

PLANNING

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DAVID J STEWART ASSOCIATES
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Applicant:

CHIPPERFIELD GARAGE LTD
CHIPPERFIELD GARAGE
LANGLEY ROAD
CHIPPERFIELD KINGS LANGLEY
HERTFORDSHIRE
WD4 9JS

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION - 4/01463/98/FUL

**CHIPPERFIELD GARAGE, LANGLEY ROAD, CHIPPERFIELD, KINGS LANGLEY,
HERTFORDSHIRE, WD4 9JS
LAND ROVER ACTIVE DISPLAY AREA (LANDSCAPING)**

Your application for full planning permission dated 18 August 1998 and received on 19 August 1998 has been **REFUSED**, for the reasons set out overleaf.

Director of Planning

Date of Decision: 15 October 1998

REASONS FOR REFUSAL APPLICABLE TO APPLICATION: 4/01463/98/FUL

Date of Decision: 15 October 1998

1. The application site is located in the Metropolitan Green Belt on the adopted Dacorum Borough Local Plan. Within the Green Belt, planning permission will only be granted for appropriate development, in accordance with national advice contained in Department of the Environment Planning Policy Guidance Note 2 - Green Belts and Policy 3 of the Dacorum Borough Local Plan. The proposal represents inappropriate development and no very special circumstances have been advanced to show why planning permission should be granted. The proposal is therefore contrary to national and local planning policies for the area.

2. The proposed development would cause harm to the amenities of nearby residential properties, by reason of noise and pollution.



The Planning Inspectorate

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Mrs J Lampert BA (Hons) **PLANNING DEPARTMENT** Your Ref:
Applied Planning **CHIPPERSHIRE COUNCIL** JFL/APP/403
32 Hanmer Road **OUR Ref:**
Simpson **T/APP/A1910/A/99/1018382/P8**
MILTON KEYNES
Bucks **05 JUL 1999** Date:
MK6 3AY **21 JUL 1999**
Comments

Dear Madam

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
APPEAL BY CHIPPERFIELD GARAGE LTD
APPLICATION NO: 4/01463/98/FUL

1. The Secretary of State for the Environment, Transport and the Regions has appointed me to determine your client's appeal against the decision of Dacorum Borough Council to refuse planning permission for a Land Rover active display area-landscaping at Chipperfield Garage, Langley Road, Chipperfield. I conducted a hearing into the appeal on 26 May 1999, when I also viewed the appeal site from Croft House and from 21 Croft Close. At the hearing you made an application on behalf of your client for an award of costs against Dacorum Borough Council. This the subject of a separate letter.

2. Chipperfield Garage is located on the north side of Langley Road, and faces open countryside (part of Chipperfield Conservation Area) on the outskirts of the village. There is residential development to the west and north of the appeal site, in Alexandra Road and Croft Close respectively. The appeal site is bounded on the east by a public footpath less than 1.7m wide, which also adjoins the side boundary of the residential property at Croft House. It is common ground that the appeal site has been occupied by a garage since the 1920's, and that it has been the subject of a number of developments granted planning permission over the years. In particular, the large showroom on the western side of the site has recently been refurbished, and the adjoining workshop has been rebuilt, under planning permission 4/01649/96/FUL. On the eastern side of the garage, near the road frontage, there is a canopy over 4m high covering an area currently used for the display of vehicles for sale. In addition to these structures the site includes a car wash and parking spaces for over 80 vehicles.

3. The proposed active display area would be located at the south eastern corner of the appeal site, close to the boundary with the public footpath. Vehicles using the display would approach it from the north and drive over an "articulation section" at ground level leading to a "climb-over structure". The latter section of the display would involve driving up a fairly

steep ramp to a short, level platform before descending another ramp and moving onto the third section, the "tilt-turn structure". Vehicles would leave the active display, which would have a total length of some 36m, near the entrance to the garage from Langley Road. It is also clear from the application drawings that the articulation section, and all but the descending ramp of the climb-over structure, would be outside the canopy.

4. Prior to considering the main issue raised by this appeal I wish to clarify 4 matters. Firstly, the Council originally gave 2 reasons for refusing planning permission. Reason 1 claimed that the appeal proposal would represent inappropriate development in the Green Belt, and that no very special reasons had been advanced to show why planning permission should be granted. However, the Council's Development Control Committee subsequently resolved that they had misinterpreted the development plan policy relevant to the site, and that the first reason for refusal should not be pursued. The Council's representative confirmed at the hearing that they would only be pursuing their second reason for refusal, relating to the effect of the proposal on the amenities of nearby properties.

