

DEPARTMENT OF THE ENVIRONMENT

Tollgate House Houlton Street BRISTOL BS2 9DJ

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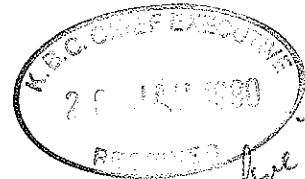
TOWN AND COUNTRY PLANNING ACT 1971

The enclosed copy of the Inspector's decision letter is  
for the Council's information.

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TCP 212A

HMSO Btl 019002/1





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Your reference

CEH/MS  
 Our reference

T/APP/C/89/L2820/1/P6

Date

24 JAN 90

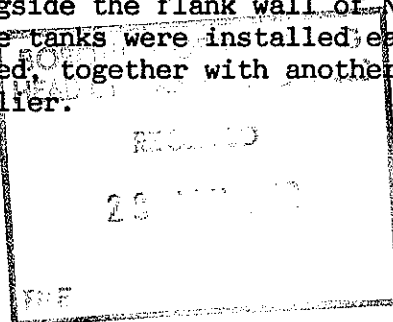
Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9  
 LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981  
 APPEAL BY SIGMA OILFIELD PRODUCTS (UK) LIMITED  
 LAND AT PRINCES STREET, KETTERING

1. I have been appointed by the Secretary of State for the Environment to determine the above-mentioned appeal against an enforcement notice issued by the Kettering Borough Council concerning the above-mentioned land. I have considered the written representations made by you and by the Council and also those made by interested persons. I inspected the site on 21 November 1989.
2. a. The date of the notice is 17 April 1989.
- b. The breach of planning control alleged in the notice is the carrying out of operational development without the benefit of planning permission consisting of the installation of additional or replacement plant or machinery, namely 2 large storage tanks, on industrial land for the purposes of an industrial process, which materially affects the external appearance of the premises of the undertaking concerned (Schedule 2, Part 8 Class B(a) Town and Country Planning General Development Order 1988).
- c. The requirements of the notice are the removal of the 2 large storage tanks.
- d. The period for compliance with the notice is 3 months.
- e. The appeal was made on the grounds set out in Section 88(2)(b) and (g) of the 1971 Act as amended.

**SITE, SURROUNDINGS AND BACKGROUND**

3. The appeal premises comprise an old boot and shoe factory which stands at the corner of Princes Street and Nelson Street in a predominantly residential area of high density terraced houses. The 2 cylindrical storage tanks, the subject of the notice, have been placed in the rear yard of the premises on an elevated section close to the western boundary of the site and alongside the flank wall of No. 117 Princes Street, an end terraced house. The storage tanks were installed earlier in the year replacing an older tank which was installed together with another tank, in 1967. The other tank had been removed sometime earlier.



## THE NOTICE

4. The notice alleges operational development carried out without planning permission. It states however that the breach of planning control has occurred since the end of 1963. In the case of operational development the statutory time limit for issue of the notice is 4 years from the breach of planning control. I intend therefore to correct the notice accordingly. Nothing turns on this point in this case because there is no dispute that the installation of the tanks took place in 1989, within the 4 year period prior to the issue of the notice. I am satisfied that the notice can be corrected in this way without injustice to either party.

## APPEAL UNDER GROUND (B)

5. There is no dispute that the installation of the 2 tanks involves operational development. However you say that it is development permitted by Part VIII of the 1988 General Development Order (Class B). This is because it is development carried out on industrial land for the purposes of an industrial process consisting of the installation of replacement plant. You say that the new tanks are almost exactly the same dimensions as the old tanks (some 30 ft long and 108 or 109 ins high) and thus there has been no material effect on the external appearance of the appeal premises.

6. As a preliminary point, I am not sure that the appeal premises constitute industrial land or that the installation of the tanks was done for the purposes of an industrial process. At the time of my site visit the buildings which form the main part of the appeal site did not appear to be occupied. I note from the Council's statement that the last known use of the premises was for the production of mixed chemicals which ceased some 5 years ago. However for the purposes of this appeal I am prepared to assume that the appeal premises constitute industrial land and that installation of the tanks has been carried out for the purposes of an industrial process.

