

SUPPORTING STATEMENT

Certificate of Existing Lawful Use

At: Mandalay,
Aislabyside,
Egton

June 2024



YORKSHIRE
PLANNING CONSULTANTS

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Contents

1.0	Introduction	5
3.0	Planning History.....	5
	Site location	6
4.0	The Site	7
	Site context and surroundings	7
	Local Landscape and Topography	7
	Geographic Information.....	8
	Flood Risk.....	9
	Soilscape (18).....	9
5.0	Assessment – Supporting Evidence.....	10
	Essential background information	10
	Summary of Evidence (all accounts are to be treated in strictest of confidence)	10
	Other Supporting Documents.....	11
6.0	Analysis.....	12
7.0	Conclusion.....	13

Table of revisions

Rev/version no.	Date	Amendment details	Revision prepared by
V2	25 June 24	Client amends.	YPC

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1.0 Introduction

- 1.1 Acting upon the request of the applicants Yorkshire Planning Consultants has been instructed to apply for a Certificate of Existing Lawful Use Development (CLEUD) with respect to establishing residential use of the property known as Mandalay as an independent dwelling for a period in excess of 10 years. The site is outlined in red on the attached location plan at Mandalay, Aislaby, Egton.
- 1.2 The application is supported with evidence to show that the owner/occupiers have occupied the dwelling for a period in excess of 10 years before the date of the application. The date of the application is June 2024.
- 1.3 The Statement demonstrates that there is a breach of planning control and therefore makes the applicant immune from enforcement action and on these grounds a lawful development certificate should be granted.
- 1.5 The application is submitted with the necessary supporting evidence confirming what has taken place and when to prove unfettered occupation has taken place without the necessary planning permission.
- 1.6 This Statement is prepared by Cheryl Farrow who holds an MSc in Town Planning and is a Chartered Member of the Royal Town Planning RTPI) and associated ICN and PERN networks.

2.0 Planning History

- 2.1 A search of the North York Moors National Park's online planning records relevant to the case has revealed the following planning history:

NYM/2006/0949/FL – Conversion of existing barn into two holiday cottages at Heystones Manor, Aislaby – Refused.

Site location



Fig 1. – CLEUD application site. Mandalay, Egton. Source:

<https://www.google.co.uk/maps/place/Egton,+Whitby/@54.4560297,-0.7231543,124m/data=!3m1!1e3!4m6!3m5!1s0x487f1f405533bb51:0x7a50acfe40ffbab0!8m2!3d54.448889!4d-0.7534081!16zL20vMGZ4MzBu?entry=ttu> – for illustrative purposes only.



Fig 1. – Property known as Mandalay, Egton. Source:

<https://www.google.co.uk/maps/place/Egton,+Whitby/@54.4560297,-0.7231543,124m/data=!3m1!1e3!4m6!3m5!1s0x487f1f405533bb51:0x7a50acfe40ffbab0!8m2!3d54.448889!4d-0.7534081!16zL20vMGZ4MzBu?entry=ttu> – for illustrative purposes only.

3.0 The Site

Site context and surroundings

- 3.1 Mandalay is a three bed dwelling situated within the grounds of Heystones Manor, close to Egton village. It is a detached property with independent vehicle access and parking off the Aislabyside road and lies in well-screened surroundings.
- 3.2 The property is a traditionally built converted building and lies in the open countryside and is accessed off an unadopted road to a property known as Topstone Farm on the edge of the moor along with other properties and farms on Aislabyside.
- 3.3 Mandalay lies on the northern valley side between the A171 at Lady Cross Plantation and the River Esk and is surrounded by moorland scrub to the north with in-by land in between. To the south, the land falls away steeply down towards Grosmont and Egton Bridge, it is a fairly steep sided valley which sets the scene for the descend east down the valley towards Whitby.
- 3.4 Mandalay is well connected to a series of rural road networks which lead to the main A171 Whitby to Guisborough road, Aislabyside, Eskdaleside and the A169 Pickering to Whitby road.
- 3.5 In a wider context, the site is located within the NYM Moors National Park approximately 1.4 miles north east of Egton, 13.5 miles south east of Guisborough and is only a short distance from the east coast.
- 3.6 The site lies within easy reach of the NYM Moors and the wider east coast. The area is well linked to a network of rural roads, footpaths, bridleways and cycle paths. The site can be sustainably linked from one site to another with necessarily using a car although it is classed as being with the 'open countryside' from a planning perspective.

