

**15/00469/MRC**

**Variation of Condition 3 of planning permission 11/02736/FUL limiting the use of a building for storage and housing of a grain dryer to farm use only.  
at Rose Cottage Crayke North Yorkshire YO61 4TJ  
for Mr G & R Dawson.**

**1.0 SITE DESCRIPTION AND PROPOSAL**

- 1.1 The Rose Cottage agricultural enterprise lies in open countryside to the west of Crayke, north of the Easingwold Road and outside of the Howardian Hills AONB by approximately 200m. The site comprises several farm buildings including a grain store and a weighbridge and a grain dryer building, the latter of which was granted planning permission in August 2012. The dwelling known as Rose Cottage is not related to the farm business and is occupied independently by a family member. The enterprise at Rose Cottage operates as G&R Dawson, which also operates from Mount Pleasant Farm, which lies approximately 500m to the north east of Rose Cottage and is tenanted.
- 1.2 The farm is stated to operate over 569.39 hectares of arable land, approximately 40% of which lies to the west of the farm, 28% to the east, 25% to the north and 7% to the south. This land includes owned, tenanted and contract farmed land.
- 1.3 The planning application relates to the grain dryer building. Permission was granted subject to conditions relating to landscaping, illumination and noise. The following condition was also included:
- “Any grain dryer located within the building hereby approved shall only be used as part of the farming operation (undertaken by the landowner at Rose Cottage and Mount Pleasant Farm, Crayke or any land in the occupation of the same landowner) for produce produced on the holding, and shall not be used in connection with a separate commercial enterprise. Records of all grain movements to and from the approved building shall be kept at the private weighbridge (shown on drg no 923/12B) and be available for inspection by officers of the Local Planning Authority and Local Highway Authority, at all reasonable times.
- 1.4 The reason for the inclusion of this condition is as follows:
- “For reasons of highway safety and residential amenity in accordance with LDF Policies CP1, CP2, DP1 and DP4.”
- 1.5 The application wishes to amend the wording of this condition to remove the first sentence so that it would read:
- “Records of all grain movements to and from the approved building shall be kept at the private weighbridge (shown on drg no 923/12B) and be available for inspection by officers of the Local Planning Authority and Local Highway Authority, at all reasonable times.
- 1.6 The reasons for requesting the amendment is stated by the applicants to be to allow grain to be dried from farmers connected to G&R Dawson as part of a 'profit sharing'

business whereby one farmer provides the land and another plants and harvests the crop. If G&R Dawson is working the land but the land is not within their ownership then any crop produced and dried at Rose Cottage would be in breach of the condition. It is understood that this activity is ongoing and therefore likely to be an existing breach.

- 1.7 There is no planning restriction attached to the previously approved grain store at Rose Cottage.
- 1.8 A Transport Statement has been submitted in support of the proposed variation, which provides details of the expected numbers, direction, timings and seasonality of vehicle movements and size and weight of vehicles. The Statement assumes an average provision of 8.75 tonnes of grain per hectare and the calculation is based on the use of 25 tonne lorries and 12 tonne tractor and trailers. This results in a total of 102 lorries and 210 trailers transporting the 5070 tonnes of grain to the farm (119 from the Easingwold direction and 90 through Crayke), most of which occurs between mid-July and October each year.
- 1.9 Grain produced by Rose Cottage is delivered to seven mills in the region by 25 tonne lorries at any time of the year. This generally equates to 130 movements westwards and 73 movements eastwards.
- 1.10 Information has been provided by the applicant to suggest that historically, the number of vehicle movements from the farm were high. The farm had a contract for 5000 tonnes of sugar beet, which was sold to a processor in York with all vehicles going through either Easingwold or Crayke. Other crops, such as potatoes would also have been transported from field to farm.

