays.

However, as the evidence submitted with the application demonstrates, this condition has not been complied with for continuous period of 10 years.

On 6th September 2011, planning permission (reference: 11/00498/73A) was granted for the removal of condition 01 of approval 03/00359/73 dated 17.02.2006 to allow in excess of 2,500 tonnes of feed per month to be produced. This consent was implemented immediately following its approval. Indeed, the Officer report in relation to this planning permission stated that "...the mill is currently producing approximately 120,000 tonnes per year (10,000 tonnes per month)".

Appendix C1 – Letter from O’Neill Associates with application (Page 2 of 4)

The following information is formally submitted in support of the application.

- Haulage tracking information held by a third party (Masternaut) including a summary, Year by Year summary, and narrative. Details of every vehicle trip has been recorded and this data has been summarised to show the frequency vehicles departed and arrived at the Blackdale Mill site.
- The data is stored in 10 spreadsheets, 1 for each year. Each spreadsheet is between 40 and 100Mb, which is too large to upload onto the planning portal. The spreadsheets can be provided by an alternative method upon request.
- 1no signed Statement of Truth from local resident, prepared by Langleys Solicitors
- 1no signed Statement of Truth from local an employee, prepared by Langleys Solicitors
- 1no signed Statement of Truth from an operator, prepared by Langleys Solicitors
- 1no signed Statement of Truth from a supplier, prepared by Langleys Solicitors
- 1no signed Statement of Truth from customer, prepared by Langleys Solicitors
- 2no signed Statement of Truths from company Directors, prepared by Langleys Solicitors

Please note that the evidence provided contains sensitive data such as names, signatures and commercially sensitive information and it is requested that this is kept confidential or appropriately redacted.

For Information Only

- Planning permission decision notice dated 6th September 2011 reference 11/00498/73A
- Site Plan
- Officer Committee report for planning application 11/00498/73A (considered by Ryedale DC's Planning Committee 31st August 2011)
- Planning permission decision notice dated 17th February 2006 reference 03/00350/73

Assessment

The feed mill is operated by Ian Mosey (Feed) Ltd and provides animal feed to farms as far north as Scotland and farms as far south as Lincolnshire. The company was founded over 40 years ago and has grown from very humble beginnings to be the largest independent pig producer in the UK (producing between 8 and 10 % of the nations pigs). The Blackdale feedmill is one of the most efficient mills in the country which not only supplies its own pigs with feed but also a significant number of external customer's farms, across a wide range of livestock - including pigs, chickens, game, sheep and cattle. As a result of the success of the business the Ian Mosey Group is now one of the largest employers in a 10 mile radius of the Blackdale site meaning it is critically important to a heavily rural economy, providing secure and well paid employment for more than 150 employees, providing a significant revenue stream for c.350 farms (many of which Yorkshire based) as well as being a source of major contracts for other local businesses including raw material suppliers, office supplies, engineers, hauliers and veterinary.

In recent times, the business environment has become particularly challenging due to Covid-19, Brexit, and other global supply chain issues. There has been widespread media coverage of the national HGV driver shortage, which has made recruitment and retention particularly difficult for the business. The restrictions imposed by the original planning consent would make it almost impossible to plan logistics for the volume of pigs currently being farmed within the context of a feed mill that produces 24 hours a day, 7 days a week. Not least, there are driver welfare issues

Appendix C1 – Letter from O’Neill Associates with application (Page 3 of 4)

which the restrictions would also present such as when drivers are delayed in traffic or breakdowns and therefore unable to get back to site in time for the cut-off. The additional stress of having to work with such constraints would make working for Ian Mosey (Feed) Ltd particularly unattractive for most HGV drivers. Ensuring business continuity and competitiveness in these challenging times is critical. To this end, certainty regarding the lawful position of the aforementioned planning condition is needed to secure the long-term future and economic benefits of the mill.

The combined effect of Section 171B and Section 191(2) and (3) of the Act is that after the relevant time limit has expired no enforcement action can be taken and any uses or operations become lawful. Where an enforcement notice is served, alleging a breach of planning control, its issue cannot be effective in law unless the breach alleged occurred within the prescribed time limit, because " ... no enforcement action may be taken after the end of the period ..."

