



Department of the Environment and Department of Transport

Common Services

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18 APR 1984

PLANNING

TMENT

COUNCIL

Council reference 4/0912/83E/MB/JS

Messrs A J Harry & Co
Solicitors
81 Marlowes
HEMEL HEMPSTEAD
Hertfordshire
HP1 1LF

C.P.O. D.

Ack.

Admin

Your reference

AJH/ST/Chipperfield

Our reference

T/APP/5252/C/83/1833/PE2

Date

Received

18 APR 1984

16 APR 84

Comments

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981
APPEAL BY CHIPPERFIELD GARAGE LIMITED
LAND AND BUILDINGS AT CHIPPERFIELD GARAGE, LANGLEY ROAD, CHIPPERFIELD

1. I have been appointed by the Secretary of State for the Environment to determine the above appeal against an enforcement notice issued by the Dacorum District Council, concerning the above-mentioned land and buildings. I held an inquiry into the appeal on 28 and 29 February 1984.
2.
 - a. The date of the notice is 13 June 1983.
 - b. The breach of planning control alleged in the notice is failure to comply with conditions Nos (3) and (4) subject to which planning permission for the continued use of part of the premises for motor body repairs was granted on 6 January 1983 in that external doors have remained open during industrial operations and work has been carried out at times outside the hours permitted by the planning permission.
 - c. The conditions which are alleged not to have been complied with are:-
(3) the external doors of the buildings shall be kept closed for the duration of industrial operations. (4) Repair, maintenance and paint spraying of vehicles shall only take place between the hours of 8 am and 7 pm (Monday to Friday) and 8 am to 1 pm on Saturdays. No work shall take place on Sundays or Bank Holidays.
 - d. The requirements of the notice are:- (1) comply with condition (3); (2) comply with condition (4).
 - e. The period for compliance with the notice is 28 days.
 - f. The appeal was made on grounds 88(2)(a), (b) and (c). At the start of the inquiry ground 88(2)(e) was added but this was withdrawn towards the end of the inquiry.
3. The evidence was taken on oath.

SITE AND SURROUNDINGS

4. Chipperfield Garage lies on the north-west side of Langley Road and it occupies the land edged red on Plan A. The garage buildings run close to the south-west boundary of the site which is also the north-east boundary of the gardens of houses on the north-east side of Alexandra Road. There are also houses on the north-east side of the garage area. The north-western boundary borders a new housing area (not shown on Plan A). The boundaries of the garage area are clearly marked by fences and hedges. Internally the open space of this garage is subdivided by chain link fences. One runs south-west to north-east across the centre of the site as marked on Plan C and there are new fences since that Plan. One runs from the north-east corner of the garage building complex in a north-westerly direction to meet the north-west boundary at right angles and there is a further fence running south-west and north-east which subdivides the north-eastern corner of the site.

5. Turning to Plan C, cars are displayed for sale in that part of the building marked "ORIGINAL BUILDING" and in the open area in the south-eastern part of the site. The 2 sections of the building marked "W/1386/55" and "W/691/72" are used for mechanical repair, servicing etc. Access to these areas is from their north-east sides. The white area at the north-east end of "W/1689/62" is used for car valeting preparatory to sale, access being from its south-east side. The remainder of the buildings, that is to say "4/0478/81" and the remainder of "W/1689/62" are used as one unit with accesses on the north-west sides. The detailed uses of this part of the building are shown on Plan B in the ground floor plan scale 1:100, with the exceptions that the small room marked "REST ROOM" is used as a store and that, of the area marked "WORKSHOP BAYS" adjacent to "SPRAY BOOTH", the north-eastern half is also used as a spray booth. There is an upper floor to part of this building with access by ladder from one of the workshop bays and this is used as a store. This part of the building is occupied by Chipperfield Coachworks who park their vehicles awaiting attention in the western part of the wired areas. Vehicular access to Chipperfield Coachworks is through the compounds of the Chipperfield Garage. Toilet facilities for the whole complex are in the Chipperfield Garage part of the buildings. Tanks for the storage of waste oil for Chipperfield Garage and for heating oil for the whole complex are in the Chipperfield Coachworks area.

