

TOWN AND COUNTRY PLANNING ACT 1990

DACORUM BOROUGH COUNCIL

Application Ref. No. 4/0710/96

S J D Newell  
Chiltern Young Riders  
"Owlets" London Road East  
Amersham, Bucks  
HP7 9DH

DEVELOPMENT ADDRESS AND DESCRIPTION  
=====

OS Parcel 2562, Land between Little Dickshill Wood and Great Dickshill Wood, Shootersway, Berkhamsted.

VARIATION OF CONDITIONS 1 & 3 OF PLANNING PERMISSION 4/0495/94 (CHANGE OF USE OF LAND FROM AGRICULTURE TO USE FOR JUNIOR OFF-ROAD MINI BIKE TRACK)

Your application for *full planning permission* dated and received on 28.05.1996 has been **GRANTED**, subject to any conditions set out on the attached sheet(s).

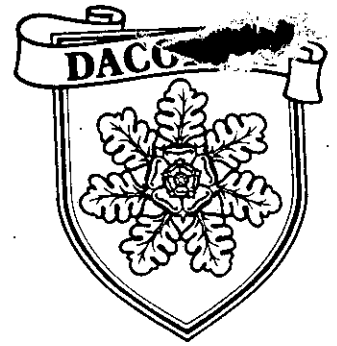
Director of Planning

Date of Decision: 15.08.1996

(encs. - Conditions and Notes).

CONDITIONS APPLICABLE  
TO APPLICATION: 4/0710/96

Date of Decision: 15.08.1996



1. The use hereby permitted shall be discontinued and the land restored to its former condition as agricultural land on or before the expiration of 2 years from the date of this permission.

Reason: To enable the local planning authority to retain control over the development which is permitted only to meet the specific circumstances of the applicant.

2. The use hereby permitted shall only be carried on between 1000 and 1600 hours on Saturdays and Sundays except during school holidays (in schools maintained by the local authority) in Hertfordshire as defined by the Education Department of Hertfordshire County Council when the use may be carried out between 1000 and 1600 hours on weekdays only. When the use is carried out on weekdays during such holidays it shall not be carried out on either the preceding or succeeding weekend.

Reason: In the interests of amenity.



# The Planning Inspectorate

An Executive Agency in the Department of the Environment and the Welsh Office

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Houlton Street  
Bristol BS2 9DJ

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Simon John Newell  
Owlets  
London Road East  
AMERSHAM  
Bucks  
HP7 9DH

Your Ref:  
CYR 2

Our Ref:  
T/APP/A1910/A/96/272673/P2

PLANNING DEPARTMENT DACORUM BOROUGH COUNCIL					
Date: 22 JUL 1997					
Ref.					
DoP		DC	BC	Env	Ind
Received 23 JUL 1997					
Comments					

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6  
APPLICATION NO: 4/0710/96

1. I have been appointed by the Secretary of State for the Environment to determine your appeal against the decision of the Dacorum Borough Council to refuse planning permission in respect of an application for a variation of conditions 1 and 3 of planning permission 4/0495/94 (change of use of land from agriculture to use for junior off-road mini bike track) on land at OS Parcel 2562, land between Little Dickshill Wood and Great Dickshill Wood, Shootersway, Berkhamstead. I conducted a hearing into the appeal on 11 June 1997. At the hearing, an application was made by you for an award of costs against Dacorum Borough Council. This is the subject of a separate letter.

2. By way of clarification, the original approval for the use was granted on appeal (Ref: App/A1910/A/94/239929). Your application for the variation of conditions 1 and 3 was approved subject to further conditions, which imposed a further temporary permission for 2 years and restricted the number of days on which the site could be used in the school holidays. Your appeal against these conditions is made under Section 79(1) of the Town and Country Planning Act 1990, and I shall determine your appeal on that basis. As such, I may revise or vary any part of the decision of the local planning authority.

3. I note that your application for the variation of conditions was made by letter dated 19 April 1996, and that there was no formal application form submitted.