Of significant relevance is the decision of Newman J in *Thurrock Borough Council v Secretary of State for the Environment, Transport and the Regions* [2001] EWHC 128 (Admin) in which it was held that:

"The rationale of the immunity is, that throughout the relevant period of unlawful use the Local Planning Authority, although having the opportunity to take enforcement proceedings, has failed to take any action, and consequently it would be unfair and/or could be regarded as unnecessary to permit enforcement.

In my judgment, it must follow that if at any time during the relevant period the Local Authority would not have been able to take enforcement proceedings in relation in respect of the breach, for example, because no breach was taking place, then any such period cannot count towards the rolling period of years which gives rise to the immunity"

In this case, there have not been any periods during the last ten year of alternative planning use (e.g. reversion to the existing lawful use) and/or inactivity ordinarily inconsistent with the claimed unlawful use. Evidently, there has been no interruption to the immunity period. It is considered that the submitted information is sufficiently precise, unambiguous and more than adequately demonstrates that, on the balance of probabilities, that the condition in question has been breached for a continuous period of more than ten years from the date of this application. Furthermore, despite the continuous nature of these breaches, there has been hardly any issues raised by local residents or businesses over the same 10 year period, indicating it would be unlikely to cause any local concern should the lawful development certificate be granted.

The vehicle tracking data has been obtained from a third party, Masternaut who hold the information in support of this application. Masternaut is a company part of the Michelin Group which is a multinational business used primarily by logistics companies to track their vehicle fleet. Its reliable and robust GPS tracking devices send accurate locations to its Masternaut platform, so companies can view their whole fleet on one live map at any given point in time.

The Masternaut data is comprehensive. It provides daily records covering a period of over ten years. It lists vehicle registration numbers, the destination or departure location, the day of the week, and time of day. A summary of the data is also provided showing that on average there were 12.79 vehicle trips outside of the permitted hours each day for the last ten years.

Appendix C1 – Letter from O’Neill Associates with application (Page 4 of 4)

The same data is presented for each week on the year. This shows the number of trips made for each vehicle outside the permitted hours. Since the 36th week in 2011 to the 40th week in 2021 there have been between 16 – 170 breaches each and every week, averaging 90 breaches every week.

Furthermore, the above figures do not include external haulage for finished feed and suppliers bringing raw materials to site which would account for approximately double the amount of breaches (based on volume) as evidenced by the signed Statement of Truth by suppliers.

The above is corroborated further by the affidavits signed but others who have different interests and perspectives. Taken together, these provide a precise and unambiguous picture of the vehicle movements associated with the feed mill’s operations over the last ten years. Dates and details of the frequency of events are consistent with the above tracking data and each of the other Statements of Truth.

In light of the above there precise and unambiguous evidence demonstrating that, on the balance of probabilities, that the condition in question is now immune from enforcement action and the current use of the feed mill is lawful.

If you have any questions or would like to discuss any matters arising from this submission, please do not hesitate to contact me.

Yours sincerely,

Associate

Appendix C2.1 – Correspondence between RDC, Parish Council and Moseys

C2.1.1 Email from Rachel Smith to Parish Council, dated 5th March 2012

Subject: RE: Blackdale Farm
From: Rachel Smith <rachel.smith@ryedale.gov.uk>
Date: 05/03/2012 12:14
To: 'Parish Clerk' <parishclerk@hovingham.org.uk>
CC: Shirley Wilson <shirley.wilson@ryedale.gov.uk>

Dear Mrs Wainwright

I have forwarded your letter to the Councils enforcement officer to investigate a breach of condition. One difficulty will be to ascertain whether the vehicular movements are associated with the feed mill or not. This is because Blackdale Farm is not restricted in the same way. If the Parish Council, or any residents have any specific information in relation to vehicular movements outside the approved hours, it would be very helpful.

Regards

Mrs Rachel Smith
Development Control Officer

-----Original Message-----

From: Parish Clerk [<mailto:parishclerk@hovingham.org.uk>]
Sent: 05 March 2012 10:47
To: Rachel Smith
Subject: Re: Blackdale Farm

Good morning Rachel Smith,
Thank you for your swift reply.
Attached is the letter dated 9th January 2012.
Regards,
Susan Wainwright

On 05/03/2012 09:33, Rachel Smith wrote:

Dear Mrs Wainwright

Karen Hood has forwarded your email regarding Blackdale Farm. Unfortunately I don't appear to have your original. I would be grateful therefore if you could advise me again of your concerns, and I will respond to them this week.