UNDISPUTED FACTS

6. The following facts affecting the appeal on ground (b) were not in dispute. There has been a garage on the land edged red, whose area may originally have been less well defined, since the 1920s. An air photograph taken about 1963, displayed at the inquiry, showed that at that date the present boundaries were in existence and clearly defined. Plan C shows the gradual enlargement of the garage buildings over the years each section being built fairly soon after the date of the planning application as indicated on that plan. That part of the internal fencing described above which is not marked on Plan C was added in 1982.

THE CASE FOR YOUR CLIENTS

7. Mr R Morton stated that he had first been employed at the Chipperfield Garage before 1960. He had done general panel work, both minor and major jobs. When the "W/1689/62" building was completed, which judging from Document 12 and 13 must have

been in 1964, the bay at the south-west end of this building had been used as a panel and paint shop; complete resprays had been undertaken.

8. In 1969 Mr L C Hopkins had bought the freehold of the whole premises and granted a lease of it to a newly formed company "Chipperfield Garage Limited". Mr H T Price was managing director and Mr Morton continued to be employed in the paint shop by Mr Price.

9. In 1972 Mr Hollis had taken over the spray booth and body repair workshop. Mr Hollis had not been an employee of the garage but had operated under an informal franchise arrangement. He paid a rent for the part of the building he occupied including the use of certain shared facilities. Mr Hollis did all the bodywork for Chipperfield Garage Limited and gave that priority over independent work. Similarly if work was brought to Mr Hollis which included mechanical repairs, he would ask Chipperfield Garage Limited to do it for him. Mr Hollis' business grew and by 1973 or thereabouts he had been employing 5 or 6 workmen. He had continued at this level until in 1980 he handed over to Messrs Thompson and Fisher who continued to operate the bodyshop on exactly the same basis. They had started with only 3 men including themselves but were now employing 5 or 6 men including themselves. They had found space cramped and as a result plans were prepared for a further extension (Plan B) and the application was made for planning permission (Documents 6 and 7). Permission had been granted (Document 8) with no restrictive condition.

10. Messrs Thompson and Fisher had called their business "Chipperfield Coachworks". Although their business was financially separated from Chipperfield Garage Limited, as had Mr Hollis' business before that, the 2 were closely inter-linked. Chipperfield Garage Limited was the leaseholder of the whole premises and Chipperfield Garage had therefore applied for planning permission to build the extension required in 1981. They were responsible for the building and when completed Chipperfield Coachworks' rent had been adjusted appropriately. Chipperfield Coachworks had for so long been regarded as an integral part of Chipperfield Garage Limited that it was not surprising that the planning application (Document 7) had shown that the firm to occupy the building had been Chipperfield Garage Limited. The use to which the new building was to be put together with existing uses of the existing adjoining building had been shown correctly on the plan with the application (Plan B) and it had been clearly shown on the accompanying letter (Document 6) that "the extensions are to provide additional space for car body repairs". It was evident that the Council had been in no way misled by this application and they had called no witness at the inquiry to substantiate the suggestion that they had been misled.

11. The Council had suggested that respraying following a major repair was a Class VIII use and was therefore not a use ancillary to garage work which fell into Classes III and IV. This was not accepted because such work was clearly ancillary to normal garage work and was certainly incidental to the work of a motor body repair shop which had been approved. The 1981 permission for the extension covered the use of that extension and clearly recognised the use of the adjoining part of the building. The 1983 permission which was the subject of this inquiry had been applied for at the request of the Council and there was no need for it. If it were accepted that the present use of the body repair shop was permitted by the 1981 permission then there had been no breach of planning control. The 1983 permission was not required and the conditions on which it was granted were therefore irrelevant.

