

Ref: STC 248789 and LGO 14 015 052.

8th July 2016

Dear Mr Swales,

South Tyneside Council and the Local Government Ombudsman

This letter concerns the conduct of your staff over the last two and a half years and has been occasioned by the email on December 9th, from Alison Hoy.

- The Council will not declare what the planned height of the shed is;
- The Council repeat unfounded statements;
- The Council say that drawings are not to scale without reason;
- The Council use unauthorised drawings as if they were legal documents.

In her email to me, Ms Hoy said I was not satisfied with the response from my emails to Mr Simmonette about enforcement. While the correspondence may have alluded to enforcement, it was principally about the impropriety of extending a shed that had been built without planning permission with particular reference to the height and I said:

"If you disagree with the proposition that the cover has been built 3 meters higher than planned, please give your reasons to me and I will ensure that they are circulated widely."

Mr Simmonette did not respond to my email of 30th September nor to my reminder of the 4th December and it is probably safe to say he has no valid reasons to disagree with the proposition. Ms Hoy goes on to say that the matter has been investigated fully by the Council and also considered by the Local Government Ombudsman (LGO) who say.

"The complainant says the shed is also 3 metres higher than it should be. The Council says it is not. There is no fault in how the Council decided the shed is the permitted height."

The explanations I had given to Mr Simmonette about the planned height were a rewording of what I had said to the Inspector for the LGO and if you look at those explanations you will see that I am right about the planned height of the shed and that the Inspector had been wrongly advised by the Council.

I ask you to look again at this because there is a clear contradiction between what the Council were telling the LGO and what is known. Why your staff should misrepresent the facts to the LGO is for you to determine. That they have misinformed the LGO should be admitted and corrected and that is what this letter is about.

On January 10th 2014 I made a complaint that the Council had allowed UK Docks to build a boat shed without meeting the second condition of the grant of permission, "The development to which this permission relates shall be carried out in complete accordance with the approved plans and specifications".

The dimensions measured by the Council in September are as follows: length 22.254m, width 13.1m, height at the landward end 15.5m and height at the river end 18m. The gradient is 2.7m and there was no dispute about the planned width of 12.2m. There are four drawings available to determine the planned height. Logic rather than opinion dictates that the landward or road end is 13m or less and the river end is 15.5m.

Before I go any further I will say that drawings 8296/1A and B have not been authorised by the Tyne and Wear Development Corporation but 8296/2 has. Therefore if one is to say that 8296/1A is approved then one must take 8296/2 into consideration first. 8296/1B should not be considered as legal or approved (it was drawn Feb 97).

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| 8296/1A | Both 1A and 1B show both ends of the shed as 15.5m, (and by reasoning either a river end of 18.2m or a landward end of 12.8m). |
| 8296/1B | |
| 8296/2 | Using the gradient the heights are: river end 16m, landward end 13m |
| 8296/14 | Using beam or column size, river end height of 15.6m (landward end 12.9m) |

The Council have denied the protesters claims that the shed was 2.7m higher since early September 2013 and used plans supplied by UK Docks to claim that that the base and height of the structure were compliant i.e. they were being built to approved plans:

Mr Cunningham, 20th Dec 2013, "Mr Dawson – once again - I have measured this on site and have copied the 1996 plans across to you twice already (attached again for your use) and I have explained during our meeting that the base and height of the structure are compliant...this is the end of the matter as far as I am concerned."

The plans supplied by UK Docks, September 06 2013, are suspect:

1. Unnumbered drawing – the datum heights have been chopped from the left hand side – the full authorised drawing shows that the shed is approximately 13m high.
2. 8296/1B – drawn in February 1997 – it is not a legal part of the grant.

The plans supplied by the Agents, Maughan, Reynolds Partnership Ltd. to meet condition 4 of the grant which include 8296/14, were approved by the Council on 14th October 2013.