Regards

Rachel Smith
Development Control Officer

-----Original Message-----

From: Parish Clerk [<mailto:parishclerk@hovingham.org.uk>]
Sent: 04 March 2012 19:26
To: Karen Hood
Subject: Blackdale Farm

Dear Karen,
Thank you for acknowledging my email and letter on 12th January 2012 reporting that you had passed it to the case officer Rachel Smith for a response.
I know you are all very busy but wondered if it would be possible to

C2.1.2 Email from Shirley Wilson, RDC to Robert Wainwright, 16th April 2012

Cllr Robert Wainwright

From: Shirley Wilson
Sent: 16 April 2012 13:59
To: Cllr Robert Wainwright
Subject: FW: Blackdale Farm Coulton

Dear Cllr and Mrs Wainwright

I refer to Mrs Wainwrights copy letter dated 9 January 2012 that I received on 5 March 2012 and Cllr Wainwrights email dated 22 March 2012 addressed to Rachel Smith.

I would firstly agree that the restriction is the vehicle movements in and out of the site.

I have spoken to Mr Mosey who has confirmed that on checking his records he is aware that there have been a few loaded vehicles that have left the site prior to the 6.30 am restriction. He is ensuring that this is not repeated.

He has stated that there are livestock vehicle movements that are not included in the restriction.

No vehicles should speed as they are fitted with trackers and this can be checked. If drivers are speeding he asked for details of the registrations so checks can be made. Ultimately this is a matter for the police if the speed limit is being broken

If we have registration numbers, times and dates I think we could ask for written confirmation as to where any Mosey vehicles are going and the reason for the journey.

Please be assured that we are seeking compliance with the planning conditions.

Regards

Shirley Wilson

C2.1.3 Email from Parish Council to Ian Mosey, dated 21st June 2012

Hovingham with Scackleton Parish Council
Clerk to the Parish Council, Mrs Susan Wainwright
Hall Farm, Hovingham, York YO62 4LF
Telephone 01653 628364
Email: parishclerk@hovingham.org.uk

Chairman Councillor I. Battersby

Mr Ian Mosey
Blackdale Farm,
Coulton
Hovingham
York

June 21st 2012

Dear Mr I. Mosey,

The Hovingham Parish Councillors who live on Park Street and High Street are concerned about the feed lorries belonging to your business that are travelling along Park Street and on to Main Street and High Street outside the hours of 6.30 and 18.00 Monday to Friday and 6.30 and 13.00 on Saturdays, thus breaching the current planning regulation.

The members of the Parish Council would be grateful if you could spare time to check the records of your vehicles and drivers, as residents have reported seeing feed lorries as early as 5.00am, and remind those responsible for the feed lorries of the requirement to operate within the hours of 6.30 and 18.00 Monday to Friday and 5.30 and 13.00 Saturdays.

It has also been suggested that in order to mitigate the noise of the vehicles all drivers be asked to slow down when travelling along Park Street before 7.30am.

Thanking you in anticipation,

Susan Wainwright.

Appendix C2.2 – Emails between RDC Councillor Claire Docwra and Parish Council (Page 1 of 5)

Email: 10:58 14th August 2019 – Claire Docwra to Phil Chapman

Morning Phil

Just wanted to let you that I visited Park Street again this morning. I arrived at 5.05 am and only saw two wagons going up Park Street, the first at 5.19, the second at 5.45am both delivering feed.

I left at just after 6am.

I will do as I have done with the others which is phone the owners and ask for confirmation of their planning and operators licence.

Please let me know if any particular day is busier than another.

Kind regards

Claire

CLLr Claire Docwra

Ryedale District Council

Email: 10:57 9th August 2019 – Phil Chapman to Claire Docwra

On 9 Aug 2019, at 10:57, Phil Chapman <philc@apcp.com> wrote:

Yes it arrived safely. Thank you for your help,

Very best regards

Phil

Email: 20:38 8th August 2019- Claire Docwra to Phil Chapman

From: CLLr Claire Docwra <cllr.claire.docwra@ryedale.gov.uk>

Sent: 08 August 2019 20:38

To: Phil Chapman <philc@apcp.com>

Subject: Re: HGVs on Park Street

Evening Phil

Did you get my wagon list ?