THE CASE FOR THE LOCAL PLANNING AUTHORITY

12. It was pointed out that in the Use Classes Order 1972 Class VIII(ii) showed that this Class covered spraying metal finishes "(other than the employment of any such finishes in vehicle repair workshops in connection with minor repair ...)". It followed that spraying following major repairs was a Class VIII Use. All other garage uses fell into Class III or Class IV and the introduction of a Class VIII Use was therefore a material change of use. It was not quite clear exactly when this use had started but accepting the evidence of Mr Morton it may have started as early as the completion of the extension finished in 1964. This material change had occurred and there had been complaints about it in the 1970s. The complaints had only become acute following the 1981 extension. Rather than serve an enforcement notice at once, the Council had suggested that a planning application for the change of use might be allowed subject to certain conditions. From this had followed the 1983 permission and the conditions which were the subject of the present inquiry.

13. The Council had been misled by the 1981 application and because it had been an application for use by Chipperfield Garage Limited whose activities generally had been fairly acceptable in the neighbourhood. There had been no mention of Chipperfield Coachworks. It was accepted that the Plan showed a paint spray booth but, as this was a Class VIII Use, specific planning permission for that use should have been requested.

14. It followed that the 1983 permission was necessary if the activities of Chipperfield Coachworks were to continue and all its conditions needed to be enforced. It was, however, accepted that, if it were decided against the local planning authority on this issue, there was no point in considering the merits of the 1983 permission and its conditions since that permission would no longer be required.

CONCLUSIONS

15. I do not accept the argument on behalf of the local planning authority that because 2 uses fall into 2 different Use Classes they are necessarily materially different. Paragraph 3(1) of the order indicates that where land is used for a purpose in one class a use for any other purpose within the same class does not involve development but there is no suggestion in the Order that the reverse argument necessarily applies. In the present case the varied activities on the site of the Chipperfield Garage as a whole appear to fall in 3 or 4 different Use Classes. The question is whether there has, at any material time, been a change of those uses taken as a whole amounting to development.

16. When Mr Hollis took over the activities of Mr Morton in the bodyshop the only immediate change appears to have been an organisational one; the bodyshop became financially separated from the remainder of the garage. However it remained dependent on the rest of the garage both for some of its business and for some of its facilities. It was required by the terms of its agreement to carry out work for the garage and the garage equally agreed to carry out mechanical work for it. I do not consider that the financial separation of these businesses resulted in any division of the planning unit. Even with the fence which was added in 1982 (after the 1981 permission) the bodyshop is still not fully separated from the garage. One has to drive through the garage to get to it; toilet facilities are shared; the garages' oil supplies are in the area of the bodyshop.

17. The 1981 planning application appears to me to be fully explicit and accurate with the possible exception that the name of the user of the new building should have been recorded as Chipperfield Coachworks, although, if it had, it would have been appropriate to indicate that it was operating under franchise from Chipperfield Garage Limited. The Council should have been quite clear from the planning application exactly what activities were intended in the new building and what consequential change if any this would have on the existing building. Since the completion of the 1981 extension it appears that the rest room has been taken into use as a store and part of one workshop bay is now used as an additional spray booth. I cannot regard these changes as constituting a material change of use in Chipperfield Garage as a whole. The erection of additional internal fences, having the effect, amongst other things, of defining more precisely the territory used by Chipperfield Coachworks, is one step towards the stage when it might be necessary to regard the 2 businesses as separate planning units. I would still regard them as one planning unit and, in any case, that fence was erected after the grant and implementation of the 1981 permission.

18. In these circumstances I am satisfied that the activities now taking place within the boundaries of Chipperfield Garage as a whole, including the activities of Chipperfield Coachworks, do not constitute any breach of planning control bearing in mind the 1981 permission. The 1983 permission is therefore irrelevant. Bearing in mind the agreement of both parties, if I should reach this conclusion, the merits of the conditions do not fall to be considered. The appeal succeeds on ground (b) and the enforcement notice will be quashed.

FORMAL DECISION

19. In exercise of the powers transferred to me, I hereby allow this appeal and direct that the enforcement notice be quashed.

