



## Appeal Decision

Site visit made on 8 October 2014

**by Sue Glover BA (Hons) MCD MRTPI**

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

**Decision date: 24 October 2014**

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**Appeal Ref: APP/Y2736/A/14/2222762**

**Ellis Patents Ltd, High Street, Rillington, Malton, YO17 8LA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Ellis Patents Ltd against the decision of Ryedale District Council.
  - The application Ref 14/00150/FUL dated 4 February 2014, was refused by notice dated 12 May 2014.
  - The development is a fuel oil tank.
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### Costs

1. An application for costs has been made by Ellis Patents Ltd against Ryedale District Council. This application is the subject of a separate decision.

### Decision

2. The appeal is allowed and planning permission granted for a fuel oil tank at Ellis Patents Ltd, High Street, Rillington, Malton, YO17 8LA in accordance with the terms of the application, Ref 14/00150/FUL dated 4 February 2014, and the particulars submitted with it, subject to the following condition:

- 1) Within 3 months of the date of this decision, a landscaping scheme shall be submitted to the local planning authority for approval in writing. The landscaping scheme shall include particulars of any additional and replacement planting, including species and sizes of plants, and any other measures designed to screen the oil tank from nearby dwellings and gardens in the short or long term. The landscaping scheme shall include a programme for implementation.

The landscaping scheme shall be carried out as approved. If, within a period of 5 years from the date of planting, any tree or plant is removed, uprooted, destroyed or dies, another of the same species and size shall be planted at the same place, unless the local planning authority gives its written consent to any variation.

### Main Issue

3. The main issue is the effect of the oil tank, which is already in place, on the character and appearance of the area and the visual amenity of nearby residents in Woodlands Road.

## Reasons

4. The tank is located on open land close to the boundary of an established factory on the fringe of the village. The tank is separated from rear gardens of dwellings in Woodlands Road by a narrow strip of landscaping, comprising closely positioned saplings of varying species. The saplings are young, and a few appear to be dead or dying. They do not presently screen the 10,000 litre capacity oil tank from rear gardens and windows of the nearest dwellings.
5. I am told that there is a separation of about 20m between the tank and the nearest dwelling. However, there is a largely open aspect between the tank and the closest dwelling at no. 3, so that it appears prominent from the garden and ground-floor windows. In the domestic context of the dwellings and their gardens, the dark-coloured tank appears overly large and out of place. It appears as a commercial scale structure that dominates views of the foreground from the rear of dwellings. There is a backdrop of industrial buildings beyond the tank, but these buildings are further distant.
6. Given the proximity of the oil tank to gardens and dwellings, its non-domestic scale and appearance, and the lack of any effective screening, it fails to take the opportunities available for improving the character and quality of an area contrary to paragraph 64 of the National Planning Policy Framework. It does not secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings, contrary to paragraph 17 of the Framework. In these respects, notwithstanding the lack of public vantage points, the tank harms the character and appearance of the area and the visual amenity of some nearby residents.
7. Although the appeal tank replaced another tank nearby, I am mindful that the site of the former tank was closer to the industrial buildings and further from the dwellings. Given the very close planting of some saplings immediately next to the tank, and the dead or dying state of some in the intervening area, I cannot be certain that the existing planting scheme is adequate to screen the existing tank from nearby dwellings in a satisfactory manner.
8. A condition could be imposed to require further planting and replacement of any dead or dying plants. There is also potential for other screening mechanisms as part of a landscaping scheme, such as a timber fence abutting the tank, particularly until plants have become established to provide a more effective screen. I am satisfied that there is sufficient intervening space to incorporate additional screening without compromising nearby residents' living conditions. The tank may not become entirely invisible from nearby dwellings, but with some screening the tank would appear less obtrusive and dominating, and there would be no material harm to the character and appearance of the area and to residents' visual amenity.
9. Policy SP16 of the Ryedale Plan – Local Plan Strategy (LP) requires development to reinforce local distinctiveness and LP Policy SP20 to respect the character and context of the immediate locality. The development does not meet the objectives of these policies, but a condition could be imposed that mitigates the existing harm. I have therefore imposed a condition requiring a landscaping scheme.

10. There is no substantive evidence to indicate that any leakage or safety hazard would occur. These matters are subject to other legislation. The separation distance from the dwellings is such that there would be no undue loss of daylight or sunlight from landscaping. I also do not consider that permission could reasonably be withheld on account of any noise or disturbance from the occasional filling of the tank.
11. The site is of archaeological interest, close to a Scheduled Ancient Monument. However the development is already in place, and no mitigation measures are deemed necessary, other than compliance if needed with other legislation. I have taken into account all other matters, including all the policies in the Framework and other national planning guidance, but I find none that justify the dismissal of this appeal.

*Sue Glover*

INSPECTOR