Local Landscape and Topography

- 3.7 Within the NYM Landscape Character Assessment (2021) the site is located in LCT 8: Central Valley Landscape – this landscape area is in the north of the North York Moors National Park and runs between Commondale and the National Park boundary around Whitby and Sleights.
- 3.8 It is said that its character is strongly influenced by the surrounding Moorland (LCT 1) and Moorland Dales (LCT 2) and to a lesser extent by the Coastal Hinterland (LCT 4) in the east. It is also influenced by (and visible from) land outside the National Park around Whitby and Sleights.

- 3.9 The Central Valley is a substantial valley running east-west, cut deep into the moorland which surrounds it and forms its horizons. It has many tributary valleys, and its unusual landforms are the result of glacial activity in the last Ice Age, some modified by later erosion by rivers which creates deep gorges. Streams rush along tributary valleys, bouncing over waterfalls and through woodland.
- 3.10 In the Central Valley landscape it is confirmed that there are many historic villages, hamlets and farms sit within the landscape, mostly constructed of local stone with pantile or slate roofs. Some villages are popular with tourists and have a busy feel, but elsewhere there is a strong sense of peace and tranquillity.
- 3.11 Railway architecture is also apparent along the railway lines, particularly at Grosmont, where the Middlesbrough-Whitby line and North Yorkshire Moors Steam Railway meet. Trains (including the steam trains of the North Yorkshire Moors Railway) adds a dynamic feature into the landscape. It is a well-treed and gentle farmed landscape which contrasts with and complements the surrounding open moorland. There are long views along and across the strongly rural landscape of the Central Valley.
- 3.12 This LCA comprises the lower, broader part of the Esk Valley between Lealholm and Sleights. It also includes the broad tributary valleys of the Murk Esk, Stonegate Beck and Little Beck.
- 3.13 The villages of Lealholm, Glaisdale, Egton, Egton Bridge, Goathland, Grosmont and Aislaby are all within this LCA, as well as hamlets including Ugglebarnby, Littlebeck and Iburndale. In addition, there are numerous farms on the valley sides. Most of the buildings are vernacular in style, constructed of local stone, with pantile or slate roofs. There are also some more modern properties, particularly on the edges of villages which can in places create a localised more suburban character (for example on the edge of Sleights).
- 3.14 There is a gradual transition at the tops of the valley sides with the surrounding Moorland and Coastal Plain LCTs. Here, the presence of rough grassland and stone walls creates a more upland feel.
- 3.15 Views are often panoramic from valley sides, and also sudden, revealed in gaps between trees or by the topography. Within the broad valley it is an intricate, small-scale landscape which contrasts with the open moorlands above.

Geographic Information

- 3.16 A thorough check of Magic Map has revealed there is no presence on the site edged in red or within close proximity to any known ecological (habitat and species), archaeological, landscape classification or marine constraints that would have a bearing on the submission of the prior notification.
- 3.17 Magic provides authoritative geographic information about the natural environment from across government. The information covers rural, urban, coastal and marine environments across Great Britain including the application site and is a reliable source of information.

- 3.18 Further to our research, it is not considered that additional surveys or appraisals are necessary in this instance and validation of the scheme as presented is requested.

Flood Risk

- 3.19 The site is not deemed to be at risk of flooding from rivers, surface water or reservoirs as confirmed by the Environment Agency's long-term flood risk assessment for locations in England.