RIGHT OF APPEAL AGAINST THE DECISION

20. 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



M S HANCOCK CB MBE CEng FIEE ACI Arb
Inspector

ENC

APPEARANCES

FOR THE APPELLANTS

Mr N Dennys

- Of Counsel instructed by Messrs A J Harry, 81 Marlowes, Hemel Hempstead, Hertfordshire.

He called:

Mr R Morton

- Past employee of appellants.

Mr H T Price

- Managing Director of appellant firm.

Mr W F Johnson FFS

- Messrs W F Johnson & Partners, 39A High Street, Hemel Hempstead, Hertfordshire.

Mr L C Hopkins

- Owner of appeal premises.

Mr M Fisher

- Manager of Chipperfield Coachworks.

FOR THE PLANNING AUTHORITY

Mr G Grynowski

- Assistant Secretary Legal, Dacorum District Council.

He called:

Mr Betambeau

FRICS FISVA DipTP
MRTPI

- Assistant Chief Planning Officer, Dacorum District Council.

Mr K Evans

- Senior Environmental Health Officer, Dacorum District Council.

Mrs M G Tearle

- 14 Alexandra Road, Chipperfield.

Mr E Branch

- 15 Alexandra Road, Chipperfield.

Mrs S A Westley

- 13 Alexandra Road, Chipperfield.

Mr C R Huskinson

- Archways, Alexandra Road, Chipperfield.

DOCUMENTS

Document 1 - List of persons present at the inquiry on 28 February 1984.

Document 2 - List of persons present at the inquiry on 29 February 1984.

Document 3 - 13 January 1984: Council to local residents.

Document 4 - 4 February 1984: from Mr C M Caveis, 1 Alexandra Road, Chipperfield.

DOCUMENTS (CONTD)

- Document 5 - 14 February 1984: from Mr and Mrs T W Bowen, Ladywood, Langley Road, Chipperfield.
- Document 6 - 26 March 1981: W F Johnson & Partners to Council, covering :-)
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)
- Document 7 - 26 March 1981: planning application 4/0478/81 (see Plan B).)
)
)
- Document 8 - 18 May 1981: planning permission on Document 7.) Appellants'
) Documents.
- Document 9 - 13 April 1983: report by Local Ombudsman.)
)
)
- Document 10 - Metallic Protectives Limited v Secretary of State for the Environment JPEL(1976)166.)
)
)
- Document 11 - Advertisement by Chipperfield Coachworks.)
)
)
- Document 12 - 17 March 1964: County Council to Divisional Planning Officer.)
)
)
- Document 13 - 21 April 1964: from Divisional Planning Officer to Engineer and Surveyor.) Council's
) Documents.
- Document 14 - 6 November 1962: planning permission W/1689/62.)
)
)
- Document 15 - 25 February 1982: planning permission 4/1364/81.)
)
)
- Document 16 - 6 January 1983: planning permission 4/1371/82.)

PLANS

- Plan A - No scale: plan with enforcement notice.
- Plan B - 1/100; 1/500 and 1/2500: plan with planning application 4/0478/81* (see Document 7).
- Plan C - No scale: plan of Chipperfield Garage (DDC1).
- Plan D - 1/2500: land use plan.

PHOTOGRAPHS

- Photo 1&2 - December 1983: photographs from bedroom of 15 Alexandra Road.
- Photo 3 - April 1982 -)
) photographs from 14 Alexandra road.
- Photo 4 - February 1984 -)

*This plan is 1207/3/G, as opposed to 1207/3/A which actually formed a part of this application. It was agreed by both parties that there were no differences between the 2 which were relevant to this appeal.