I sent it from my work email with an attachment.

Kind regards

Claire

CLLr Claire Docwra

Ryedale District Council

Appendix C2.2 – Emails between RDC Councillor Claire Docwra and Parish Council (Page 2 of 5)

5/6/19 TIME	OWNER	REG	F = FEED S = STOCK Q = Quarry W = WOOD
← 5:24am	Mosey	NJ12VVZ	(EMPTY) STOCK
← 5:24am	Mosey	YE65AOC	EMPTY STOCK
5:29 TO →	STUART BURSTOCK SAINT Stardale farm	YW19UBS	Feeds
5:32	CAL PRIVATE	BW16MER	CAR FAST
5:37	R. HAYTON TRANSPORT	V500RHT	FEED THROUGH Village
5:40 ←	NO NAME	1K62DYF	Pigs STOCK Full
5:46 →	RJ HOOD MUNTONS (TRAILER)	YX19NVE	FEED
5:50 THROUGH VILLAGE	G A SMITH	NJ66VTT	Low LOADER (LONG)
5:55 →	DALE + READ	R44RJD	FEED
5:58 →	NORMAN STEELS	FJ64VJO	FEED

Appendix C2.2 – Emails between RDC Councillor Claire Docwra and Parish Council (Page 3 of 5)

Email: 11:26 5th August 2019 – Phil Chapman to Claire Docwra

On 5 Aug 2019, at 11:26, Phil Chapman <philc@apcp.com> wrote:

Dear Claire

Thank you very much for your morning adventure; I would suspect that Moseys are aware of every loophole in their licensing. Our problem is that their vehicles create more noise than any of the others, which together with the number, results in a real problem. We will most likely continue our motion camera for a full week.

With respect to Park Street cars; we are waiting on the Road Safety partnership to do a speed survey in Park Street; they say their equipment is broken !!! The Speedwatch team must have prior approval from the Police for every spot they undertake speedwatching from, to ensure they are safe and not causing another problem. This can take place once they have the speed survey.

Thank you for the update regarding recycling; the Parish Council must be “in the loop” as it is on their land.... There is also a keen group of Action Group volunteers to help and promote the new recycling area.

Thank you for your help and support,

Very best regards

Phil

Email: 10:57 5th August 2019 – Phil Chapman from Claire Docwra

From: Cllr Claire Docwra <cllr.claire.docwra@ryedale.gov.uk>

Sent: 05 August 2019 10:57

To: Phil Chapman <philc@apcp.com>

Subject: Re: HGVs on Park Street

Dear Phil

I got to Hovingham at 5.18 am and the first stock wagons came from Moseys at 5.24am, both were empty so I think it is a possible loop hole to explore as the operators licence is for moving stock not wagons ?.

There were a few feed wagons going to Moseys , I got reg numbers and owners names and will check their operators licences , it may be worth writing to them and asking for a 30 - 45 minute delay in arriving.

I was quite shocked at the speed of cars coming through the village at that time and if the speed camera group want to do an early morning check I would be more than happy to help.

I will be going back next week to get some more information.

Re the recycling area Chris Grainger has not returned any of my calls to date so I'm going to ring Stacey the chief executive and ask her advice on how I find out what's going on, she did say her door was always open to assist new Councillors !

EUD

Appendix C2.2 – Emails between RDC Councillor Claire Docwra and Parish Council (Page 4 of 5)

Email: 09:53 2nd August 2019 – Phil Chapman to Claire Docwra

On 2 Aug 2019, at 09:53, Phil Chapman <philc@apcp.com> wrote:

Dear Claire,

Thank you very much for all your hard work.

On a previous occasion when they were challenged they used the excuse that it was a one-off due to breakdown of vehicles or equipment, this one appears to occur every weekday in the morning and evening.

Their vehicles emit considerably more noise and hence vibration than any of the other HGV vehicles; this is a factor of their construction and they do not slow down. The quarry have agreed to a 20mph voluntary speed limit in the village and we have no problem with their vehicles.

