



**In the High Court of Justice  
Queen's Bench Division  
Planning Court**

CO/4122/2020

**In the matter of an application for judicial review**

**THE QUEEN**

on the application of

**HEALEY PARISH COUNCIL**

**Claimant**

**-and-**

**NORTHUMBERLAND COUNTY COUNCIL**

**Defendant**

**Gavin LISH**

**Interested Party**

Following consideration of the documents lodged by the Claimant and the Acknowledgement of service filed by the Defendant no Acknowledgement of Service having been filed by the Interested Party

UPON consideration of the Claimant's application for judicial review herein and the grant of permission on two grounds by Mr Tim Smith sitting as a Deputy High Court Judge dated 2<sup>nd</sup> February 2021

AND UPON the Defendant deciding not further to defend the claim on Ground 1 for the reasons set out in the Schedule to this Order (the Interested Party not having participated in the proceedings);

AND UPON there remaining in issue the question of liability for costs

**ORDER by His Honour Judge Allan Gore QC sitting as a Judge of the High Court**

BY CONSENT (as between the Claimant and the Defendant but not otherwise) IT IS ORDERED that:

1. The Certificate of Lawful Use and Development dated 24 September 2020 ref. 20/01457/CLEXIS issued by the Defendant is quashed.
2. Liability for and quantum of costs to be determined by the Court, according to the following timetable.
  - a. The Claimant shall file with the Court and serve on the Defendant within 14 days of the date of this Order written submissions in support of an order that the Defendant should pay its costs and the amount of those costs;
  - b. The Defendant shall file with the Court and serve on the Claimant its response to the Claimant's submissions within 7 days thereafter;
  - c. The Claimant shall file with the Court and serve on the Defendant any reply to the Defendant's submissions on costs within 7 days thereafter.

**Observations**

1. The Interested Party having been served with the grant of permission by Mr Tim Smith sitting as a Deputy High Court Judge dated 2<sup>nd</sup> February 2021, and a copy of the proposed Consent Order herein, and having made no objection to the latter, and the Order above at paragraph 1 benefiting the Interest Party, there is no good reason why the court should not make the order in the terms proposed by the Claimant and the Defendant.



Signed

*Allan Gore QJ*

Dated

19<sup>th</sup> July 2021

**The date of service of this order is calculated from the date in the section below**

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**For completion by the Administrative Court Office**

**either** the Claimant, and the Defendant [and the Interested Party]

**or** the Claimant's, and the Defendant's [and the Interested Party's] solicitors

Date: 22 JUL 2021

Solicitors: RICHARD BUXTON SOLICITORS  
Ref No

**IN THE HIGH COURT OF JUSTICE**  
**ADMINISTRATIVE COURT**  
**PLANNING COURT**

**Claim No.: CO/4122/2020**

**B E T W E E N**

**HEALEY PARISH COUNCIL**

**Claimant**

**-and-**

**NORTHUMBERLAND COUNTY COUNCIL**

**Defendant**

**-and-**

**MR GAVIN EATHAN LISH**

**Interested Party**

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**draft / CONSENT ORDER**

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**UPON** consideration of the Claimant's application for judicial review herein and the grant of permission on two grounds by Mr Tim Smith sitting as a Deputy High Court Judge;

**AND UPON** the Defendant deciding not further to defend the claim on Ground 1 for the reasons set out in the Schedule to this Order (the Interested Party not having participated in the proceedings);

**AND UPON** there remaining in issue the question of liability for costs:

**BY CONSENT IT IS ORDERED** that:

1. The Certificate of Lawful Use and Development dated 24 September 2020 ref. 20/01457/CLEXIS issued by the Defendant is quashed.
2. Liability for and quantum of costs to be determined by the Court, according to the following timetable.
  - a. The Claimant shall file with the Court and serve on the Defendant within 14 days of the date of this Order written submissions in support of an order that the Defendant should pay its costs and the amount of those costs;
  - b. The Defendant shall file with the Court and serve on the Claimant its response to the Claimant's submissions within 7 days thereafter;

- c. The Claimant shall file with the Court and serve on the Defendant any reply to the Defendant's submissions on costs within 7 days thereafter.

Signed:  .....

Richard Buxton Solicitors

Solicitors for the Claimant, Healey Parish Council

Date: 10 May 2021 .....

Signed:  .....

For the Defendant

Solicitors for Northumberland County Council

Date ~~22 April 2021~~

### Schedule

1. These proceedings concern an application for judicial review by the Claimant against the decision of 29.09.20 by the Defendant under reference 20/01457/CLEXIS granting a Certificate of Lawful Use and Development ("CLEUD") in respect of use for "motocross track, access track and gates (amended 22.07.2020)" of land at "Motorcycle track west of School House Farm, Kiln Pit Hill, Northumberland".
2. By order of Mr Tim Smith sitting as Deputy High Court Judge, circulated to the parties on 2 February 2021, permission to apply for judicial review was granted on two grounds:
  - a. Ground 1: The Council's grant of the CLEUD failed to represent the scope of existing use as established by evidence by the Interested Party', and
  - b. Ground 2: Having issued the CLEUD, the Defendant erred in failing to consider to make an order pursuant of s.102 of the 1990 Act requiring the discontinuance of or to impose conditions on the use of the Site as a motocross track in breach of the EIA Directive.
3. In relation to Ground 1, the CLEUD was granted without limitations. The Defendant has, in its Detailed Grounds dated 3 March 2021, conceded that its failure to consider and incorporate particularisation into the CLEUD was unlawful.
4. The parties maintain respective positions on Ground 2 but agree that the concession on Ground 1 disposes of these proceedings.
5. The Interested Party has not participated in the proceedings, but it has been informed of the position by being copied in on this draft consent order.