Department of the Environment

2 Marsham Street London SW1 P 3EB

Room C13/20

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Messrs A J Harry & Co
Solicitors
81 Marlowes
HEMEL HEMPSTEAD
Hertfordshire
HP1 1LF

Your reference

AJH/CD/Fisher

Our reference

APP/5252/C/83/1833 (PLUP 4C)

Date

10 May 1985

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971 AS AMENDED BY THE LOCAL GOVERNMENT AND
PLANNING (AMENDMENT) ACT 1981 - SECTION 88 AND SCHEDULE 9
LAND AND BUILDINGS AT CHIPPERFIELD GARAGE, LANGLEY ROAD, CHIPPERFIELD
HERTFORDSHIRE
APPEAL BY CHIPPERFIELD GARAGE LIMITED

1. I am directed by the Secretary of State for the Environment to refer to the Inspector's letter of 16 April 1984 notifying his decision on the appeal by your clients, Chipperfield Garage Limited, against an enforcement notice issued by Dacorum District Council alleging the breach of planning control by the failure to comply with conditions Nos (3) and (4) subject to which planning permission for the continued use of part of the premises on land at Chipperfield Garage, Langley Road, Chipperfield for motor body repairs was granted on 6 January 1983 in that external doors remained open during industrial operations and work had been carried out at times outside the hours permitted by the planning permission. I am also to refer to the application for an award of costs made on behalf of your clients in your letters of 2 May, 25 May, 15 August and 26 October 1984. The Council opposed the application in their letters of 26 July and 26 October 1984.

2. In claiming costs on behalf of your clients you submitted that the Council had acted unreasonably in putting your clients to the costs of resisting enforcement proceedings which were misconceived and in attempting to impose conditions which were unreasonable. The enforcement proceedings had been prompted by the difficulty in which the Council had found themselves as a result of the Local Ombudsman's findings in respect of complaints made by local residents concerning the granting of the 1981 planning permission. If the Council had made proper inquiries, they would have found out that the number of persons employed and the nature of work carried on by Chipperfield Coach Works had not in fact changed from previous years and occupiers. The facts as put forward by your clients and accepted by the Inspector had been ignored by the Council. Throughout, your clients and the Council had been advised that your clients were entitled to rely on the 1962 and 1981 permissions and that the 1983 permission was irrelevant. The 1983 planning permission had been sought by your clients at the instigation of the Council to alleviate the difficult situation the Council found itself in as a result of the Ombudsman's findings. Your clients had been assured that onerous conditions would not be imposed but the conditions, if upheld, meant that your clients would not be able to carry on in business and enforcement proceedings would have been inevitable. The Council should have accepted your clients' proposals to accept modified conditions. Your clients had entered into negotiations with the Council with a view to carrying out works which would satisfy the Council and local residents and had offered to enter a section 52 agreement but the Council had insisted on onerous conditions. Your clients had been prepared to restrict hours and throughput of vehicles but not to accept the restriction of minor works. Moreover, your clients had taken steps to

mitigate what the Council considered were worsening conditions. As a consequence of the uncertainty and harassment by the Council, Chipperfield Coachworks, who occupied the body repair shops, had decided to cease trading.

3. In opposing the claim for costs the Council said that the reference to the Ombudsman focussed attention on the residents' complaints about the effects on them of the activities on the appeal premises but they denied that they had over-reacted to the Ombudsman's report or allowed it to distort their judgement on the planning issues. Given the separate identity of the garage and coachworks businesses, the at least partial physical partition of the appeal premises and the evidence of increased use of the coachworks part of the premises, it had been entirely reasonable to come to the conclusion that a separate planning unit had come into existence and that a material change of use had occurred. The Council also rejected your allegation of harassment. Faced with worsening conditions for the residents, which the Council considered were part of the evidence of a material change of use, the Council had taken legitimate steps. Protestations by your clients of concern for the residents' wellbeing had not been matched by effective measures of restraint. It had been entirely proper for the Council's officers to approach your clients to solve the problem by agreement rather than by resorting to enforcement action. As your clients did make application for planning permission it had been reasonable thereafter for the Council to proceed on the basis that planning permission was required. Moreover, if the 1982 planning application, resulting in the 1983 permission, had not been submitted the Council would have been advised to issue an enforcement notice alleging a change of use resulting from a division of the planning unit. The Council did not accept that the conditions attached to the 1983 planning permission were "onerous". They had been recommended by Officers and Members considered them necessary for the protection of the amenities of residents. Whether those conditions were excessive never fell to be decided by the Inspector and so your clients could not rely on his decision as supporting their contention that the conditions were unreasonable. Negotiations on the section 52 agreement had been discontinued by your clients whose solicitors had not responded to the Council's letter of 2 December 1983. The main obstacle to a section 52 agreement appeared to be the Council's wish to restrict paint spraying to finishes required in connection with minor vehicle repairs only effected on the premises to keep the use of the appeal premises within the exception in Use Class VIII (Special Industrial Group D). The Council feared that without such a restriction it might be claimed that the permitted use came within Use Class VIII and that the premises could therefore be used for any other purpose within that Class without the need for further planning permission. Changes in layout, equipment and working methods, not requiring planning permission, could have dramatically increased the spraying throughput. The Inspector acknowledged that some steps had been taken towards dividing the appeal premises and insofar as the Inspector's decision in effect restricted your clients to a "garage" type of use, it had indicated that Council's action in seeking to prevent a slide into Use Class VIII.