5. Secondly, application drawing No:96/1027/13 indicates that the raised platform of the climb-over structure would be some 1.75m high. However, at the hearing the managing director of Chipperfield Garage indicated that the standard design drawings for active displays supplied by Rover showed that the platform would be 1.64m high. It was accepted at the hearing that this relatively minor change would slightly reduce the impact of the proposal on neighbouring properties, but would have no harmful effects compared with the design shown in the application drawings. Accordingly, I shall determine this appeal on the basis that the climb-over platform would be 1.64m high.

6. Thirdly, you confirmed at the hearing that the hours of use of the proposed active display area would be 8am to 6pm on Mondays-Fridays, and 9am to 4 pm on Saturdays; and the managing director of Chipperfield Garage indicated that the proposed structure would be unlikely to be used more than twice a day. Finally, it was noted at the hearing that condition 6 of planning permission 4/01649/96/FUL provides that, during the hours when the workshop is permitted to be used (between 7am and 7pm on Monday to Fridays, and 7am to 5pm on Saturdays), the level of noise emitted from the site shall not cause the 15 minute Laeq to exceed 54 dB measured at any boundary of the site. This condition was imposed in the interests of the amenities of the occupants of neighbouring dwellings.

Main issue

7. In the light of this background, from my inspection of the site and its surroundings, and from my consideration of the matters put to me at the hearing and in writing, I consider that the main issue in this appeal is the effect of the proposed development on the living conditions of neighbouring residents with reference to noise and disturbance, and pollution.

8. The development plan for this locality is the Hertfordshire Structure Plan Review 1991-2011 (HSPR) adopted in April 1998, and the Dacorum Borough Local Plan (DBLP) adopted in April 1995. My attention has also been drawn to the draft of the First Review of the DBLP (FRDBLP) placed on deposit between November 1998 and January 1999. I attribute substantial weight to policies in the FRDBLP in so far as they accord with development plan provisions or Government advice.

9. Reference has been made to a number of existing and draft development plan policies. In my view, those of most relevance to the main issue in this appeal are Policy 8 of the DBLP and Policy 9 of the FRDBLP. Policy 8 of the DBLP seeks a high standard in all development proposals, and includes a requirement that harm should be avoided to the surrounding neighbourhood and adjoining properties through noise, disturbance or privacy. Policy 9 of the FRDBLP contains similar provisions. These policies are consistent with the advice in paragraph 2 of PPG24 that the impact of noise can be a material consideration in the determination of planning applications. PPG24 also refers to guidance from the World Health Organisation that general outdoor noise levels of less than 55dB are desirable to prevent any significant community annoyance, and advises that a change of 10dB corresponds roughly to the doubling of a sound.

10. It is common ground between the principal parties to this appeal that the dwelling most likely to be affected by noise and pollution from the proposed development would be Croft House, that the display area would be some 2.5m from the boundary of that property and about 4m from the side elevation of the house, and that there is living room window at the side facing towards the garage. The report prepared by acoustic consultants (ANV) on behalf of the appellants includes the results of noise measurements made on the garage forecourt, at a point fairly close to the start of the proposed climb-over structure, indicating that ambient noise levels (15 minute Laeq) during a weekday morning were in the range 51.7 dB to 58.7dB. On the basis of those measurements, and the results of monitoring of vehicles being driven over a display at Northampton similar to the appeal proposal, the report concludes that the proposed display would not give rise to a perceptible rise in ambient noise levels at Croft House.

11. A BS4142 assessment was also carried out. This shows that if 2 vehicles use the display in one hour then, taking account a 5dB character correction, the difference between Rating Level and background noise level would be 1.1 dB(A). The BS4142 standard acknowledges that a difference between background noise and Rating Level of 5dB(A) would be of marginal significance, so under this assessment the proposed development should give little cause for the likelihood of complaint.

12. Although ANV did not take measurements at Croft House, it seems likely to me that the 2 fences some 1.8m high along both sides of the footpath would have some attenuating effect. I therefore share the Council's view that existing noise levels at

that dwelling are likely to be somewhat lower than those at the garage. Nevertheless, I observed that there is a fair amount of noise generating activity at Chipperfield Garage, including the workshop and car wash, and movements of vehicles on the forecourt, and that this is audible at Croft House.

