

Extraordinary Meeting Scorton Parish Council, Scorton War Memorial Institute
15.7.2024

Present:-

Scorton Parish Council: Cllrs Rafelt -DR (Chair), Threlfall -IT , Calvert – MC, Harper - JH & Richardson –HR (acting clerk)

Apologies: Mrs Vicki Raven -VR (Parish Clerk); Cllr Carl Les -CL

Complainant: Mr Alan Bell -AB

Issue giving rise to this Meeting: Complaint that the Parish Clerk Mrs Vicki Raven had deliberately misled the Complainant & other Councillors present at the Scorton Parish Council meeting of 22.5.2024.

The Complaint is set out in an email from Mr Alan Bell 4/7/24 10:47 addressed to Cllr Rafelt as Chair.

Meeting started: 19:30

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DR

Complaint giving rise to the Meeting is the email 4/7/2024 10:47 from the Complainant, addressed to DR.

Separate investigation is ongoing with North Yorkshire Highways Agency to determine the legality of the works conducted by Mac Plant at Beck Green on 9/5/2024

5 minutes reading time was permitted for all Councillors present to read the Complaint together with a copy of Scorton Parish Council Complaints Procedure.

Clerk VR provided AB with an email acknowledgement of receipt of the Complaint and a copy of Scorton Parish Council Complaints Procedure on 4/7/24 11:36.

Highlights format of the meeting. Complaints Procedure is drawn from Yorkshire Local Council Association standard document template. Reference at paragraph 4.4 to a two stage Complaints process. Matters unresolved at an initial meeting may be referred to a sub-committee. This is relevant to much larger councils and will not apply here.

Procedure also states that the outcome of the meeting should be recorded by the Clerk. The Complaint is about the Clerk and was notified to the Chair. Clerk is not present and Cllr Richardson will stand in to record Minutes and Outcome.

Further to paragraph 4.11 – AB asked whether he wishes to disclose any additional information of supporting evidence

and / or if wishes to make any further verbal representations.

AB Questioned whether the copy of the Complaints Procedure received was the same as that quoted. Had understood the Procedure to *require* the appointment of a 3 man sub-committee to handle the Complaint and bring to conclusion.

Considered that the Parish Council had already decided that the Complaint had no merit and wanted to move to the sub-committee appointment to save time.

DR The Procedure states that this consideration is only “if necessary” and as outlined, due to the size of the Parish Council this is neither practical or desirable.

The Parish Council have not made any determination in respect of the Complaint. This is the purpose of the Meeting.

Reiterated paragraph 4.4.

AB Not sure how can say that appointment “not necessary”.

IT This is the policy wording.

HR There are 5 members of the Parish Council. All present here this evening. To escalate to a sub-committee drawn from these members is not practical

DR Paragraph 4.5 provides for appointment of independent persons to the committee if the Parish Council are in agreement. It would not be practical to nominate independents to hear the Complaint as a sub-committee.

Any new information to bring to the matter this evening?

AB Nothing new to add at this point

DR Complaint relates to your view that VR *deliberately* misled you at the Parish Council meeting on 22/5/24. Emphasise the word *deliberately*.

The Highways issue and legality or otherwise of roadworks is a separate issue and not within the scope of this meeting.

CL confirmed at the Scorton Parish Council meeting on 3/7/24 that in light of email correspondence received by VR from Niall Paterson, Senior Network Compliance Office, NYC, dated 17/6/24, he would arrange a meeting with the Director of North Yorkshire Highways in August for

clarification. CL remained of the view that the duty of care (& ultimately any liability for breach of that duty) rested with the contractor.

AB Don't agree that the two issues can be unpicked. At the Parish Council Meeting on 22/5/24, I asked VR at that meeting to confirm whether she had received a copy of the relevant works permit. VR refused to confirm this.

DR Don't recall a refusal here. Do recall you asking whether relevant documentation had been received. I stated that members of the Parish Council did not have the benefit of your relevant industry specific expertise. At the time of the meetings, VR confirmed that she believed that Mac Plant would have obtained the necessary documentation to enable them to comply with relevant legalities.