4. In enforcement appeals the parties are normally expected to meet their own expenses, irrespective of the outcome of the appeal, and costs are awarded only in very exceptional circumstances on grounds of unreasonable behaviour. Accordingly the application for costs has been considered in the light of paragraph 9 of Ministry of Housing and Local Government Circular 73/65, the Inspector's decision letter of 16 April 1984, the parties' written representations on costs, and all the relevant circumstances.

5. The Secretary of State has examined your clients' and the Council's representations, and, having had particular regard to the exchange of correspondence between you and the Council from May to December 1983, he is satisfied that there were substantial points at issue between the parties, namely, whether or not the 1983 planning permission was relevant and could be enforced and whether or not respraying should

have been limited to that required in connection with minor repairs carried out on the premises. Bearing in mind these negotiations and the disagreement between the parties, the Secretary of State considers that this is not a case of the type where the appeal or the inquiry could have been avoided if the parties had got together to discuss it, or if more information had been provided; and he sees no evidence which indicates that the Council had refused to discuss the matter, though asked to do so, or that they had refused to provide information which they could reasonably have been expected to provide.

6. Section 87(1) of the Town and Country Planning Act of 1971, as amended, states that, where it appears to the local planning authority, if they consider it expedient to do so having regard to the provisions of the development plan and to any other material considerations, may issue a notice requiring the breach to be remedied. In this case the Council said that they considered it expedient to issue the enforcement notice in the interests of the residential amenity of the adjoining and nearby properties; to safeguard the peaceful amenity of the area and to avoid working within unsocial hours to the detriment of the amenity of the area.

7. As your clients' appeal succeeded on ground (b) and the Inspector quashed the enforcement notice the Secretary of State has no powers to re-open the matter or to consider the planning merits of the case, nor would it be appropriate for him to comment now in detail on the planning merits of each parties' case. In the light, however, of the evidence presented by the Council and of the local residents' representations to which the Secretary of State considers the Council were entitled to attach weight, the Secretary of State is of the view that, prima facie, the Council had grounds for considering it expedient to issue the notice. Similarly, it would not be appropriate for the Secretary of State to comment in detail on the merits of your allegation that the conditions attached to the 1983 planning permission, in respect of which the enforcement notice was issued, were unreasonable. The Secretary of State is of the view, however, that these conditions were valid planning ones in themselves and he can see no evidence to show that the Council acted unreasonably in deciding to apply them. Moreover, the Secretary of State sees no firm evidence to indicate that the Council were motivated by considerations which had little or nothing to do with planning or that they were not concerned with the good planning of the area.