Thank you again,

Phil

Email: 14:59 1st August 2019 – Phil Chapman from Claire Docwra

From: Cllr Claire Docwra <cldr.claire.docwra@ryedale.gov.uk>

Sent: 01 August 2019 14:59

To: Phil Chapman <philc@apcp.com>

Subject: Re: HGVs on Park Street

Hi Phil

I will be there for 5am then on Monday morning.

I will try to get photos of the number plates.

The grain lorries should not be operating at that time, as far as I am aware their operators licence is from 6am, but I will check this.

Once I have the evidence I intend to tackle Mr Mosey !

I will let you know how I get on and be in touch later that day.

Kind Regards

Claire

Cllr Claire Docwra

Ryedale District Council

Appendix C2.2 – Emails between RDC Councillor Claire Docwra and Parish Council (Page 5 of 5)

----- Forwarded Message -----

Subject:Re: Proposal for 24 by 7 operation at Moseys

Date:Sat, 12 Feb 2022 22:07:26 +0000 (UTC)

From:Claire Docwra <docwraa@aol.com>

To:Mark Wilson <markwilson@fastmail.co.uk>, Nicole Robson <nicolelouttit@btinternet.com>, Phil Chapman <philc@apcp.com>

CC:Kim And Frank <fkcolenso@gmail.com>, Robert Wainwright <robert.wainwr@gmail.com>, Professor Steve Britland <s.t.britland@outlook.com>, serena farrow <serenafarrow@yahoo.com>, Caroline Goodrick <Cllr.caroline.goodrick@northyorks.gov.uk>

I have checked and any emails should be sent to Jill Thompson and copied into Karen Hood. Jill is Karen's line manager, possibly copy in the chief executive Stacey Burtlett.

I complained to Highways at NYCC in July and August 2019 on behalf of the residents of Park street .

I also gave a list of times and wagon registration with company names to VOSA in August/ September 2019 complaining about out of hours operations.

I spoke to Moseys on 2 occasions.

Hope this helps

Claire

Appendix C2.3 – Emails from Residents and their concerns

Subject: Re: DRAFT Minutes

From: "Margret Bell" <mrb7@btinternet.com>

Date: 22/03/2012 11:18

To: "Parish Clerk" <parishclerk@hovingham.org.uk>, <ian@ianbattersby.fsnet.co.uk>, "mark wilson" <markwilson@fastmail.co.uk>, "phil chapman" <philc@apcp.com>, "Robert Wainwright" <robert.wainwr@btconnect.com>, "Wendy Swann" <swannie01@tiscali.co.uk>, <robmatthews1960@yahoo.co.uk>

Dear Sue and Ian,

Many thanks for these minutes. I am happy with them, with the exception of Traffic Concerns in Park Street. I have added to them more of the information we discussed in our meeting, as I know Park St. residents want to try to understand what is happening..

1 The Minutes

Traffic Concerns Park Street, Hovingham.

A response to the concerns of residents about the movement of HGVs from Moseys feed mill on Park Street has been received from NY Highways. The letter had been forwarded to the Police for consideration. (Could we clarify who sent this to the Police. I didnt know we had!).

The response from the RDC Development Control had not addressed the questions asked in our letters dated ~~29.6.11, 2.8.11~~ and 11.1.12 about the breach of condition 01 of Application 11/ 00498/73A. The Development Control Officer has now forwarded ~~our most recent~~ letter to the Councils Enforcement Officer to investigate that breach of condition which relates to the effect of vehicular movement "on the existing amenities of residential occupiers in the locality." Councillors differed in their interpretation of the approval given to Blackdale Mill for hours of use and Councillor R. Wainwright was asked to seek further clarification from the Development Control Department.

2. Relating to the last point, as those of you present know I was extremely surprised that some members are now - after nearly a year and 3 letters - raising a different interpretation of what is meant by 'Vehicular movements

'Vehicular movements associated with the feed mill and associated feed bins shall only occur between the hours of 6.30 and 18.00 Monday to Friday and 6.30 and 13.00 on Saturdays.'

Having checked this further it seems to me that the attached condition 01. is quite transparent, and I continue to be baffled as to why we would try to interpret this differently. Here it is:

"Reason: to ensure that the existing amenities of residential occupiers in the locality are not adversely affected by the development hereby approved."

The monitoring of movements we are asking about does not mean tracking lorries down Park St. It means ensuring they dont leave the mill before those times.