Even after my complaint where I had been specific in giving the variance from the approved plans (+ 3m in height and + 1m in width) the Council continued to say that the shed was compliant: firstly, Mr Cunningham 13th Jan who referred back to a meeting with the Council and then the Planning Manager, Mr Atkinson on 15th Jan 2014, who said:

"The dimensions of the steelwork have been checked on site and they are in accordance with the measurements shown on the approved drawings. The variation in the angle of the pillars is not considered to be material."

I used the 1996 plans, in my complaint to show that the shed was a meter wider than planned because the Council should have known since 2001 that the shed was too wide and I could measure the width myself. You can go down to the yard today and see a sixth footing laid in 2001 (5m SE of the shed). That shows a footprint of a shed 27m x13m laid in 2001.

Because the plans supplied by UK Docks were suspect, I used plans (drawing 8296/14) supplied by the agent, drawn in August 2013 to meet condition 4 to make a case about the height being 3m oversize. The 1996 plans showed both ends of the shed to be 15.5m high but there was no such confusion with the drawing 8296/14. It has details and a note to indicate that it is the river end of the shed. It also gives precise dimensions of the roof beam and portal column (686mm x 254mm) which support the gable and from which one can get the section of the shed at the river end.

I asked at the end of my complaint , "As the applicant has not discharged condition 2 why is there no retrospective planning application?" Mr Cunningham who received my complaint did not answer the question or register the complaint but directed me to the Council's complaints procedure. His manager, Mr Atkinson, did register my complaint - 248789. He did not directly answer the main questions regarding the width or height raised by my complaint either and also directed me to the Council's complaints procedure. He, in his responses, included some misinformation:

1. Jan 15th - The dimensions of the steelwork have been checked on site and they are in accordance with the measurements shown on the approved drawings. The variation in the angle of the pillars is not considered to be material.
It is, in fact, nearly a meter wider and 2.7m taller than approved.

2. Jan 15th - Condition 2 does not require any submission by the developer.
It does require the developer to build what he has agreed with the planners and to quote from the local paper (9-Sep-13 and 1-Apr-14): A spokesman for UK Docks said: "All I can say is that we have been through all the controls with the planners, and the work meets all the necessary legal requirements. All we are doing is going ahead with the previous planning permission."
3. Jan 15th - Approved Drawings: The drawing that was submitted on 11th April 1996 with the application is numbered 8296/1A. That shows the overall height of the structure as 15.5m above the foundation level at the landward end.
The drawing was not authorised as part of the grant. It is not an 'approved drawing', the height dimension of the landward end is an error on the drawing.
4. Jan 28th - 8296/14 and you seem to have assumed that is the riverside elevation, and have adjusted for the gradient of the slipway and concluded that the height at the River Drive side should be in the order of 3m less. In fact the 15.6m height is the height to River Drive and the height on the river side is some 3m greater.
*A gross misrepresentation. It is no assumption on my part. The drawing is of the river end.
Note: no mention of the drawing being out of scale.*
5. Feb 13th - why did we determine the elevation on 8296/14 is the south end? The engineer chose to show a gable elevation of the structure (not drawn to scale) on the same drawing.
 - i) *Mr Atkinson did not answer the question because the gable shown is the river end and is confirmation that the shed was 2.7m too high.*
 - ii) *It conflicts with what he said on the 15th.*
 - iii) *No professional draughtsperson would draw out of scale if they could help it and there would be a note on the drawing, to that effect, had they done so. I am therefore most surprised that Mr Atkinson should say that the gable end was not drawn to scale.*

The Planning Manager is sending out mixed signals, conceding to my arguments but leaving such a confused trail that the Head of Development Services, Mr Mansbridge could continue to say that the shed was built to the planned height.

I wrote to Mr Mansbridge about continued working, the height of the shed and what I thought to be the misuse of the Council's complaints procedure on 4th April and 2nd May. In his response to our Petition he had repeated item 3 of the list above as a fact and also includes a new deceit.