4. From my consideration of the discussions at the hearing, my site inspection, and my reading of the written representations, including those received by the Council at the application stage, I consider that the main issue in this case is whether the continued use for extended periods would cause an unacceptable level of noise and disturbance to nearby residents or to the enjoyment of the Area of Outstanding Natural Beauty (AONB).

5. The development plan for the area is the Hertfordshire County Structure Plan Review, incorporating Approved Alterations 1991, together with the Dacorum Local Plan (1995). The Structure Plan contains, inter alia, policies to maintain the Green Belt, preserve the AONB, conserve archaeological remains, minimize the impact of noise, and protect the essential character of rural areas.

6. The Local Plan contains policies to restrain development in the Green Belt, and achieve a high standard of development. It also sets out environmental guidelines for development. Within the plan high priority is given to the provision of land for leisure activities, but noisy country sports will not generally be accepted within the AONB, or if they cause disturbance to residential areas. Within the AONB the prime consideration will be the preservation of the beauty of the area, and development must not be intrusive in terms of noise. The plan also sets out constraints on the development of sites which contain archaeological remains.

7. The site lies within the Metropolitan Green Belt, wherein PPG2 identifies the provision of opportunities for outdoor sport and recreation as an objective of the designation. Structure Plan Policy 1 and Local Plan Policy 3 support this national guidance, and I therefore consider that the proposed use is not inappropriate in principle in this location.

8. The site also lies within an AONB. The primary purpose of this designation is to conserve the natural beauty of the landscape. PPG7 advises that, whilst the promotion of recreation is not an objective of their designation, such areas should be used to meet the demand for recreation so far as that is consistent with their conservation. Structure Plan Policy 2 and Local Plan Policy 90 also allow for the location of recreational uses in the AONB, and I therefore take the view that there is no objection in principle to the use continuing on the site, subject to the other policies contained in the development plan and any other material considerations.

9. Turning to the main issue, the site is located on open land adjoining the A41 trunk road. It is in an isolated area to the south-west of Northchurch, and there are few houses nearby. It is surrounded on 3 sides by Little Dickshill Wood and Great Dickshill Wood, and has a hedgerow on the fourth side.

10. The use of the site has been on-going since March 1995, following the grant of a two year temporary planning permission on appeal. During that time there were no complaints to the Council concerning noise nuisance until you submitted your application for the variation of the conditions. I consider that your personal approach to the management of the use is a significant factor in keeping noise to a minimum, including the monitoring of exhaust noise from machines using the track, and the re-packing service for silencers which are not operating effectively.

11. Subsequent to your application there have been objections from a number of residents living in the area, including a petition from five households, complaining of the disturbance caused by the use. During my site inspection I carried out a number of tests to assess the impact on these residents of the noise created by the use. The tests involved running a number of the mini bikes in various locations, including circuits of the track, and monitoring the noise levels from adjacent to some of the objectors properties.

12. The site is remote from any substantial residential community, but there are a number of single houses or small groups of dwellings within the general area. The nearest property is Hedgelands, which is some 220m from the nearest point of the appeal site. The first test, involved 3 bikes being revved up to their maximum at the nearest point of the appeal site, with their exhausts pointing towards the objector's property. In this test the bikes were not audible at the boundary of Hedgelands above the background noise of the A41, despite the fact that the wind was carrying any noise towards the property. In a second test two bikes

were ridden around the track at their maximum speed and, once again, the bikes were not audible at the boundary of Hedgelands.

13. I also carried out the same test from a point on Pea Lane some 50m closer to the track, in order to assess the impact of the use on walkers using this path in the AONB. From this point the noise of the bikes was more audible although, in my view, not intrusive. However, there are likely to be points along Pea Lane where the noise would be more noticeable, and I consider that the construction of an earth bund on the site would help to alleviate the impact on walkers at these locations.

14. A further test was carried out to assess noise levels at Shootersway Farmhouse, which is a similar distance from the track on the opposite side of the A41. The occupiers of this property were signatories to the petition of complaint to the Council. For this test two bikes were revved up at the entrance to the site on BOAT 25 with the exhausts pointing towards the complainant's property. I carried out the test from the boundary of the property, and the noise was not audible for the majority of the time above the background noise of the A41, although it was barely discernible during lulls in the traffic.

