



**Planning Inspectorate**  
**Department of the Environment**

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**CHIEF EXECUTIVE  
OFFICER**

**28 OCT 1988**

File Ref.

Refer to *CPO 28/10*

Cleared

*4/20*  
*2/20*  
*3/20*

Parrott and Coales  
14 Bourbon Street  
AYLESBURY  
Bucks

Your reference

Our reference PLANNING DEPARTMENT DACORUM DISTRICT COUNCIL T/APP/A1910/A/88/94227/P2					
Ref.	Date			A.C.	
	27 OCT 20				
C.P.O.	D.P.	D.C.	B.C.	Admin.	File
Received 28 OCT 1988					
Comments SCHEDULE 9					

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9  
APPEAL BY ALATH CONSTRUCTION LTD  
APPLICATION NO: 4/0410/88

1. 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 the Dacorum Borough Council to refuse planning permission for 10 two bed cottages on land at Fieldway, Wigginton. I held a local inquiry into the appeal on 4 October and inspected the site on 5 October 1988.
2. From the evidence given at the inquiry, from my inspection of the site and its surroundings and from the written representations made, I consider that there is one main issue in this case, namely whether this development would prejudice national or local planning policies for safeguarding the Metropolitan Green Belt.
3. Wigginton has been in the Metropolitan Green Belt since the Hertfordshire Structure Plan was approved in 1979. Previously, under the First Review of the County Development Plan approved in 1971, it was in an area where the general rule was to permit only such development as would be appropriate in the Green Belt. The Structure Plan has now been reviewed, the review being approved by the Secretary of State as recently as May this year, with no change to the Green Belt status of Wigginton.
4. Policies 49 and 50 of the Structure Plan define towns and specified settlements, of which Wigginton is not one, and policy 51 states that in any other settlement within the Green Belt development will not normally be permitted except to meet agricultural, forestry, leisure and local needs as defined.
5. The Dacorum District Plan was adopted in 1984. Policy 4 essentially repeats Structure Plan policy 51, with different wording. Policy 5 says that planning permission may be granted for small scale residential development within the main core of certain villages, including Wigginton, provided it is also in accordance with policy 4, and subject to 4 criteria as set out. This site is within the main core of Wigginton as the Council have defined it.
6. The Council say that this proposal would be contrary to these policies. It meets no agricultural, forestry or leisure need. While they acknowledge that there is a need for small dwellings of the kind proposed here, they consider that this is a general need which can be satisfied in the settlements where development is provided for in the Structure and Local Plans. There is no such specific need identified in Wigginton. The proposal would therefore not be in accordance with

policy 4, and as a result cannot satisfy policy 5. They add that even if the proposal did satisfy policy 4, it would be contrary to policy 5 as it would breach the criteria set out there. The site is not a small gap in an otherwise built up frontage, it is not located along the same frontage as existing development, and it does not represent the minor part of the whole frontage.

7. The Council consider further that the proposal would prejudice the purposes of the Green Belt set out in Planning Policy Guidance Note No 2. The scale of the development and its impact on the character of Wigginton would be encroachment into the countryside of which Wigginton is an essential part.

8. Furthermore this site has been the subject of previous applications for housing, including 3 appeals which were all dismissed. The most recent was in 1983 when 6 one bedroom and 6 two bedroom dwellings were proposed.

9. In my opinion, even though Wigginton is "washed over" by the Green Belt, it exists as a substantial village, and this site is not just in the core as defined, but practically in the centre of the village. It is surrounded by residential built up frontages except for a coach depot along part of one side. At one time allotments, it is now unused apart from one remaining allotment. There is no proposal by the Council to acquire the land for open space or any other public purpose. There is in any case a well-kept recreation ground just to the north. The development would not be visible from surrounding countryside. I consider therefore that the development would not prejudice any of the purposes of Green Belts identified in Planning Policy Guidance Note No 2. I note that the Inspector in the 1983 appeal concluded that some form of residential development on the site would not be inappropriate.

10. It follows, I think, that this proposal may reasonably be treated as an exception to policy 4 of the District Plan. Although the provision of small houses may not meet a strictly local need in the sense that such provision must be made in Wigginton, it would certainly meet a need which is strongly felt in this area generally and indeed throughout the south-east where development is tightly constrained by the Metropolitan Green Belt. You refer to Government support for that view, and provide evidence of local demand by first time buyers and others.