Soilscape (18)

- 3.20 Local soil structure is described as slowly permeable and seasonally wet with slightly acid but base-rich loamy and clayey soils. It is a low carbon type with seasonally wet pastures and woodland. Land cover is grassland and arable with some woodland with the main risks to the land being associated with overland flow from compacted or poached fields. Up to 19.9% of this type soilscape is found in England.



4.0 Assessment – Supporting Evidence

- 4.1 Mandalay (the subject of this application) has been occupied by the applicants Mr and Mrs Jowsey and their young family for a period in excess of 10 years.
- 4.2 Mr Jowsey moved into the dwelling in 2006 whilst the conversion work was on-going and has lived there continuously since that time. Habitable accommodation is over ground and first floors. There is also a garage/workshop associated with the dwelling ancillary to the dwelling (within the red line). It is confirmed that a Building Inspector from NYC Building Control Partnership has seen sight of the dwelling.
- 4.3 The evidence that is relied upon for this Certificate of Existing Lawful use is taken in the main from the applicants utility bills, Scarborough and Whitby Constituency records, employment records and sworn statements which prove that Mandalay is occupied separately and independently to the adjacent Heystones Manor.
- 4.4 The occupiers, Mr and Mrs Jowsey (Jnr) are seeking a Lawful Use Certificate to prove residential use for a period in excess of 10 years.
- 4.5 Yorkshire Planning Consultants have been instructed to ascertain a Lawful Development Certificate to regularise the lawful occupation of the dwelling as a separate and independent residential dwelling unit in occupancy without a connection to the adjacent Heystones Manor.
- 4.6 Essential background information
The property is often referenced as Heystones Farm, Heystones building or Mandalay House.
- 4.7 We would ask that the LPA redact any sensitive information not deemed to be necessary to the case.
- 4.8 The property was lived in prior to it being named and was formally named 'Mandalay' when the applicants were married in 2016.
- 4.9 For point of reference, Mrs Jowsey's maiden name was Gildroy.

Summary of Evidence (all accounts are to be treated in strictest of confidence)

- 4.10 The evidence in support of the Lawful Development Certificate application comprises:
- **Appendix A** - Council tax – Summary Statement on Account 504242139 (2014 – 2023).
 - **Appendix B** – DVLA V5 documents x 3 (2012, 2015, 2016).
 - **Appendix C** – DVLA V778 – Retention document (2017).
 - **Appendix D** – Pay slip (2015) – Miss I Gildroy (now Jowsey).
 - **Appendix E** – Booking confirmation for Yorkshire Holiday Cottages (2017).
 - **Appendix F** – Scarborough Borough Council – Reminder to vote (2016).

Continued ...

- **Appendix G** – BATA billing statement (2013).
- **Appendix H** – Mortgage information (2017).
- **Appendix I** – TSB ISA account information (2016).
- **Appendix J** – NFU, Car insurance documents (2018).
- **Appendix K** – Yorkshire Water bill (2013, 2014).
- **Appendix L** – Business Stream concerning water leak at the proeprty (2024).
- **Appendix M** – Sky TV account (2014).
- **Appendix N** – TV Licence (2015).
- **Appendix O** – Derek Thompson fuel receipts (2013, 2014)
- **Appendix P** – Companies House business information (2017).
- **Appendix Q** – Bank statements x 4 (2021 – 2024).
- **Appendix R** – Polling card – for 2024 General Election.
- **Appendix S** – NYM letter confirming 10 years + invitation to apply for CLEUD.

4.11 All of the above provides a sample range of evidence (further information and genuine copies can be obtained on request if needed). The evidence confirms the name of the applicants (some with maiden names) and address and validity of various roles and appointments that have taken place over a period in excess of 10 years.