## 2.0 **PLANNING & ENFORCEMENT HISTORY**

- 2.1 05/01254/FUL - construction of agricultural building. Permission refused 23/8/2005 for the following reason:  
"The proposed development is contrary to the Hambleton District Wide Local Plan Policy EM15, L11 and L14 due to the harm that would be caused to the landscape by virtue of the height and bulk of the proposed agricultural building and the lack of appropriate landscaping proposals to restore the landscape to its former condition and to appropriately screen the new building from the surrounding countryside."
- 2.2 08/00948/APN - application for prior notification for the construction of a storage building for keeping straw dry. No objections 14/5/2008.
- 2.3 10/02961/FUL - Construction of an agricultural storage building and hardstanding. Permission granted 8/3/2011
- 2.4 11/01483/FUL - Retrospective application for the construction of an agricultural weighbridge, associated hardstanding and control portacabin. Permission granted 8/9/2011 subject to the following condition:  
"The weighbridge hereby approved shall not be a Public Weighbridge, it shall only be used in connection with the farming operation undertaken at Rose Cottage and the Mount Pleasant Farm, Crayke and shall not be used in connection with any other farming activity or separate commercial enterprise without the prior written consent of the Local Planning Authority."
- 2.5 11/02736/FUL - Construction of an agricultural building for the storage and housing of a grain dryer. Permission granted 2/8/2012. This is the application to which this application relates.

2.6 13/01668/CLE - Application for certificate of lawfulness for the installation of fans in an agricultural building that forms part of a working farm that specialises in the production of grain. Certificate refused 28/1/2014. Allowed on appeal 20 May 2015.

### 3.0 **RELEVANT PLANNING POLICIES:**

3.1 The relevant policy of the Development Plan and any supplementary planning policy advice are as follows;

Core Strategy Policy CP1 - Sustainable development  
Core Strategy Policy CP2 - Access  
Core Strategy Policy CP4 - Settlement hierarchy  
Core Strategy Policy CP15 - Rural Regeneration  
Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets  
Development Policies DP1 - Protecting amenity  
Development Policies DP3 - Site accessibility  
Development Policies DP4 - Access for all  
Development Policies DP9 - Development outside Development Limits  
Development Policies DP25 - Rural employment  
Development Policies DP30 - Protecting the character and appearance of the countryside  
National Planning Policy Framework - published 27 March 2012

### 4.0 **CONSULTATIONS**

4.1 Parish Council - unanimous in refusing the subject Planning Application with the following comments:

It was considered that the existing wording of the condition in question is unsatisfactory and the Parish Council would not approve complete removal but required to see any proposed revised wording. As no alternative wording was provided it was not possible to properly evaluate the requested change and complete removal of the condition was not acceptable.

4.2 NYCC Highways - The applicant has submitted transport information detailing traffic movements associated with the operation of the weighbridge and grain dryer. I have assessed the information and consider it to be satisfactory. The applicant has proposed a revised wording of the condition number 3 including reference to the weighbridge being private. Provided that the weighbridge remains as a private operation for the applicant's farm business, the Local Highway Authority has no objection to the proposal.

4.3 HDC Environmental Health Officer - The variation refers to the grain dryer building, which has conditions controlling the hours of operation of the fans and noise levels on the planning approval. I therefore, have no objections or recommendations to the proposed variation.

4.4 Howardian Hills AONB Manager - makes the following comments (generic to both applications):

- Provided that the LPA is satisfied that the proposal would not amount to a significant change from the current level of usage, then I don't have any observations to make. If it is felt that traffic movements would increase then potential impact on the tranquillity of the AONB would need to be considered.
- I'm not convinced however that the removal of all wording that prohibits the use of the dryer as a separate commercial enterprise is desirable. I also feel that suitable wording could be crafted to address not only the understandable desire of the applicants to reflect modern farming practices but also the needs of the LPA in terms of placing an appropriate restriction on operations. Although by no means an expert

in this area, I would suggest something like "Any grain dryer located within the building hereby approved shall only be used as part of the farming operation (undertaken by the occupier of Rose Cottage and Mount Pleasant Farm, Crayke or on any other land farmed under any arrangement by the same occupier) for produce produced on the said land, and shall not be used in connection with a separate commercial enterprise."