15. All of these tests gave a worst case outcome, since the bikes were positioned in such a way that the noise levels would be at their maximum. In actual use the levels of noise would be likely to be lower, and to be reduced by the screening effect of the topography of the site.

16. You submitted a circular letter from residents of Darra Lane and Shootersway, confirming that they do not hear noise from your operation of the appeal site. These houses are about 400m from the track.

17. I have considered the appeal in the context of Policy 77 of the Local Plan. That policy provides, inter alia, that the development of land for noisy countryside sports will not generally be accepted unless there would be no disturbance to residential areas. The results of the tests which I carried out lead me to the view that, because of the isolation of the site and the level of background noise from the A41, the impact of the noise on residential properties in the area causes no material harm to living conditions.

18. Policy 77 also includes a presumption against the establishment of noisy sports in the AONB. The aim of this policy is to safeguard the quiet enjoyment and quality of the countryside, which can be spoilt by noise. However, the previous Inspector identified a number of special circumstances to be taken into account in this case. The most important of these, in my view, is the location of the site adjacent to the A41, which has significantly altered the character of the immediate area. The tests which I carried out indicated that the impact on the surrounding countryside of the noise generated by the use was considerably reduced by the level of background noise from this road. However, I consider that the noise levels along Pea Lane could be further reduced by the construction of suitable physical works to the site.

19. In addition, because of the isolation of the site, the topography of the land, and the screening effect of the surrounding woodland, the site is not visible from any public viewpoints, other than for a limited distance along BOAT 25. In these circumstances I consider that the use would have no significant visual impact on the enjoyment of the AONB.

20. The Local Plan identifies the Council's view that properly managed facilities could help to tackle the problem of uncontrolled motor cycling which exists in woodlands on the edge of settlements and, in my view, this proposal helps to achieve this aim.
21. Overall, in the light of these material considerations, I consider that the use would be acceptable in this particular location, notwithstanding the general presumption against noisy sports contained in Policy 77. I shall therefore allow your appeal.
22. I have considered the need for conditions. In my view, although you intend to operate the track more frequently in school holidays, the proposed use would not differ materially from that previously approved. The Council have had a sufficient opportunity to monitor any problems arising from the use and, although there have been objections to your application, they were not able to confirm any noise nuisance. As a consequence I consider that, in the light of the advice in Circular 11/95, it would not be appropriate to impose a condition incorporating a further temporary permission. However, in view of the importance of proper management of the facility I shall vary condition 2 of the original permission to make it personal to you, to ensure that the Council are able to consider the use further if the operation should change hands.
23. In order to protect the amenities of those using the AONB for recreation I propose to include a condition restricting the use to Saturdays and Sundays on all weeks other than school holidays in Hertfordshire and Buckinghamshire, when the use should be for a maximum of 5 days in any single week. In order to enable the local planning authority to monitor the level of use I propose to include a condition requiring you to keep a register of usage, which can be made available to the Council on request.
24. Finally, I consider that the inclusion of a condition requiring the construction of an earth bund in the north-east corner of the site would facilitate a further reduction in noise to the public using Pea Lane.
25. I have considered all other matters raised, including concerns about trespassers using the track and surrounding area, and about the level of supervision. However, none of these is sufficient to outweigh the conclusion which I have reached on the main issue.
26. For the above reasons and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for the change of use of land from agriculture to use for junior off-road mini bike track on land at OS Parcel 2562, land between Little Dickshill Wood and Great Dickshill Wood, Shootersway, Berkhamstead in accordance with the terms of the application (No 4/0710/96) dated 28 May 1996 and the plan submitted therewith, without compliance with conditions numbers 1 and 3 previously imposed on planning permission no. 4/0495/94 dated 7 November 1994 but subject to the other conditions therein, so far as the same are still subsisting and capable of taking effect, and subject to the following new conditions:
1. the use hereby permitted shall be carried on only by Simon John Newell. When the land ceases to be occupied by Simon John Newell the use hereby permitted shall cease;
  2. the use hereby permitted shall only be carried on between 1000 hours and 1600 hours on Saturdays and Sundays, except in school holidays in Hertfordshire and