13. In my view account also needs to be taken of instantaneous noise levels. Measurements taken by ANV some 4m from an existing display being traversed by a TD5 (the noisier of the 2 vehicles measured) show that when the vehicle accelerated onto the climb-over section noise levels were above 60dB for about 5 seconds and peaked at 65dB. However, for much of the remaining time the vehicle was on the structure measured noise levels were similar to ambient noise levels measured at the garage.

14. Having regard to the above, I consider that there would be no substantial increase in noise levels at Croft House as a result of the appeal proposal, other than when a vehicle was driving up the climb-over section. However, your video showed that although vehicles would take 30-40 seconds to traverse the track, they would spend less than 10 seconds on the climb-over section. In my view, provided the structure was not used for an excessive number of times during the day, this would not be harmful to living conditions.

15. So far as pollution is concerned, it was suggested at the hearing that exhaust fumes from vehicles at the top of the proposed structure would adversely affect Croft House, particularly if they had been started from cold. Against this the appellants argued that the purpose of the structure would be to demonstrate the capabilities of new products which had efficient engines, and that vehicles would be in a low gear throughout. I also note that all vehicles are required to have satisfactory emissions at all times when their engines are running, and that emissions are worst when an engine is started. In these circumstances, and bearing in mind that any vehicle using the proposed structure will have been started at ground level, and will be on the raised part of the climb-over structure for only a few seconds, I do not consider that the proposal would have an unacceptable impact on the living conditions of occupants of Croft House by reason of pollution.

16. It was argued that any noise generated as a result of the appeal proposal would adversely affect dwellings in Alexandra Road and Croft Close. I observed that Alexandra Road properties are a significant distance from the proposed development, and would in any case be screened from it by the workshop and showroom at the garage. Similarly, although the proposal would be visible from first floor rooms at the rear of some Croft Close houses, the display would be at least 40m away from the nearest point of the gardens of those properties. Moreover, the Council indicated that their main concern is with the impact of the proposal on Croft House. In these circumstances, I consider that noise and pollution resulting from the proposal would not cause material harm to the living conditions of properties in Alexandra Road and Croft Close.

17. Accordingly, I conclude that the proposed development would be consistent with existing, and draft, development plan policy objectives, and would not harm the living conditions of neighbouring residents by reason of noise nuisance and disturbance or pollution.

Other issues

18. At the hearing it was argued on behalf of the Parish Council and others that, notwithstanding the Development Control Committee's views recorded in paragraph 4 above, the proposal should be refused planning permission on Green Belt grounds. Nevertheless, the active display area would be used to demonstrate vehicles as part of a well established and substantial sales and servicing operation at the appeal site. In these circumstances I consider that the proposal is not inappropriate in relation to the existing use of the site, and is consistent with local and national Green Belt policies. For similar reasons, I do not consider that the proposal would be detrimental to Chipperfield Conservation Area.

19. Concern was expressed by third parties at the safety implications of the proposal, particularly as the structure would be close to a public footpath. However, the Council confirmed that they have no concerns on this score. Moreover, safety is covered by health and safety legislation.

Possible conditions

20. In the light of these considerations I shall allow this appeal. I have given consideration to the conditions that should be imposed, to the advice in Circular 11/95 on the use of conditions in planning permissions, and to the suggestions made by you, by the Council, and at the hearing. I intend imposing conditions restricting the height of the raised platform of the climb-over structure to 1.64m, and on the hours during which the appeal proposal may be used. However, although the Council did not object to the hours proposed by the appellant, I think use should be restricted to the mornings on Saturdays in order to limit the noise affecting Croft House at times when its occupants might reasonably expect a greater degree of peace and quiet. For similar reasons I shall also impose a restriction on the number of times the structure may be used on any day, and requiring a record to be kept of the use made of the facility. From all that I have heard I consider that restricting its use to a maximum of 10 times a day would be reasonable, and would safeguard the living conditions of neighbouring residents. Although the Council argued that such a restriction would be unenforceable, I see no justification for this view, particularly if the operators are required to keep a record.