- The new Transport Information presented gives precise details of the tonnages, vehicles and movements that are associated with the applicant's land that supplies the drier. In one sense these statistics could appear to paint a very stark picture. I'm sure that somewhere in the application documentation for the drier building there are figures for the vehicle movements that occurred when Rose Cottage only had a mobile drier and limited storage facilities. Prior to the construction of the grain stores and drier buildings I suspect that most of the movements from the fields at harvest time were by tractor and trailer, with batch-drying and almost immediate sale off-farm via 25t HGVs. Because these numbers of vehicle movements were unlikely to have been recorded it is very difficult to put the new figures into context.
- On the face of it the current situation may not be substantially different from that which was occurring prior to the construction of the stores and drier buildings, dependent upon whether significant areas of new land have been taken on under some form of 'contract farming' arrangement since their construction. It could be argued that it is legitimate business growth for the applicant to take on more land and expand say a contract harvesting operation, utilising the new drying and storage capacity at Rose Cottage. The key question however is whether the facilities are in a location that allows this to be done sustainably.
- I would therefore wish to register serious reservations with the application as it stands. A commercial grain-drying operation could potentially suck-in large quantities of grain from the surrounding area, with the attendant HGV and tractor/trailer movements. The variation as proposed would impose no limit on the number of vehicle movements, a significant proportion of which could potentially come from the east through the Howardian Hills AONB.

4.5 CPRE - concerned about the probable increase in the number of heavy grain lorries. Neither route is suitable for an increase in heavy traffic. Any restrictions on the number of heavy lorries would be very difficult to enforce. Developments such as this can grow and become much larger and unacceptable. There needs to be enforceable restrictions to prevent this development growing out of control.

4.6 Site notice/local residents - a total of 32 objections have been received. These relate to:

- The number of heavy good vehicles using the roads in the vicinity and the industrialisation of the locality. The roads are not capable of accommodating increased HGV usage.
- The effect of this is increased air and noise pollution, damage to road surfaces and vibration to the houses.
- Increase chances of an accident
- The concern is particularly regarding the number of vehicles travelling along Uppleby in Easingwold and past the village school in Crayke
- Increased produce will result in increased noise from other activities at the site such as the fans on the grain store
- If this plant is used as a contract drying facility my concern is that there will be a massive increase of heavy traffic using the unsuitable roads in Easingwold, namely Uppleby, Back lane, Church Hill and the Market Place
- If, as seems likely, the applicant is only a contractor on part of the 569.39 hectares, grain produced on this land is specifically excluded from the Planning Permission
- HDC was advised by the applicant's agent at the time that: traffic movements would be in the region of 2 to 3 per week, i.e. 100 to 150 per year; and Carter Jonas

(appointed by HDC) agreed with this estimate. The agent went on to say that objectors' estimates of 200 in the summer were outrageous, ridiculous and misleading. It is now clear that objectors' estimates were, if anything, on the low side.

- The supplementary transport information document now provided refers only to grain produced by the applicant. It takes no account of additional traffic movements and noise associated with use of the grain dryer by other farmers and thus is irrelevant to the core objections raised by most of the respondents to the original application. The restriction specified in condition 3 should be retained
- CAP payments to the farm support about 390 acres which leaves about 1,000 acres subject to "contractual arrangements" as he describes them in his application. This is exactly the commercialisation of the farm that I believe the Committee was trying to prevent.
- During discussions with planning officers the applicant redacted certain traffic information once he was told that it would be made public. We can only speculate on the reasons for wishing it kept private. His current estimates of activity of 700+ vehicle movements (1,400 movements through the roads) a year is 400% more than he included in his submissions in 2012 ( 2 rising to 3 movements on average per week (Chris Chubley letter 11 February, 2012)). My concern is not just limited to this excessive activity but what happens next. Will there be more development applications and how will the Council control further increases in vehicle activity if they are seen to capitulate on their previous conditions?
- As a matter of principle and democracy it seems to me to be fundamentally wrong to "regularise" or retrospectively approve activity that was previously expressly restricted and rejected by the planning Committee, and therefore probably illegal.
- The capacity quoted in these pages for the dryer is 25 tonnes per hour. At a 240 days per year of 8 hours (the original application quotes 12hours) the capacity is 48000 tonnes pa i.e. 1920 inward and 1920 outward 25 tonne (more conservative than the traffic consultant's figure) artic vehicle movements pa. Some of this possible increase would use Church Hill. Probably seasonality would reduce this but it is January and grain artics are still using Church Hill. Some addresses on the vehicles are in Scotland so the impression is that the dryer is becoming a big commercial operation. Please note that there is no objection to the original planning approval for traffic associated with the farm as described in the traffic consultant's report.