Other Supporting Documents

4.12 Copies of relevant documents:

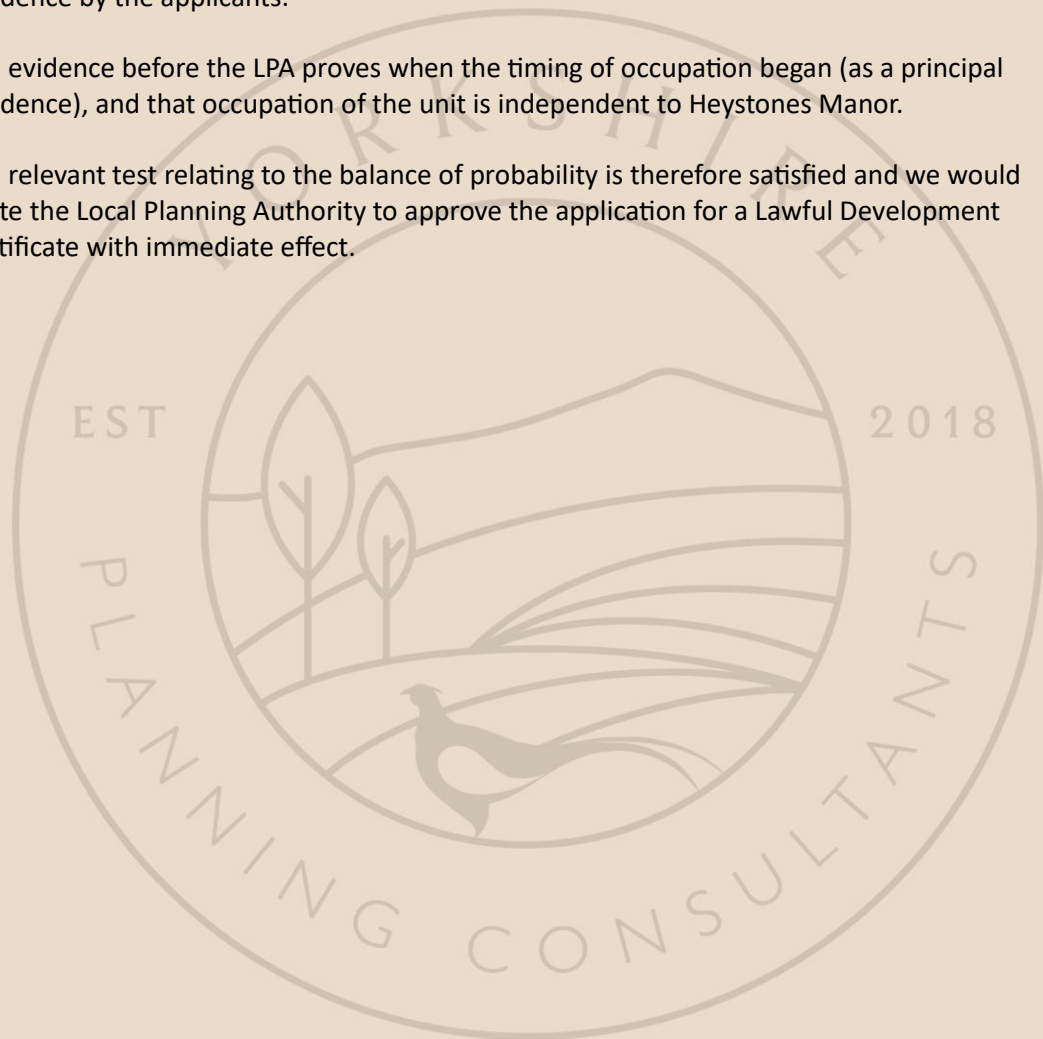
- **Sworn Statement 1** - Matthew Trousdale – applicants mechanic.
- **Sworn Statement 2** - Keith Brady - the Gardner at Heystones Manor.
- **Sworn Statement 3** - Dave Mason – assists with maintenance jobs around the farm.