It was following queries raised in mid-January that that the plans were re-examined. We discovered that the overall width of the steelwork at ground level was shown as 12.2m on the plan, not 12.9m as previously understood.

If you look at the plans you will see the column centre offsets are in fact on the inside of the overall width and not an extension to it. This is a flagrant misrepresentation but it is the height I am concerned about and I write on May 9th and tell him that there is no supporting documentation which says that the approved height is 15.5m at the River Drive end. "All indications are that the approved height is 12.5m which one can get from scaling the portal details in the Drawing 8296/14."

A new complaint 253939 was raised by Mr Mansbridge' staff, which appears to switch from misrepresentation of the plans by UK Docks and the Council to a new one about planning enforcement. We are now a long way from my original complaint and Mr Mansbridge has not properly responded to my queries raised in April and May. I take this to be a further abuse of the Council's Complaints Procedure especially as he had not allowed me a Stage 2 representation to him.

I then tried to raise the issue of the planned height of the shed with you in my letter of July 7th 2014, at Stage 3 but failed. The emphasis of the response to my complaint has been switched from misrepresentation of plans to enforcement and the question of the height of the shed avoided altogether. There is not one reference to the height of the shed in the whole of the Stage 3 response and about 8296/14, Michaela Hamilton in her letter to me, 25th Sept says:

Mr Mansbridge stated in his Stage 2 response that the engineer chose to include a gable elevation of

the structure on the same drawing but told you this was not drawn to scale.

That she has divorced herself from the remark about 'not drawn to scale' should not be ignored because that was the throw away remark that the Planning Manager made when he lost the argument about the planned height of the shed. It is just an item of misinformation.

Turning to the LGO, it is not till paragraph 30 of her final decision 15-Apr-2014 that the Inspector gets to the point of my original complaint and here we can see some of the misdirections of Mr Atkinson reappearing:

34 I have seen the 1996 plans. On plan 1/B the applicant has written the proposed elevations at the inland end as 12.5 metres plus 3 metres. Mr Dawson says the Council should not have taken the applicant's word for this.

35 In January 2014 the Council wrote to Mr Dawson about this. It said the overall structure on the plans is 15.5 metres at the land end and the foundations are 2.656 metres lower at the river end due to the gradient...Since then the Council has consistently told Mr Dawson the shed is the correct height.

37. Mr Dawson says plan 14 shows 15.5 metres as the river end height. The Council has explained to Mr Dawson why this is not the case....The drafter has not specified which end this is and the drawings are not to scale.

Re: 34 - I explained to her in great detail that the dimension was wrong. See correspondence to Mr Simmonette where I have repeated much of what I said to her.

Re: 35 – She is repeating what Mr Atkinson said in January 2014 and ignored the argument that showed he was wrong. The river end is 12.5m + 3m and the land end is 2.7m less.

Re: 37 - the drafter has in fact specified exactly which end it is because they have written on the drawing "strips to draw back to each side to allow access for boats." The boats come up the slipway from the river. The Investigator is trying to discredit 8296/14 by saying it was not to scale because it would otherwise invalidate the points she had made in 34 and 35. One only has to look at 8296/14 to see that it is to scale.

I suggest that you ask your legal department to review the original complaint of the 10th January 2014 and the correspondence following it up to 13th February and ask them to answer the simple question, What is the planned height of the shed? and the for you to answer the fundamental question: "As the applicant has not discharged condition 2 why is there no retrospective planning application?"

I have been advised you may well say that all this relates to an old complaint and so I will ask you for a "new" complaint based on this letter and if you will not deal with it then the Local Government Ombudsman can deal with it. The Council's "Complaint's Procedure" is not appropriate, it has failed. It has failed not only me but all the local residents and Petitioners as well.

Yours sincerely,

Mr M Dawson

cc: [To be published as an open letter.](#)