In my view there was no deliberate attempt to mislead.

AB VR was asked to confirm whether she held a licence or a permit. They are one and the same. Some people call the document a licence. Some will call it a permit.

DR In my experience , these are two very different things but reiterate that I am mindful that I do not have the benefit of your industry insight. None of the Council do.

AB The Parish Council Meeting of 22/5/24 was a public meeting. I asked for a copy of the permit or licence and was told by VR that this could not be disclosed as there might be matters therein that should not be public knowledge. This implied to me that VR was stating that a copy of the permit or licence was in her possession but that she was not prepared to disclose the same. Wasn't just VR saying this. Other members of the Council said the same thing. HR said this.

HR I don't recall saying that we could not disclose a specific document. I do recall saying that there might be matters within generic documents that could not be disclosed in a public meeting.

AB That's not how it sounded to me

HR That is my recollection of the discussion on 22/5/2024. Was not present at Meeting on 3/7/24

DR Minutes of the Meetings record the discussions and outcome. Not verbatim. Minutes of 3/7/24 note resolution for CL to investigate the Highways issue further.

- AB Implies that no distinction between permit / licence. CL is looking into whether necessary documents were in place.
- DR CL is looking into the duty of care issue. The practical legal differences between a permit and licence are outside the scope of this meeting.
- The issue here is whether VR has deliberately attempted to mislead.
- AB Received an email today from DR.
- DR Confirming that this is the email to AB confirming no objections to his attending or recording the meeting.
- AB Nial at Highways is saying that Mac Plant don't appear to have had the necessary permission from North Yorkshire before works commenced as no request for either a permit or licence was made to either Streetworks or Area 1 Highways. But not according to VR
- DR The Parish Council, myself included recognise that we are not experts on Highways matters. We don't work for Highways. We have seen a licence card from Mac Plant. We contracted out the work on the Highway to Mac Plant. They have undertaken to ensure that as part of that process, all necessary permissions are obtained so that the work is fully compliant.
- AB There were x2 operators on site on 9/5/24 and neither was qualified. The supervisor was not qualified.
- DR This is not the scope of the meeting. We're drifting back into consideration of the legality of the works and not here because of this.
- AB This supports my complaint. You're now saying that the RASMA ticket you've seem is the same as a licence for the works. Mac Plant had no permit for the works on 9/5/24.
- DR Not necessarily disagreeing this point. What I am saying is that we acted in good faith.
- AB You sent an email to me today clearly saying that Mac Plant had produced a licence in an email
- DR Correct. I said a licence and not a permit for the work.
- AB The fact that you don't know what you're talking about is a problem. You're not dealing with the complaint properly.

- DR I have never stated that I have specific industry knowledge but this is why industry specific skill and work is contracted out. It's not practical or reasonable to expect the Parish Council members to have a specific skill set in relation to every matter that passes before them.
- This is why, like many other Parish Councils and Councils we will use sub-contractors.
- It's unfair to say that we are not taking your complaint seriously and attempting to deal with this.
- AB I feel misled again by the Parish Council. Your email is misleading.
- DR I don't understand why.
- AB You are now saying that there is no licence or permit for the work but you'd said to me in the earlier meeting that there was. You'd refused to let me have a copy on request because you'd said it contained personal details unsuitable for disclosure at a public meeting.
- HR Again, this is not my recollection but rather this was a generic comment about disclosing any such items around contracted work in that forum
- AB I want to know why my request for disclosure was refused. I want to know why VR did not disclose the document. I say it was because she knew then that there was no licence for the work
- IT The Parish Council will employ various third parties to carry out skilled work on our behalf. For example – grass cutting works. We employ sub-contractors who advise that they will comply with all necessary legal requirements to ensure that the works are carried out safely and legally
- DR We carry out due diligence when renewing our contracted work and other than considerations of best value price will satisfy ourselves that all third parties who tender for work state that they will comply with relevant legislation
- HR This is the extent of our due diligence. This is not a counsel of perfection. We are not obliged to conduct anything other than a reasonable check on the validity of qualifications attested to.
- AB But how do you then satisfy yourselves about the way in which the work is completed.

