



## Appeal Decision

Site visit made on 13 May 2008

by **D R Cullingford** BA MPhil MRTPI

an Inspector appointed by the Secretary of State  
for Communities and Local Government

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Decision date:  
13 June 2008

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**Appeal Ref: APP/H0738/A/08/2067220/NWF**  
**Cliffolgwen Depot, Sandy Leas Lane, Elton, Stockton-on-Tees, Cleveland,**  
**TS21 1BS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is by Wearmouth Construction and Plant Limited against the decision of the Stockton-on-Tees Borough Council.
- The application (ref: 07/3113/ARC and dated 1 November 2007) was refused by notice dated 20 December 2007.
- The application sought the variation of a condition attached to the planning permission granted on appeal (ref: APP/H0738/A/07/2034126, dated 3 May 2007, and relating to application ref: 06/0959/REV) to retain the building without removal of the bay to the side.
- The condition in dispute is No.1 which states that:
  - 1 *The works hereby permitted relating to the reduction in width of the building and the re-cladding with timber boarding shall be completed within 6 months of the date of this decision.*
- The reason indicated for the condition is:
  - *To reduce the impact of the building on the living conditions of neighbouring residents and on the character and appearance of the countryside.*

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### Decision

1. For the reasons given below, I allow the appeal, and grant planning permission for the variation of a condition attached to the planning permission granted on appeal (ref: APP/H0738/A/07/2034126, dated 3 May 2007, and relating to application ref: 06/0959/REV) to retain the building without removal of the bay to the side at Wearmouth Construction and Plant Limited, Cliffolgwen Depot, Sandy Leas Lane, Elton, Stockton-on-Tees, Cleveland, in accordance with the application (ref: 07/3113/ARC) dated 1 November 2007, and the plans submitted therewith, and hereby discharge condition No.1 previously imposed on the planning permission granted on appeal (ref: APP/H0738/A/07/2034126) dated 3 May 2007 and subject to all the other conditions imposed therein, insofar as the same are still subsisting and capable of taking effect, but subject to the following new conditions:
  - 1) The works hereby permitted relating to the re-cladding of the building with timber boarding, as shown on plan No.07.075.002 dated October 2007, shall be completed within 6 months of the date of this decision.
  - 2) Within 6 months of the date of this decision a scheme of landscaping shall be submitted to the local planning authority. The scheme shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development; specifications of the type and species to be planted; details of finished contours and

surfaces; and, details of any means of enclosure. The scheme shall be implemented in accordance with the details approved in writing by the local planning authority.

- 3) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 4) Within 6 months of the date of this decision a report shall be submitted to the local planning authority setting out the results of an investigation into the source of contamination evident in the remains of the boundary ditch running along the east of the appeal site together with the details of a scheme to prevent the recurrence of such contamination.

### **Reasons**

2. The appeal building is a large industrial structure built on a stout steel frame covered with corrugated cladding, though some of it is masked beneath timber boarding. The structure rises to about 8.5m at the ridge: it extends across an area some 28m wide and 22m deep. It lies within a compound strewn with plant and equipment, all manner of flotsam and jetsam and containing various sheds, as well as a large adjacent building; the compound is at the end of a rough road providing access from Sandy Leas Lane and it is surrounded largely by paddocks, fields and farmland.
3. As my colleague noted previously, although permission was granted in 2003 for a new industrial building here and again (in 2004) for an amended scheme, the structure actually erected was both higher and more extensive than the project permitted and entailed no demolition of any existing structure. In granting planning permission in May 2007 to retain that unauthorised building in this established industrial enclave, she imposed conditions to reduce its impact including, amongst other measures (and in addition to the condition in dispute) requirements to landscape the site, install noise insulation and control external lighting. She found that, subject to those conditions, the building would not significantly harm the character or appearance of the countryside. She also found that it would not impinge on the outlook of residents at Sandy Leas Plantation House (the nearest dwelling some 40m distant) so much more than the permitted scheme as to warrant refusal; other dwellings were found to be further away.
4. In those circumstances, I find that the test to apply here is whether the condition in dispute would be reasonable and necessary to adequately ameliorate the impact of the building on the character or appearance of the countryside or the outlook enjoyed by residents at Sandy Leas Plantation House.
5. The condition in dispute is aimed at reducing the impact of the building on the living conditions of neighbouring residents (primarily at Sandy Leas Plantation House) and on the character and appearance of the countryside. It requires the width of the building to be reduced and most of the elevations to be clad with timber boarding to create the perception of an 'agricultural' structure rather than a utilitarian industrial one. The plans originally submitted showed the position of the boarding and indicated that the reduction in width intended involved 'moving' the eastern elevation a mere 2m further from the eastern boundary. That would provide room for landscaping and the impression was given that planting could also be undertaken on land apparently beyond the