4.7 A total of 19 letters of support have been received, which relate to the following:

- To allow the business to grow and thrive and will result in more employment opportunities for local people.
- The use by other farms would allow smaller farms to maximise the value of their crops.
- The area remains primarily an agricultural area.
- The farmer needs to be allowed to move forward; farming constantly evolves as the world market shapes what we need to produce. Changes need to happen to make farming businesses function, grown and flourish.
- Local farms can't afford drying equipment of their own and so have to transport their produce several miles to sites that provide this service, which involves many tractor journeys.
- If there were drying facilities in the Crayke area I believe there would be a reduction in traffic volume as journeys would be shorter, meaning less disruption on the roads and a saving for farmers.
- attempting to make the agricultural activity more flexible and less controlled seasonal demands.
- The villages are becoming dormitory or commuter residences causing an increase in daily traffic movements to and from i.e. shops, school, work, plus the home delivery services.

- employs local labour, who in turn spend locally supporting local business. Their children will then go to local schools this being the lifeblood of rural communities.
- Financial commitment to the farm and area.
- There is significantly less farm traffic now than in the past when the area was a concentrated producer of sugar beet, potatoes and milk.
- The road from Crayke to Easingwold is a well-known through route between Malton and Easingwold and the A19; not only for any visitors to Rose cottage but for many other agricultural and commercial companies and businesses in the area and also for the increasing number of residential vehicles.
- placing unreasonable conditions on Mr Dawson at Rose cottage will unfairly prevent him from running his farm as a commercial enterprise. Why should he be penalised? Similar farms undertaking similar activities in the local area and nationally seem to not have had similar restrictions applied. It would be my view that small businesses should be encouraged to develop commercial enterprises which ultimately bring employment to the local community.

- 5.0 **OBSERVATIONS**

- 5.1 The condition was imposed to restrict the use of the grain dryer to the agricultural business associated with the Rose Cottage/Mount Pleasant Farm enterprise. This was to ensure that the operation of the business remained commensurate with the scale of the farming enterprise associated with Rose Cottage; it was not the intention of the condition to restrict the expansion of the Rose Cottage business. The applicants are within their rights to apply for permission to alter their business and it is not the role of the LPA to refuse permission solely because there may already have been a breach of planning control. After the determination of this application the Council can consider whether any enforcement action is possible or appropriate.
- 5.2 The LPA considered the original application in 2012 based on the information that was presented at the time; concluding that the proposed building and its use were acceptable subject to restricting the operation to the business run at Rose Cottage and Mount Pleasant Farm. At the time concerns were raised at the capacity of the grain dryer, however it is not the role of the LPA to dictate the amount of investment that a business should make in its machinery or facilities or whether it is appropriate economically. The future intentions of the applicant are not the consideration of the Planning Authority.
- 5.3 The report prepared on behalf of the Council by Carter Jonas in 2012 concluded the following:
  - The size and scale of the proposed agricultural building for the housing of a grain dryer and associated is of reasonable capacity to service the business and its anticipated growth over the immediate future
  - The realistic alternative to drying on site would lead to transporting moist grain to a larger commercial facility, such as Argrain at Raskelf for example, with an associated requirement for this to then be brought back on site in order to utilise the recently constructed store. This would obviously lead to a substantial increase in handling and transport by both tractor & trailer or HGV, particularly along the local road network.
  - The size of the building which is intended to accommodate a dryer with associated intake pits and storage bays is of reasonable capacity to service the business and its anticipated growth over the immediate future.
- 5.4 Paragraph 28 of the NPPF requires planning policies to support economic growth in rural areas and to support the sustainable growth and expansion of all types of business and enterprise. The principle of allowing the growth and expansion

of the business is therefore acceptable. It was always understood that the number of movements may increase as the business expanded; the aim of the planning condition when imposed, was to restrict this to the vehicle movements associated with the business operating on land associated with the Rose Cottage enterprise. The difference between that intention and what is currently proposed is to allow the drying of grain from land that does not lie within the ownership or tenancy of the applicant.

- 5.5 The reason for imposing the condition in 2012 relates to two issues: the effect on the amenity of local residents and highway safety. The LPA has to consider, as part of this application, whether these concerns remain valid.

