

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

THE DISTRICT COUNCIL OF DACORUM  
IN THE COUNTY OF HERTFORD

To **Analganated Builders Ltd.,**  
34 High Street,  
Tring,  
Herts.

**Mr. A. King,**  
4 Isenburg Way,  
Hemp Hempstead,  
Herts.

Residential development (32 houses) (Outline)  
.....  
.....  
at land at Christchurch Road, Tring  
.....  
.....

Brief  
description  
and location  
of proposed  
development.

In pursuance of their powers under the above-mentioned Acts and the Orders and Regulations for the time being in force thereunder, the Council hereby refuse the development proposed by you in your application dated **14th February, 1983** and received with sufficient particulars on **14th February, 1983** and shown on the plan(s) accompanying such application.

The reasons for the Council's decision to refuse permission for the development are:-

1. The development of this site for residential purposes would be contrary to Policy 65A of the District Plan modifications which states that sites of less than 1 ha not identified for residential development within the plan period may only be developed for residential purposes if the development meets (a) priority housing need or (b) provides an appropriate planning gain. The proposal fails to meet these criteria and is unacceptable in the terms of the policy.
2. The access proposed is unsatisfactory and does not provide for sightlines within the control of the applicant.

Dated 14th day of April, 1983

Signed *W. B. Marshall*  
Chief Planning Officer

NOTE

- (1) If the applicant wishes to have an explanation of the reasons for this decision it will be given on request and a meeting arranged if necessary.
- (2) If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, he may appeal to the Secretary of State for the Environment, in accordance with section 36 of the Town and Country Planning Act 1971, within six months of receipt of this notice. (Appeals must be made on a form which is obtainable from the Secretary of State for the Environment, Tollgate House, Houlton Street, Bristol, BS2 9DJ). The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the statutory requirements, to the provisions of the development order, and to any directions given under the order.
- (3) If permission to develop land is refused, or granted subject to conditions, whether by the local planning authority or by the Secretary of State for the Environment and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the District Council in which the land is situated, a purchase notice requiring that council to purchase his interest in the land in accordance with the provisions of Part IX of the Town and Country Planning Act 1971.
- (4) In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in section 169 of the Town and Country Planning Act 1971.

**Department of the Environment and 9858**  
**Department of Transport**

Common Services

Room 1309 Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

**CHIEF EXECUTIVE OFFICER**  
 11 JUL 1984  
 File Ref.....  
 Ref. no.....  
 Col. no.....

PLANNING DEPARTMENT Direct line 0272-218811  
 DACORUM DISTRICT COUNCIL Switchboard 0272-218811  
 GTN 2074

Messrs Swatton, Hughes & Co Solicitors 158A High Street BERKHAMSTEAD Hertfordshire HP4 3AZ	Ret.	Ack.			Your reference RJAH/TGC/Amal Our reference T/APP/A1910/A/83/006364/P7 Date 110 JUL 1984
	C.P.O.	.C.	Admin.	File	
Received	11 JUL '84				
Comments					

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9  
 APPEAL BY AMALGAMATED BUILDERS LTD  
 APPLICATION NO:- 4/0202/83

- I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. This appeal is against the decision of Dacorum District Council to refuse planning permission for residential development on land off Christchurch Road, Tring, Hertfordshire. I held a local inquiry into the appeal on Tuesday 20 March 1984.
- From my inspection of the appeal site and of the surrounding area and from my considerations of the representations made at the inquiry and in the letters received; I have come to the conclusion that the main issues in this appeal are firstly, whether, bearing in mind the policies for the area, development in the manner proposed is an acceptable addition to this part of Tring or an unacceptable extension of housing over the countryside and secondly, whether or not the proposal would adversely affect the safety of all forms of traffic on Christchurch Road.
- Christchurch Road connects the High Street with Upper Icknield Way. The appeal site is roughly a parallelogram of grassed paddock, hedges and trees toward the top of a rise fronting the south-west side of Christchurch Road about 450 m north-west of the High Street and about 300 m south-east of Upper Icknield Way.
- To the south-east it adjoins the curtilage of the extensive grounds of the well-treed Osmington School with residential development, including Goldfield Infants School beyond; to the south-west is woodland being part of Osmington School, together with a sports field with residential development beyond; to the north-west are the rear curtilages of houses fronting Windmill Way with residential development beyond reaching as far as Upper Icknield Way and to the north-east on the far side of Christchurch Road is extensive residential development. Some 50 m north of the appeal site frontage is a small general store and sub-post office fronting the same side of the road.
- The application is made in outline and the proposal is to develop the site with houses. An indicative drawing (Plan A1) accompanying the application shows 32 units, of which 8 (25% of the total) are of a size suited to occupation by elderly persons.
- Turning to the first issue. In the emerging District Plan the appeal site is shown as unallocated land, less than 1 ha in extent and within the built-up

boundaries of the town. It is thus land falling within Plan policies normally allowing development with up to 9 dwellings or meeting a priority housing need of, providing an appropriate planning gain. Policy 65a establishes a priority need for elderly person's housing. One quarter of the dwellings shown are small units for small families, particularly the elderly. There is in my opinion therefore, no objection in principle to residential development of the site in the manner proposed.