Buckinghamshire as defined by the relevant education authorities, when the use may also be carried out between 1000 hours and 1600 hours on weekdays, provided that the use shall not take place on more than 5 days or part thereof in any individual week;

3. the operator shall maintain a register of all occasions when the site is in use, and this register shall be made available to the local planning authority on request;

4. an earth bund shall be constructed in the north-east corner of the site in accordance with details and a time scale to be submitted to the local planning authority within 3 months of the date of this letter and approved in writing by that authority;

27. An applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

28. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

Yours faithfully

*Raymond Michael*

RAYMOND MICHAEL MBA BSc DipTP ARICS MRTPI MIM  
Inspector

## APPEARANCES

### FOR THE APPELLANT

- Mr S J Newell - Appellant
- Mrs A Newell - Wife of appellant
- Mr Cliff Ebsworth - Local resident

### FOR THE LOCAL PLANNING AUTHORITY

- Mrs Hilda Higenbottam - Senior Planning Officer, Dacorum Borough Council
- Mr Iain Newcombe - Technical Officer, Environmental Health, Dacorum Borough Council

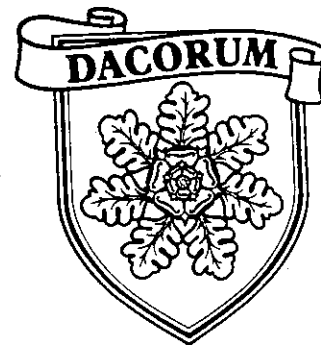
## DOCUMENTS

- Document 1 - List of persons present at the Hearing.
- Document 2 - Council's letter of notification and list of persons notified.
- Document 3 - Appendices to Mr Newell's submissions.
- Document 4 - Appendices to Mrs Higenbottam's submissions.
- Document 5 - Letter of 5 June from Hertfordshire Constabulary with enclosure to Mr Newell.
- Document 6 - Letter of 3 June 1997 from Dacorum Borough Council to Mr Newell.
- Document 7 - Copies of objections and petitions received by Dacorum Borough Council.
- Document 8 - Copies of internal consultation responses received by Dacorum Borough Council.

## PLANS

- Plan A - Site Location Plan





TOWN AND COUNTRY PLANNING ACT 1990

DACORUM BOROUGH COUNCIL

Application Ref. No. 4/0710/96

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Director of Planning

Date of Decision: 15.08.1996

(encs. - Conditions and Notes).

CONDITIONS APPLICABLE  
TO APPLICATION: 4/0710/96

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1. The use hereby permitted shall be discontinued and the land restored to its former condition as agricultural land on or before the expiration of 2 years from the date of this permission.

Reason: To enable the local planning authority to retain control over the development which is permitted only to meet the specific circumstances of the applicant.

2. The use hereby permitted shall only be carried on between 1000 and 1600 hours on Saturdays and Sundays except during school holidays (in schools maintained by the local authority) in Hertfordshire as defined by the Education Department of Hertfordshire County Council when the use may be carried out between 1000 and 1600 hours on weekdays only. When the use is carried out on weekdays during such holidays it shall not be carried out on either the preceding or succeeding weekend.

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Simon John Newell  
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AMERSHAM  
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Your Ref:

CYR 2

Our Ref:

T/APP/A1910/A/96/272673/P2

Date:

PLANNING DEPARTMENT	
DACORUM BOROUGH COUNCIL	
Date:	22 JUL 1997
Ref:	
Def:	
Interviewed:	23 JUL 1997
Comments:	

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18. Policy 77 also includes a presumption against the establishment of noisy sports in the AONB. The aim of this policy is to safeguard the quiet enjoyment and quality of the countryside, which can be spoilt by noise. However, the previous Inspector identified a number of special circumstances to be taken into account in this case. The most important of these, in my view, is the location of the site adjacent to the A41, which has significantly altered the character of the immediate area. The tests which I carried out indicated that the impact on the surrounding countryside of the noise generated by the use was considerably reduced by the level of background noise from this road. However, I consider that the noise levels along Pea Lane could be further reduced by the construction of suitable physical works to the site.