8. On the question of whether or not it should have been obvious to the Council that a breach of planning control had not taken place, that the 1983 permission was irrelevant and that your clients' appeal was bound to succeed on ground (b), the Secretary of State notes that in your letter of 24 May 1983, which was addressed to the Council, you stated that so far as the Use Classes Order was concerned it was your view that the premises were within either Class III or Class IV. It is also noted, however, that in the same letter you quoted from a statement made by Mr R Morton who had said that following the 1962 planning permission, crash repairs of all kinds were carried out, "some including the necessity of a complete respray". The Inspector, having heard all the evidence at the inquiry, concluded that in the present case the varied activities on the site of Chipperfield Garage as a whole appeared to fall in 3 or 4 different Use Classes. The Secretary of State also notes that in the statement of facts in support of your clients' appeal it was stated that the appeal premises had the benefit of an unconditional planning permission dated 18 May 1981 and that the conditions of the planning permission of 6 January 1983 were therefore unenforceable and that in your letter dated 23 June 1983, which was also addressed to the Council, you said that Counsel had advised that the planning permission of 1983 was not effective and that it was the previous planning permissions from 1962 to 1981 which still applied to the use of the premises. In reply in their letter of 21 July 1983 the Council asked to know the basis on which Counsel's Opinion had been sought and the terms in which it had been expressed. The Secretary of State sees no evidence before him to indicate that this

request was met. It is also seen that you stated that the body workshops and spray booths had been taken over by Mr Hollis in 1972, and that in 1980 the body-work and repairs shops had been taken over by Messrs Fisher and Thompson who had carried on the same type of business as Mr Hollis. In their pre-inquiry Statement the Council said the use of the appeal buildings for the purposes of accommodating an independent firm of crash repair specialists resulted in a material change of use of the land requiring the grant of planning permission. The Secretary of State notes that in reaching his conclusions on your clients' appeal the Inspector had regard to a number of factors, which although of insufficient weight to alter his decision, did show, in the view of the Secretary of State, that some degree of separation had taken place between the appeal premises and the rest of Chipperfield garages, particularly, that the bodyshop was financially separated from the remainder of the garage and that fencing defined more precisely the territory used by Chipperfield Coachworks. In all these circumstances and bearing in mind, as was explained in the Notes for Guidance which were attached to the Department's letter of 7 July 1983, that the onus of proof rests with the appellants in enforcement cases, the Secretary of State considers that the question of whether or not there was a breach of planning control, which the Council could require to be remedied was not beyond doubt. The Secretary of State is therefore of the view that this is not a matter which should never have come to inquiry.

9. For all the above reasons the Secretary of State has decided that an award of costs on grounds of unreasonable behaviour against the Council would not be justified. Your clients' application is accordingly refused.

10. A copy of this letter has been sent to the Borough Secretary of Dacorum District Council.

I am, Gentlemen,
Your obedient Servant,



P J FORD

TOWN PLANNING REGISTER SHEET

ADDRESS/LOCATION OF SITE: Chipperfield Garage, Langley Road, Chipperfield.		TOWN PLANNING REF. NO: 4/0912/83E	
		LOCAL AUTH. BLD. REGN. OR OTHER REF. NO:	
		DATE OF COMMENCEMENT OF DEVELOPMENT	
LOCAL AUTHORITY NAME: Dacorum District Council		DATE OF EXPIRATION OF DEVELOPMENT	
PARISH NAME: Chipperfield		DATE OF DECISION:	
DESCRIPTION OF PROPOSED DEVELOPMENT Appeal against Enforcement Notice issued for failure to comply with two conditions subject to which planning permission was granted 6th January 1983 for continued use of part of premises for motor body repairs at Chipperfield Garage, Langley Road, Chipperfield.		DECISION:	
		DIRECTIONS Dept. of Env't. County Plan. Auth. County High. Auth.	
		DATE OF APPEAL DECISION: 16.4.84.	
		APPEAL DECISION: ALLOWED.	
NAME AND ADDRESS OF Appellants Chipperfield Garage Ltd., Mr. M.R. Fisher & Mr. B. Thompson, (Chipperfield Coachworks), Langley Road, Chipperfield. Mr. L.C. Hopkin, Beggars Roast, Alderton Drive, Little Gaddesden.		O.S. SHEET NO: 794 NAT. GRID REF. TL0454002030	
		ROAD CLASS: N.P.II	
NAME AND ADDRESS OF AGENT: A.J. Harry & Co., 81 Marlowes, Hemel Hempstead.		PREVIOUS APPLICATIONS ON SAME SITE: 1371/82 1364/81 1054/81 0478/81 0248/79	