I very much hope that the Development Control Dept deals with this in a transparent way. What would the next stage be if they do not?

Margaret

Appendix C2.4 – Community Survey 2018



3. Transport, Traffic and Roads

Traffic and Roads

75-85% of residents have **serious concerns** about all aspects of traffic and roads (volume, times, noise, safety) with 84% support for speed enforcement all over the village. Such was the concern, some 201 comments were received on all aspects of speeding, HGV's, parking, and road safety.

Are you concerned by?	Yes %	
HGV Early movements	85%	
Speeding Vehicles	85%	
Inappropriate parking	81%	Across driveways, on verges, everywhere, and Market days.
Inadequate Road Maintenance	79%	Potholes, Manhole repairs, and Snicket maintenance
HGVs noise etc	73%	
Lack of Safe crossing places	72%	Pedestrian crossing near school (and elsewhere eg Park St),
Vehicle Damage to Verges	72%	Cars are parking on verges, HGV and tractors ruining verges
Volume of Traffic	68%	
Church Street Rat run	47%	
Delay in Gritting	47%	

Appendix C2.5 – Number of Comments from RDC Planning Website

RYEDALE DISTRICT COUNCIL

You are here: [Home](#) > [Planning](#) > [Planning applications](#) > View or comment on a planning application

Search My Profile Login Register

Planning – Application Summary [Help with this page](#)

21/01658/CLEUD | Certificate of Lawfulness in respect of the activity of vehicle movements in breach of condition 01 of approval 11/00498/73A dated 06.09.2011 for more than 10 years before the date of this application | Blackdale Farm Coulton Lane Coulton Helmsley YO62 4NQ

Save search Refine search Track Print

Details | **Comments (61)** | Constraints (0) | Documents | Related Cases (2) | Map

Summary Further Information Contacts Important Dates

Reference	21/01658/CLEUD
Alternative Reference	PP-10504719
Application Received	Thu 23 Dec 2021
Application Validated	Thu 23 Dec 2021
Address	Blackdale Farm Coulton Lane Coulton Helmsley YO62 4NQ
Proposal	Certificate of Lawfulness in respect of the activity of vehicle movements in breach of condition 01 of approval 11/00498/73A dated 06.09.2011 for more than 10 years before the date of this application
Status	Registered
Appeal Status	Unknown
Appeal Decision	Not Available

Screen image taken 11:23 on Wednesday 23rd February 2022 from Ryedale Planning website

Appendix D1 – Case to withdraw Certificate

The Ocado case also highlights the necessity of carefully researching the immunity period, and ensuring the evidence is reliable and free of gaps. If information contained in the CLEUD application is false, or information is withheld (whether deliberate or inadvertent) then there is a risk the resulting CLEUD will be revoked pursuant to s.193(7) TCPA90. That the LPAs records might hold complete reliable information is irrelevant, the onus is on the applicant making the CLEUD application to ensure the accuracy of its evidence.

A CLEUD application was made in relation to the Bush Industrial Estate in Islington (the Estate). The application form stated that the use had begun more than 10 years before the date of the application in breach of condition. A statutory declaration accompanied the application. The LBI granted a CLEUD for units A-D certifying that these had a lawful B8 use. Relying on the CLEUD, Ocado entered into an agreement for lease of units A-D, and subsequently made a planning application for works to the premises. There was local objection to that application. Residents became aware of the CLEUD and submitted documents to LBI relating to the planning history of the Estate. They asked LBI to exercise its powers under s.193(7) TCPA90 to revoke the CLEUD on the grounds that the application contained statements which were "false in a material particular" or that "material information" had been "withheld." LBI provided opportunities for the Estate's owner and Ocado to make representations. A further statutory declaration was submitted; this revealed that the declarant had not visited the premises for a period of 4 years within the claimed immunity period. LBI revoked the CLEUD. However, the period relied on to establish immunity spanned some 25 years in total. The evidence suggested that immunity had been gained within this period."

Source: Norton Rose Fulbright website: "What next for Certificate of Lawfulness" dated June 2021 High Court case R (on the application of Ocado Retail Ltd) v Islington London Borough Council [2021] EWHC 1509 (Admin) [2021] EWHC 1509 (Admin) 7 June 2021