7. There is an agreed 5-year supply of available land in the district and a list of identified sites in Tring. The housing figures are not at issue in this case but because there is a relatively intense use made of the land available the Plan is generally over-fulfilled. Two of the identified sites in this part of Tring are either not available (land in Miswell Lane belonging to the Convent) or available only upon the death of the present owner. If it is right that the number of larger family dwellings shown on the indicative drawing more or less equal the 22 or so possible on the 2 above sites that might well not be developed in the Plan period, then I find no cogency in the argument that the appeal proposal would necessarily lead to further over-provision of dwellings or be contrary to the policies of the approved Structure Plan.

8. The number of small homes proposed is derived from the 25% figure arrived at for development of land in Berkhamstead not dissimilar in certain respects from the appeal site. I accept the council's argument that the figure should not form a precedent, but it seems to me that in the absence of any other numerical guidance and in the light of the balanced impact of the proposal upon the policies outlined in paragraph 7 above, it is not unreasonable.

9. All matters including the numbers and types of houses proposed is left for detail approval. If your clients' contention that there is a need for elderly person's accommodation in Tring is correct, and bearing in mind the emerging policies, then it seems to me that provision of 8 homes of a size, design and conformation attractive to older persons merits my support. It is with this in mind that I find the appeal proposals acceptable and accordingly do not think that a condition is necessary in this case.

10. Several of the many local representations question the suitability of the location for the elderly. Although on ground above the High Street shops and up to 600 m distant from them, I do not believe that the elevation and remoteness are so extreme as to rule out the project and both factors are mitigated to a large extent in my mind, by the close proximity of the local shop. Accordingly, and bearing in mind the advice contained in Circular 22/80, I find no substantive reasons why planning permission should not be given in this case.

11. In respect of the second issue. Where it adjoins the appeal site Christchurch Road has a carriageway width of 6.1 m flanked by 8.1 m wide footways on both sides. Visibility from the suggested accesspoint is adequate in both directions but part of the sightline to the south-east is across land not within the appellants' control and the land would need to be dedicated to highway purposes. However, the owner of the land so affected undertakes to allow a vision splay to the extent required. In this situation it does not seem to me that provision of good visibility is incapable of achievement.

12. The appeal site road frontage is some 90 m long. The drawing showing the access is indicative only. There is no objection in principle to access onto Christchurch Road. In these circumstances where there is both room for layout variation and sufficient other land available I do not find the council's second reason for refusal convincing.

13. The appellants asked that any permission given be conditioned in respect of access. As stated before the drawings put in are an indication of what is proposed.

My deliberations are concerned mainly with the use of the land. Accordingly, I consider that precise disposition of the development is best left for approval at the later detailed stage.

14. Many of the objections are concerned with highway safety generally and specifically with reference to the number of school children going to the schools in Christchurch Road. Christchurch Road connects the centre with the northern edge of the town and apart from the appeal site and the small area of land adjoining to the south-east, the frontage is wholly built-up. While I accept that cars park on Christchurch Road at the beginning and end of the school day and to this extent cause obstruction, it is my opinion that such is not unexpected on this essentially suburban highway with many accesses onto it.

15. The appeal site fronts onto a double bend or gently chicane, that naturally restricts the speeds of vehicles along this part of Christchurch Road. There is no evidence of any unacceptable traffic conditions and I am aware that subject to the provision of adequate sightlines, the highway authority do not raise objections. I do not believe that the appeal proposal would add to the hazards of the highway or that the increment in traffic to be expected would be undesirable either.

16. With regard to the other matters raised. A large number of residents are concerned over the loss to housing of this piece of land within the town which is shown as school playing fields on the Town Plan of 1977 and on the approved Structure Plan. However, on the District Plan, which has been subject to 2 local public inquiries and considerable public participation and exposure, the allocation is not continued. The appeal site is an attractive parcel of well-sheltered land and I appreciate why local people do not want to see it development. However, the District Plan is a recent and up to date document almost fully emerged from the planning process and there is no reason to question the allocation of the appeal site therein.

17. Many representations regret the loss of open land in the town generally and question the provision of public open space. The District Plan shows a large area of playing fields and public open space in the close vicinity of Christchurch Road and indeed, an area of that land owned by the council and shown as public open space on the earliest draft of the District Plan was deleted from the Plan. In this situation it does not seem to me that there is any under-provision in this part of the town which is not far distant from Upper Ickniel Way at which point the very extensive open countryside of the green belt commences.

18. The grassed area of the appeal site is fenced off from the surrounding trees and hedges on the site and the adjoining school land. The boundary with Osmington School is unmarked at its north-eastern end. Several local objections consider that the school land should be part of the appeal site for the purposes of calculating the appeal site area. I must state that I have considered this appeal as referring to the site marked on Plan A1 and the boundary shown seems to me not unreasonable when it is remembered that it is virtually a straight-line continuation of the existing fence between pasture and woodland.