5.0 Analysis

- 5.1 The 1991 Act amended the 1990 Act by substituting new ss 191 to 194. Sub-section (1) of s 191 provides that if any person wishes to ascertain whether any existing use of buildings or other land is lawful; any operations which have been carried out in, on, over or under land are lawful; or any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful; he may apply to the local planning authority specifying the land and describing the use, operations or other matter.
- 5.2 In this case the applicant wishes to prove the lawfulness of the property known as Mandalay as a separate independent dwelling unit for a period in excess of 10 years. The applicant acknowledges that the relevant test of proving the lawfulness of existing development rests with them.
- 5.3 The Courts have held that the applicant's own evidence does not need to be corroborated by 'independent' evidence in order to be accepted. In this case the applicant has provided the majority of the supporting evidence through a series of paperwork confirming their names and address and demonstrates that they have continuously occupied the dwelling since 2013 and have resided as principal residents within the National Park during in this time.
- 5.4 The available evidence provides a proportionate yet detailed account of the applicant's claim that the property known as Mandalay has been lived in for a 10 year period and its lawful use is therefore established.

6.0 Conclusion

- 6.1 On the basis of the evidence included as part of the application, it is submitted that the property known as Mandalay has been occupied for residential purposes for a period in excess of 10 years before the date of this application. As such this identifies a proven breach is therefore immune from enforcement action.
- 6.2 It is therefore submitted that the available evidence clearly supports the applicants claim that Mandalay has been occupied completely and independently and continuously as a sole residence by the applicants.
- 6.3 The evidence before the LPA proves when the timing of occupation began (as a principal residence), and that occupation of the unit is independent to Heystones Manor.
- 6.4 The relevant test relating to the balance of probability is therefore satisfied and we would invite the Local Planning Authority to approve the application for a Lawful Development Certificate with immediate effect.





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NYMNPA
26/06/2024

Sworn Statement

I, MATTHEW TROUSDALÉ of
CHAPEL GARTH, COMMONDALE make this statement believing
the contents to be true:

I. I can confirm that during the 10 years prior to the submission of this Certificate of Lawful Use application the use of the building known as Mandalay has been in continuous use and continues to be lived in on a permanent residential basis by Mr Edwin Jowsey and family.

I declare that to the best of my knowledge and belief, the information herein is true, correct and complete.

Signed: _____

Declared at: 21st MAY 2024

On this _____ day of _____ 2020.

In the presence of

Witness signature: _____

Name: DANIELE TROUSDALÉ

Address: CHAPEL GARTH, Y0212HG.

On this 21 day of MAY 2024.

NYMNP
26/06/2024

Sworn Statement

I, KEITH BRADY of
3 WENTWORTH CRESCENT make this statement believing
the contents to be true: WHITBY YO21 1LQ

1. I can confirm that during the 10 years prior to the submission of this Certificate of Lawful Use application the use of the building known as Mandalay has been in continuous use and continues to be lived in on a permanent residential basis by Mr Edwin Jowsey and family.

I declare that to the best of my knowledge and belief, the information herein is true, correct and complete.

Signed: _____

Declared at: 21-05-2024

On this day of 2020.

In the presence of

Witness signature: _____

Name: Karen Brady

Address: 3 Wentworth Crescent, Whitby, YO21 1LQ.

On this day of 2020.

NYMNPA
26/06/2024

Sworn Statement

I, DAVE MASON of
36 ST ANDREWS ROAD WHITBY make this statement believing
the contents to be true:

1. I can confirm that during the 10 years prior to the submission of this Certificate of Lawful Use application the use of the building known as Mandalay has been in continuous use and continues to be lived in on a permanent residential basis by Mr Edwin Jowsey and family.

I declare that to the best of my knowledge and belief, the information herein is true, correct and complete.

Signed:



Declared at:

21-5-24

On this day of

2020.

In the presence of



Witness signature:



Name:

Tracy E. Mason

Address:

36 ST ANDREWS ROAD.

On this day of

2020.

21.5.24.