19. In addition, because of the isolation of the site, the topography of the land, and the screening effect of the surrounding woodland, the site is not visible from any public viewpoints, other than for a limited distance along BOAT 25. In these circumstances I consider that the use would have no significant visual impact on the enjoyment of the AONB.

20. The Local Plan identifies the Council's view that properly managed facilities could help to tackle the problem of uncontrolled motor cycling which exists in woodlands on the edge of settlements and, in my view, this proposal helps to achieve this aim.

21. Overall, in the light of these material considerations, I consider that the use would be acceptable in this particular location, notwithstanding the general presumption against noisy sports contained in Policy 77. I shall therefore allow your appeal.

22. I have considered the need for conditions. In my view, although you intend to operate the track more frequently in school holidays, the proposed use would not differ materially from that previously approved. The Council have had a sufficient opportunity to monitor any problems arising from the use and, although there have been objections to your application, they were not able to confirm any noise nuisance. As a consequence I consider that, in the light of the advice in Circular 11/95, it would not be appropriate to impose a condition incorporating a further temporary permission. However, in view of the importance of proper management of the facility I shall vary condition 2 of the original permission to make it personal to you, to ensure that the Council are able to consider the use further if the operation should change hands.

23. In order to protect the amenities of those using the AONB for recreation I propose to include a condition restricting the use to Saturdays and Sundays on all weeks other than school holidays in Hertfordshire and Buckinghamshire, when the use should be for a maximum of 5 days in any single week. In order to enable the local planning authority to monitor the level of use I propose to include a condition requiring you to keep a register of usage, which can be made available to the Council on request.

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25. I have considered all other matters raised, including concerns about trespassers using the track and surrounding area, and about the level of supervision. However, none of these is sufficient to outweigh the conclusion which I have reached on the main issue.

26. For the above reasons and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for the change of use of land from agriculture to use for junior off-road mini bike track on land at OS Parcel 2562, land between Little Dickshill Wood and Great Dickshill Wood, Shootersway, Berkhamstead in accordance with the terms of the application (No 4/0710/96) dated 28 May 1996 and the plan submitted therewith, without compliance with conditions numbers 1 and 3 previously imposed on planning permission no. 4/0495/94 dated 7 November 1994 but subject to the other conditions therein, so far as the same are still subsisting and capable of taking effect, and subject to the following new conditions:

1. the use hereby permitted shall be carried on only by Simon John Newell. When the land ceases to be occupied by Simon John Newell the use hereby permitted shall cease;

2. the use hereby permitted shall only be carried on between 1000 hours and 1600 hours on Saturdays and Sundays, except in school holidays in Hertfordshire and

Buckinghamshire as defined by the relevant education authorities, when the use may also be carried out between 1000 hours and 1600 hours on weekdays, provided that the use shall not take place on more than 5 days or part thereof in any individual week;

3. the operator shall maintain a register of all occasions when the site is in use, and this register shall be made available to the local planning authority on request;

4. an earth bund shall be constructed in the north-east corner of the site in accordance with details and a time scale to be submitted to the local planning authority within 3 months of the date of this letter and approved in writing by that authority;

27. An applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

28. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

Yours faithfully

*Raymond Michael*

RAYMOND MICHAEL MBA BSc DipTP ARICS MRTPI MIM  
Inspector

## APPEARANCES

### FOR THE APPELLANT

- Mr S J Newell - Appellant
- Mrs A Newell - Wife of appellant
- Mr Cliff Ebsworth - Local resident

### FOR THE LOCAL PLANNING AUTHORITY

- Mrs Hilda Higenbottam - Senior Planning Officer, Dacorum Borough Council
- Mr Iain Newcombe - Technical Officer, Environmental Health, Dacorum Borough Council

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## PLANS

- Plan A - Site Location Plan