application site. Those proposals would have had some mitigating effects and, not surprisingly, my colleague assumed that they could be achieved reasonably easily.

6. However, I saw that implementation would not be easy. The building is, essentially, constructed in a series of prefabricated sections. The eastern section is about 6.5m wide and straddles a substantial inspection pit designed to be used in the servicing and repair of very large vehicles. Reducing the structure by 2m would either entail removing the whole section and completely rebuilding it with smaller steel beams or cutting the beams and reconfiguring the connections between them. In either case, the existing inspection pit would be unusable and a new facility would have to be constructed elsewhere. Clearly, the works required by the condition would entail much effort and expense. Moreover, given the scale of the building, it is hard to see that such a limited reduction in its width, or the provision of a further 2m between the eastern elevation and the boundary, would, in itself, make much noticeable difference to its impact either on the surroundings or on the outlook of residents nearby. Hence, the particular requirement to reduce the width of the building (as it turns out by just 2m) would appear unreasonable.
7. A different finding might be warranted if the additional space between the eastern elevation and the eastern boundary would be necessary to accommodate an effective landscaping scheme. Much depends on where the eastern boundary of the site actually is. A close boarded fence currently stands barely 2m from the eastern elevation and inside a straggly hawthorn hedge, a section of which has been removed to accommodate part of the fence. I think that the application plan clearly includes land up to the hawthorn hedge. That would provide about 3m to accommodate additional planting and screening foliage along the eastern side of the building sufficient, in my view, to significantly reduce the impact of the structure on the living conditions of neighbouring residents and on the character and appearance of the countryside. Hence, I consider that the existing space between the eastern elevation and the actual boundary of the site would be sufficient to accommodate an effective landscaping scheme. Repositioning the eastern elevation would thus not be necessary and the condition in dispute is varied accordingly.
8. Of course, to achieve effective landscaping within the confines of the application site may require the removal or repositioning of the close boarded fence and measures to incorporate the existing hedge into an appropriate plan. But, much would depend upon the quality of the scheme actually devised and the terms of the approved landscaping arrangements. I am concerned that no sign of any emerging proposal has been submitted in the context of this appeal, in spite of the requirement to do so within 3 months of the previous permission (at the beginning of July 2007); hence, I rather doubt the imminence of an agreement with the Council on such matters. I consider that it is thus necessary to re-impose a requirement to prepare and implement a suitable landscaping scheme.
9. I accept that more room would be available if, as was pointed out at the site inspection, the boundary included the remains of the ditch (now largely filled in though still evident) beyond the hedge. Unfortunately, however, the evidence

submitted is insufficient to be definitive. I would need to be sure that ownership or control of that land existed to take the potentially beneficial effects of such additional landscaping into account. But, I have no doubt that if such planting could be secured the effects would be beneficial.

10. I am more concerned that the remnants of the claimed boundary ditch now appear to contain various obnoxious emissions emanating from (or across) the appeal site. To my mind that needs urgent investigation with the aim of identifying and eradicating the problem. I appreciate that controls may be available under other legislation. However, the eradication of this problem also has important planning consequences, not least because such pollution could seriously affect the implementation and success of an appropriate landscaping scheme. A suitable condition is imposed.
11. I have considered all the other matters raised, but find nothing sufficiently compelling to alter my conclusion that this appeal should be allowed subject to the conditions set out above. Those conditions are imposed for the reasons set out above. My conclusion rests on their implementation.



INSPECTOR