21. Both you and the Council, and some third parties, had no objection to a temporary planning permission. However, such a condition is not necessary, given the restrictions I propose imposing on the operation of the new facility. Nor would it be consistent, in my view, with the advice in Circular 11/95, since

I do not consider that a trial run would be necessary. As the application drawings indicate the materials to be used for the proposed structure, I see no need for a condition relating to such matters. It was suggested that a condition should require either a higher fence along the boundary of the garage near the proposed development, or a higher side wall for the climb-over section. Although I accept that such measures might reduce noise at Croft House a little, that benefit would, in my view, be more than offset by the harm that would result from their overbearing appearance when seen from the public footpath.

22. I have taken account of all the other matters raised, including concerns about the possible reduction in storage space for vehicles at the appeal site, but none is sufficient to overcome the considerations which have led to my conclusions on the main issue.

My decision

23. For the above reasons, and in exercise of the powers transferred to me, I hereby allow this appeal and grant planning permission for a Land Rover active display area-landscaping at Chipperfield Garage, Langley Road, Chipperfield, in accordance with the terms of application 4/01463/98/FUL dated 18 August 1998 and the drawings submitted therewith, subject to the following conditions:

1. the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission;
2. the development hereby permitted shall not be used outside the following times:

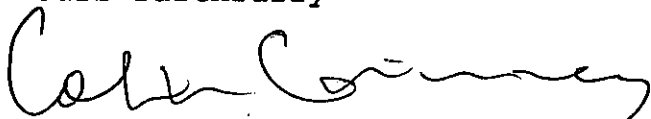
08.00-18.00 on Mondays to Fridays;
09.00-13.00 on Saturdays;

3. vehicles shall not traverse the development hereby permitted on more than 10 occasions a day on Monday-Friday inclusive, or more than 5 times on Saturdays, and the operator shall maintain a record of such use;

4. the height of the raised driving surface of the climb-over section of the development hereby permitted shall not exceed 1.64m.

24. This letter only grants planning permission under Section 57 of the Town and Country Planning Act 1990. It does not give any other approval or consent that may be required.

Yours faithfully



COLIN GRIMSEY BSc(Hons)
Inspector

APPEARANCES

FOR THE APPELLANT

Mrs J Lampert BA(Hons) DipTP MRTPI	Applied Planning Partnership Agent for the appellant
Mr G Price	Managing Director, Chipperfield Garage
Mr L Jephson B Eng MIOA	Acoustics Noise and Vibration (ANV) Acoustic consultant

FOR THE COUNCIL

Mr P Jackson BSc(Hons) DipTP MRTPI	Principal Planning Officer Dacorum Borough Council
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INTERESTED PERSONS

John Hopkins	55 Croft End Road
Hazel Bowen	Ladywood, Langley Road
Lyn Fairclough	Linden, Langley Road
Salley Woodward John Eccleston	Ivy Cottage, Alexandra Road
Tony Frewin	14 Alexandra Road
Mike Joseph	6 Queen Street Chipperfield Councillor
John Nichols	Mole House, The Common Chipperfield Councillor
David Nabbs	Dellfield, The Street Chipperfield Councillor
Moreen Wheeler	29 Croft Close
Nigel Chalk	18 Croft Close
Mike Clarke	21 Croft Close
Richard Jameson	11 Malting Lane, Aldbury Dacorum councillor
Lynne Armstrong-Hobbs	Croft House, Langley Road
Mr T J Hobbs	Croft House, Langley Road

Mr R Eteen

April Cottage, Langley Road

Mr R E Pearson

Pearson Associates
Agent for Chipperfield Parish Council

DOCUMENTS

- | | |
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| Document 1 | List of persons present at the hearing |
| Document 2 | Notification of hearing and circulation list |
| Document 3 | Letter and statement on behalf of the residents of Croft House and April Cottage |
| Document 4 | Statement by Pearson Associates on behalf of Chipperfield Parish Council and local residents |
| Document 5 | Letter from Mr & Mrs P R Rootes and accompanying petition |
| Document 6 | Representations made at application stage |
| Document 7 | Copy of planning permission No.4/01649/96/FUL |
| Document 8 | Copy of extract from Local Plan |
| Document 9 | Video supplied as part of statement on behalf of appellant, and viewed at the hearing |
| Document 10 | Letter from Mrs J Anderson
County Councillor |



The Planning Inspectorate

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LK

Mrs J Lampert BA(Hons) DipTP MRTPI Your Ref:

Applied Planning Partnership DEPARTMENT JFL/APP/403

32 Hanmer Road DACORUM BOROUGH COUNCIL Our Ref:

Simpson

MILTON KEYNES

Bucks

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T/APP/A1910/A/99/1018382/P8

Received 05 JUL 1999

1-1 JUL 1999

Comments

Dear Madam

TOWN AND COUNTRY PLANNING ACT 1990, SECTIONS 78 AND 322, AND SCHEDULE 6

LOCAL GOVERNMENT ACT 1972, SECTION 250(5)

APPEAL BY CHIPPERFIELD GARAGE LTD

APPLICATION FOR COSTS BY CHIPPERFIELD GARAGE LTD

1. I refer to your application for an award of costs against Dacorum Borough Council which was made at the hearing held at The Civic Centre, Hemel Hempstead on 26 May 1999. The hearing was in connection with an appeal by Chipperfield Garage Ltd against a refusal of planning permission for a Land Rover active display area-landscaping at Chipperfield Garage, Langley Road, Chipperfield. A copy of my appeal decision letter is enclosed.

The application for an award of costs

2. You argued that an award of costs was justified on the basis of unreasonable behaviour by the Council. In support of your application you pointed to the advice in paragraph 8 of Annex 3 of Circular 8/93 that reasons for refusal should be complete, precise, specific and relevant to the application. You argued that the Council had produced no evidence to substantiate the reason for refusal relating to noise and pollution. The appellant had not seen any evidence of a technical nature to contradict the precise evidence which had been provided on behalf of the appellant both by the acoustic consultants ANV, and by the managing director of the garage. No evidence had been provided by the Council from a noise consultant or from its environmental health officer (EHO), though reference had been made at the hearing to the EHO's one page report on the application which did not raise an objection on noise or pollution grounds.

3. Continuing, you argued that the reason for refusal did not reflect advice on noise and pollution from Council officers, whether from the planning or environmental health departments, and suggested that it had been added in response to the Development Control Committee's decision to refuse planning permission. In consequence, the appellant's had been placed in the position of having to submit evidence of a specific technical nature to deal with this issue. Nevertheless, there had been no

hard facts from the Council, who had produced no evidence of harm.

The Council's reply

4. In response the Council argued that when the Council made its decision to refuse planning permission it did so in the light of representations from the Environmental Health Officer (EHO). The EHO's comments indicated that they were concerned that the proposed development would give rise to an increase in noise levels, and recommended that the current boundary noise levels should remain for the new development. It was therefore evident that the EHO was concerned about the potential for the appeal proposal to generate noise. The Council had concluded, on the basis of this advice and of other information supplied by local residents, and in the light of the content of the application, that the active display area would create a noise nuisance.

5. Continuing, you argued that, given the information before members, it was entirely reasonable for the Council to refuse the application. Evidence had been put to the hearing which indicated that disturbance would be created by the use of the proposed active display area. You contended that this view was supported by the evidence provided on behalf of the appellant by ANV, which confirmed that noise nuisance from the appeal proposal would be significantly above ambient noise levels taken from the garage forecourt.

My conclusion

6. The application for costs falls to be determined in accordance with the advice contained in Circular 8/93 and all the relevant circumstances of the appeal, irrespective of the outcome. Costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expense unnecessarily.

7. Although you argue that the Council's reason for refusal did not reflect the advice from the EHO, the note included with Appendix 4 of your statement make it clear that the EHO was concerned that the appeal proposal could give rise to an increase in noise levels. In these circumstances, and given the proximity of the active display to residential property, I consider that the Council had a respectable basis for the stance they took.

8. So far as technical evidence is concerned, in my experience it is for an applicant for planning permission to provide any relevant supporting information. This is particularly true of applications like the appeal proposal, which is not only somewhat unusual but where noise and pollution are likely to be issues.

9. Accordingly, I do not consider that the Council acted unreasonably in refusing planning permission on the grounds of noise and pollution. I therefore conclude that the appellant's application for costs is not justified.

FORMAL DECISION

10. For the above reasons, and in exercise of the powers transferred to me, I hereby refuse the application by Chipperfield Garage Ltd for an award of costs against Dacorum Borough Council.

Yours faithfully

A handwritten signature in cursive script, appearing to read 'Colin Grimsey', written in dark ink.

COLIN GRIMSEY BSc(Hons)
Inspector