Issue one - effect on amenity

- 5.6 The impact on local residents includes consideration of the effect of the vehicle movements on amenity and the noise resulting from the dryer itself. The Environmental Health Officer has no objections to the proposed alteration of the condition as other controls remain regarding the noise impact of the dryer. There is no planning control over the use of the fans attached to the grain store and therefore if more produce is dried, then more will be stored and the fans may operate for longer causing a greater impact on amenity as a result of noise disturbance. This is therefore a material consideration.
- 5.7 It is not the role of the LPA to prevent the expansion and reasonable growth of a business activity but it is the LPA's role and reflected in the wording of LDF Policies CP1 and DP1 to "adequately protect amenity" to ensure that such activities do not adversely affect matters of acknowledged importance such as highway safety and residential amenity. The condition as proposed to be amended would not allow the Local Planning Authority any control over the use of the grain dryer building. Requiring records to be kept and inspected would not provide the LPA with any control over its operation and no action could be taken unless it was in respect of the keeping of the records themselves no matter what the records suggested in terms of numbers of vehicles. Accordingly the proposed condition would not provide a means for the LPA to "adequately protect amenity" and would be contrary to the objective and wording of Policy DP1.
- 5.8 The retention and enforcement of the existing planning condition would prevent the use of the grain dryer building by the general farming community (those farms that do not form part of the Rose Cottage enterprise). The farm currently operates (and whether it was always the applicants' intention to do so is not relevant) with commercial agreements with other farmers (contract farming). It is a matter for the Courts to determine whether the arrangement of contract farming is in compliance with the requirement of the existing planning condition.

Issue two – highway safety

- 5.9 The numbers of vehicle movements set out to be generated by the development is noted within supporting Transport Statement and it suggests that it is not unreasonable for the local transport network to cope with this level of usage and this is endorsed by the Highway Authority. The wording of the condition would retain the reference to the private operation of the weighbridge, thereby precluding its use as a public weighbridge but the variation of the condition would allow unrestricted access to users beyond the land farmed (the 569.39 hectares) as referred to in the Statement. This would allow further increases in the contract farming undertaken by the applicant thereby continuing to increase the number of hectares serviced by the drier and, as a result, vehicle movements.

- 5.10 It is considered important that a restriction is retained on the use of the grain dryer building; if unrestricted as proposed, there would be no limit on the number of users and therefore no limit on the frequency of vehicle movements. The worst case scenario being a 24 hour operation with a constant stream of HGVs at the site and, although the capacity of the grain dryer within the building would provide a some practical restriction to the use of the weighbridge for drying grain. The grain drying equipment could be upgraded in the future to a more efficient machine that could increase capacity without the need for further planning permission. It is considered that an unrestricted site would give rise to increases in vehicle movements that would ultimately result in a loss of highway safety as the potential for large vehicles needing to pass on relatively narrow country roads increases. A loss of highway safety through the relaxation of the condition would be contrary to the LDF Policies CP1, CP2, DP3 and DP4.

#### Alternative wording of conditions

- 5.11 One alternative to the suggested re-wording includes the possible use of a location plan in order to tie a specified area(s) of land from which the crops are brought to the dryer. The applicant considers this not to be an option as there would be no certainty that the land farmed would remain fixed to the location plan and there could be variations on an annual basis therefore requiring an annual submission of a revised planning application.
- 5.12 A planning condition that sought to control the routes of the vehicles to and from the site would be so difficult to enforce that it would fail the tests of enforceability required of a planning condition.
- 5.13 None of the conditions imposed on the grain dryer application restricted numbers of vehicles as this was a figure that could only be anticipated and not fixed.
- 5.14 The noise resulting from the fans attached to the grain store is not directly relevant to this application. A decision from the Planning Inspectorate following an appeal has now been made, which confirms that planning permission is not required for the fans that have been installed. Any potential noise nuisance is a matter to be addressed by Environmental Health regulations. .
- 5.15 All other matters raised in representations have been considered but do not alter the balance of issues in this case. Whilst it was not the intention of the decision of the LPA to prevent the Rose Cottage Farm business from being able to expand, the variation of the condition as proposed would allow unrestricted vehicle movements, which is not appropriate in this location and refusal of the application is therefore recommended.

#### **6.0 RECOMMENDATION:** that subject to any outstanding consultations the application be **REFUSED** for the following reason:

1. The variation of the planning condition as proposed could significantly increase vehicle movements to and from the site to the detriment of local residents as a result of noise and general disturbance and to highway safety. The proposal would be contrary to LDF Policies CP1, CP2, DP1 , DP3 and DP4.