- HR We are not obliged to satisfy ourselves of the standard of work beyond reasonable enquiries as to competence prior to hire and as this falls within the duty of care of the contractor.
- DR Is this not ultimately a misunderstanding. That VR acting in good faith, thought that the document provided by Mac Plant was a licence. No deliberate intention to mislead
- AB No, don't accept that.
- VR misled at meeting and DR has misled me in the recent email. When I asked you again for the documents at the last Meeting on 3/7/2024, you wouldn't provide these. To say anything other than this is a complete fabrication
- DR Very sorry to hear that you feel misled but there was and is absolutely no intention to deceive or mislead.
- We take your concerns very seriously and the matter of legality and compliance by Mac Plant is being dealt with at the highest level by North Yorkshire Council.
- AB Accept that it may be that VR misread the document received but I don't accept the point about her choosing not to disclose this to me.
- You then went on to mislead me by reiterating the point that you believed that all necessary documents had been received by the Council prior to the work beginning.
- The email received from VR included a risk assessment which is dated some time after the works were completed.
- DR Don't recall seeing that document previously by email but may have overlooked this. I am very busy. There was absolutely no intention to mislead on my part. Possibly these documents were received by post and to VR direct
- AB Aware that some Cllrs attended a meeting with Mac Plant. Risk Assessment seems to have materialised after this.
- DR Cannot comment as don't recall seeing this but again reiterate no intention to deliberately mislead here. We believe that we had the necessary reassurances from Mac Plant that all legalities would be complied with as our appointed contractor at the time of the works. If this ultimately proves to not be the case, then this is a matter

that we take very seriously but it is not one for which we are responsible.

We have disclosed all the documents that we held to you as per your request.

AB I have no alternative but to go to the Monitoring Officer now as its clear that you are not going to investigate my complaint further. I'm sorry that we haven't been able to reach an agreement.

IT Don't understand what outcome you are looking for here

AB If VR apologised and said misread documents would be a start but for her to verbally deny that this is the case. Wife and grandchild have been put in danger and it appears to me that the Parish Council don't care whether or not those completing works on their behalf have the necessary qualifications.

DR That is not correct. We undertake due diligence. We were satisfied with the reassurances we received as part of the overall tender process. We do take the safety of residents and visitors very seriously and hence the escalation of this matter

AB There should have been a full and thorough risk assessment. If this was not seen that cannot see how due diligence completed.

DR We would not as a matter of course request or require a contractor to provide us with a risk assessment prior to works being completed. This is because we lack the industry specific knowledge to be able to determine whether or not this is completed properly or not.

AB You should be ashamed of yourselves. Photos show workers not even wearing High Vis. An absolute joke.

Your email implied a permit had been received.

You're not taking things seriously at all. I'd thought if no conclusion tonight would be escalated to a 3 man committee.

This is a matter of gross misconduct on the part of VR

You've already made your decision.

DR We've explained why the escalation to a 3 man committee is not practical or necessary.

I've considered your complaint which the Parish Council takes very seriously but I am not persuaded that VR deliberately withheld information here. I accept that there has likely been a misunderstanding in relation to the practical meaning of the documents held but ultimately the requirement to ensure compliance with legalities falls on the contractor. They are the ones with the industry specific sector knowledge on which we rely

I do not uphold the complaint.

- HR Agreed. I cannot see that you have established an *intention* to deceive here on the part of either VR (the original complaint) or DR (complaint raised during this meeting). I don't uphold the complaints.
- MC Agreed. No reason to uphold either complaint.
- JH Agreed. No reason to uphold either complaint.
- IT Agreed. No reason to uphold complaint that either VR or DR have deliberately attempted to mislead
- DR That is the finding. I am personally very sorry that you feel misled by my email. This was never my intention.
- AB Don't agree with outcome.
- DR Copy of the Minutes will be published on the website.
Decision will be confirmed within 5 days of the meeting.

Meeting Closed 20:25