7. What I have to decide therefore is whether the installation of the 2 tanks has materially affected the external appearance of the appeal premises. The Council have submitted 3 enlarged colour photographs showing the remaining tank being removed earlier in the year and the new tanks in place. From these photographs (the authenticity of which has not been challenged) it is plain that each of the new tanks is considerably bulkier than the old tank. Unlike the old tank, the new tanks do not fit within the brick walls which contained the old tank. As a result they rest on a stand not on wooden sleepers as did the old tank. I also have the evidence of a local resident that the 2 tanks installed "are a lot larger" than the previous ones. Another resident says that the "height level has risen enormously". Given the greater bulk of the new tanks and the greater height at which they have been installed compared with the previous tanks the installation does materially affect the external appearance of the appeal premises on its frontage with Princes Street. For these reasons the installation is not permitted under Part VIII of the General Development Order. The appeal fails on ground (b).

## THE DEEMED PLANNING APPLICATION

8. Although ground (a) has not been pleaded, there is the application deemed to have been made under Section 88B(3) of the 1971 Act as amended which I must consider. That application is for the retention of the 2 storage tanks as installed. The main issues in my view are the effect of the retention of the tanks on the street scene and their effect, in terms of outlook from windows, on those living in Nos 117 and 110 Princes Street.
9. The tanks are of course set within longstanding industrial premises the main building of which has long been a part of the street scene. But the storage tanks have a quite different effect on the street scene from the brick buildings which mainly occupy the appeal premises. The tank nearest Princes Street is almost level with the highway boundary; the top of the tank reaches to the lower sill of the upper floor window of the adjoining terraced house (No. 117). Both tanks can be seen from the end of Princes Street and from Nelson Street there being no intervening buildings. The considerable bulk of the tanks, their height above street level and their proximity both to No. 117 and to the street itself combine to make them an ugly obtrusive feature within the street scene.
10. As to the effect on individual houses, I saw on my site visit that the tank furthest away from Princes Street extends a considerable distance past the rear wall of No. 117 the adjoining house. The height of this tank also extends to the sill level of the rear upper floor rooms on this house. The tank almost adjoins the flank wall of No. 117. In view of the bulk, height and proximity of the tank I am satisfied that it impinges severely on the outlook from the kitchen window in the rear elevation of No. 117 and seriously impairs the enjoyment of this important room as well as dominating the narrow back garden.
11. The tank nearest Princes Street is immediately opposite the only ground floor window of No. 110 on the other side of Princes Street where the houses are at a somewhat lower level than those on the northern side. In this street of traditional terraced houses, fronting directly onto the street, the window is only separated from the end of the tank by the width of the carriageway of Princes Street and that of the 2 footways on either side. I am satisfied that the outlook of this ground floor room is severely affected by this bulky item of plant in such an elevated position so close to it.
12. I have concluded therefore that there is substantial planning objection, in terms of the effect on the street scene and the effect on those living at No. 110 and No. 117 Princes Street, to the retention of the storage tanks. I intend therefore to refuse planning permission on the deemed application.
13. The Council also objected on the grounds of interference with the flow of traffic on Princes Street. I agree with the Council that, in view of the limited manoeuvring space within the appeal premises, large vehicles servicing the 2 storage tanks could only do so with all or a substantial part occupying the highway. However I have no evidence as to the extent to which this produces more manoeuvres than would have occurred with the tanks originally in place. On the limited evidence available to me therefore I am not satisfied that the effect on vehicle movements up and down Princes Street is so significant as to justify refusal of planning permission on this ground alone.
14. I have taken into account all other matters raised with me but they do not alter the considerations which have led me to my conclusion on the 2 main issues.

APPEAL UNDER GROUND (G)

15. The planning objection to the tanks derives from their bulk, height and location. It does not derive from their colour or from the cat-walk on top of the tank furthest away from Princes Street. Painting the tanks a dark colour would help them to some degree (in views from the end of Princes Street and from Nelson Street) to blend with the gable wall of 117 which is painted black. It would not assist in views from closer in and it would make no difference at all to the effect on those living in Nos 110 and 117. In my view therefore the requirement to remove the tanks is reasonable. The appeal on ground (g) also fails.

FORMAL DECISION

16. For the above reasons and in exercise of the powers transferred to me I hereby direct that the notice be corrected by the deletion of "after the end of 1963" from the second recital of the notice and the substitution therefor of "within the period of 4 years from the date of this notice". Subject thereto I hereby dismiss the appeal, uphold the notice as corrected and refuse to grant planning permission on the application deemed to have been made under Section 88B(3) of the 1971 Act as amended.

RIGHT OF APPEAL AGAINST DECISION

17. This letter is issued as the determination of the appeal before me. Particulars of the rights of appeal against the decision to the High Court are enclosed for those concerned.

I am Gentlemen  
Your obedient Servant



P J BURKE BA(Oxon) Solicitor  
Inspector

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