19. Through the wooded strip along the north-west boundary the land is beaten flat and many representations point out that it is thought to be a public footpath. The evidence is that this is private land and there is no right-of-way of any form across it. I noted at my inspection that the land is fenced and entry obtained only by crouched clambering under a strand of barbed-wire. The appellants are willing to incorporate a footpath along the boundary into their proposal. Given the extent of public interest this in my view is a worthwhile gain to the area and I intend to condition this permission accordingly.

20. Your clients have recently built several estates in the town and some objectors question the number of houses to be placed on the site. The 32 dwellings indicated give a density not dissimilar to existing nearby estates. The site is generally level and is part of a developed area of the town. I do not think that the number of dwellings to be placed thereon is so critical that it need be made a condition of consent.

21. None of the trees on the site covered by the Tree Preservation Order are affected by the indicated proposals. Nonetheless, the layout is not finalised and the scheme could well be subject to change. I believe that the interest of the area would be best served by ensuring that the trees on the site are subject to condition designed to protect them and the area. I also would bring to the local planning authority's notice the desirability of imposition of a Tree Preservation Order at a later stage.

22. A number of local representations object to loss of the length of hedge on the appeal site fronting the highway. The hedge is undoubtedly attractive but not so important to the streetscape in my mind as to warrant consideration other than that which is appropriate at detail approval stage. It is the appellants' intention to preserve the trees and hedges and I believe is a matter best left to the local planning authority.

23. I can well understand the concern expressed in some objections to potential loss of wildlife in the area but there is no evidence that this life is anything other than normal for a small town in the countryside. I am aware that the draft District Plan does not identify any special scientific or nature conservancy interest.

24. Your clients agree that vehicles waiting at Osmington School would be better standing off of the highway and intend to construct a car park, accessed from a proposed garage court on the appeal site, on the adjoining school land. While such parking would be a planning gain for the area it is not to my mind suited to control by condition because it is not part of the appeal site and neither can I impose a Section 52 agreement as asked for by the local planning authority. I am therefore content to leave the parking proposals as a matter of record of the undertaking given at the inquiry.

25. I have taken account of all the other matters raised, but they are not sufficient to outweigh the considerations that have led me to my conclusions.

26. For the above reasons, and in exercise of the powers transferred to me, I hereby allow this appeal and grant planning permission for residential development on land off Christchurch Road, Tring, Hertfordshire in accordance with the terms of the application (No: 4/0202/83) dated 14 February 1983 and the plans submitted therewith, subject to the following conditions:

1. a. approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter referred to as 'the reserved matters') shall be obtained from the local planning authority;
- b. application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this letter;

2. the development hereby permitted shall be begun on or before whichever is the later of the following dates:

a. 5 years from the date of this letter; or

b. the expiration of 2 years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter approved;

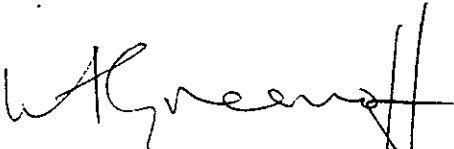
3. before the buildings hereby permitted are occupied a footpath shall be made and dedicated to highway purposes along the north-west boundary of the appeal site;

4. no trees shall be felled, lopped or topped without the previous written consent of the local planning authority until 12 calendar months after completion of the permitted development. Any trees removed without such consent or dying or being severely damaged or becoming seriously diseased before the end of that period shall be replaced with trees of such size and species as may be agreed with the local planning authority.

27. Attention is drawn to the fact that an applicant for any consent, agreement or approval required by a condition of this permission and for approval of the reserved matters referred to in this permission has a statutory right of appeal to the Secretary of State if 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, byelaw, order or regulation other than section 23 of the Town and Country Planning Act 1971.

I am Gentlemen  
Your obedient Servant



W A GREENOFF DiplArch RIBA  
Inspector

APPEARANCES

FOR THE APPELLANTS

Mr Barrington Myers

- of Counsel, instructed by Messrs Swatton, Hughes and Company, Solicitors, 158A High Street, Berkhamstead, Hertfordshire, HP4 3AZ.

He called:

Mr A E King BA(Hons)  
MRTPI

- Chartered Town Planner, 4 Isenburg Way, Hemel Hempstead, Hertfordshire, HP2 6NQ.

Mr Brian Harcourt RIBA

- Architect, 10 Banister Road, Southampton.

FOR THE LOCAL PLANNING AUTHORITY

Mr G Grynowski

- Solicitor with the Council.

He called:

Mr J Shaw CEng MIMunE

- Assistant Chief Highway Engineer with the Council.

Mr J Jackson BSc DipTP MRTPI

- Assistant Planner with the Council.

INTERESTED PERSONS

Councillor Mr D G Townsend

- Ward Councillor.

Mr A J Lea

- Chairman, Tring and District Residents' Association, 56 Christchurch Road, Tring, Hertfordshire.

Mr Paul Elley

- 58 Christchurch Road, Tring, Hertfordshire.

Mrs B Lea

- 56 Christchurch Road, Tring, Hertfordshire.

Town Councillor Mr David Doyle

- Town Council of Tring, Council Chamber, The Market House, High Street, Tring, Hertfordshire, HP23 4AB.