11. The Council say that the development of this site would reduce opportunities for meeting the special needs identified in policy 4. But they provided no evidence of the extent to which such needs might arise in Wigginton. In my opinion they are likely to be, at most, for just one or two dwellings from time to time, and it seems to me that if the need were sufficiently great, space could still be found for them in Wigginton without undue detriment either to the village or the countryside.

12. I also do not consider that there would be any material breach of policy 5, given my above conclusion in relation to policy 4. The development would not fully comply with the criteria set out there, largely for the reasons given by the Council. But they are not mandatory, they are matters to which regard should be had. Their objects, it seems to me, are to prevent development which would be out of scale or character with the village or its setting. For the reasons given above, I do not think this proposal would have any such adverse effects. 10 houses is perhaps larger than one would normally associate with infilling, but Wigginton is not a small village and the development could in my view readily be absorbed in this location.

13. I conclude that the departure from policies 4 and 5 is justified in this instance, and would not harm their objectives. I am aware that the Inspector in 1983 appeared to reach a different view. But it appears that his primary objection was to the unsatisfactory design and layout of that proposal, and that but for

those, he might not have found the lack of conformity with policies 4 and 5 to be a sufficient reason for refusal by itself. Be that as it may, that is the view which I take.

14. I have taken account of all the other matters raised. You and the Council both referred to other appeal decisions and decisions by the Council in Wigginton and other villages. I have considered these, but see nothing in them to justify my doing other than consider this proposal in its own merits. Some of the local residents feel understandable regret at the loss of a "green" outlook onto this site. But the proposed houses would be reasonably designed and laid out - the Council raises no objection on this score - and some of the existing trees and hedges would be retained, supplemented by additional planting. I attach particular importance to the proposed laurels which would screen the garages from view from houses in The Bit. Residents would therefore retain a reasonably pleasant outlook, and the site put to good use in meeting housing needs.

15. I therefore propose to allow this appeal and have examined the conditions requested by the Council. Condition 1 refers to access details, and since these have not been provided in the application, I think this may most expediently be dealt with by reserving them for the Council's approval. Conditions 2 and 3 refer to landscaping, and condition 4 to the provision of parking and garaging, and I agree that they are appropriate. The Council suggested an additional condition restricting the occupancy of the dwellings. You objected to this on behalf of your clients, and in my opinion it would be both unenforceable, and for the reasons given above, unnecessary.

16. For the above reasons, and in exercise of the powers transferred to me, I hereby allow this appeal and grant planning permission for 10 two bed cottages on land at Fieldway, Wigginton in accordance with the terms of the application No 4/0410/88 dated 3 March 1988 and the plans submitted therewith, subject to the following conditions:

1. The development hereby permitted shall be begun not later than 5 years from the date of this letter.

2. Development shall not begin until details of the junction between the proposed service road and the highway have been approved by the local planning authority, and the dwellings shall not be occupied until that junction has been constructed in accordance with the approved details. *on plan*

3. That part of the existing hedge on the western boundary of the site shown to be retained on drawing BB102A shall be protected during the period of construction and such part or parts of the hedge as become damaged shall be replaced within the planting season following completion of development.

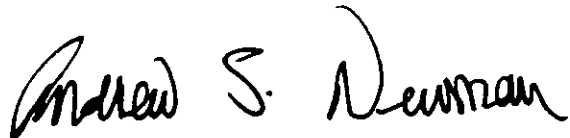
4. All planting seeding or turfing comprised in the details of landscaping shown on drawing BB102A shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

5. The development shall not be occupied until the arrangements for vehicle parking and garaging shown on drawing BB102A have been provided, and they shall not be used thereafter other than for the purposes approved.

17. Attention is drawn to the fact that 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 approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

18. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 23 of the Town and Country Planning Act 1971.

I am Gentlemen  
Your obedient Servant

A handwritten signature in cursive script that reads "Andrew S. Newman". The signature is written in dark ink and is positioned above the typed name and title.

A S NEWMAN BA MA DipTP MRTPI  
Inspector

TOWN AND COUNTRY PLANNING ACT 1971

APPEAL BY

ALATH CONSTRUCTION LIMITED

against refusal of permission for  
ten houses on land at Fieldway,  
Wigginton, Hertfordshire

STATEMENT

under Rule 7 of the Town and Country Planning Appeals  
(Determination by Appointed Persons) (Inquiries Procedure)  
Rules 1974

Dacorum Borough Council  
Civic Centre  
Marlowes  
Hemel Hempstead  
Herts HP1 1HH

Department of the Environment : APP/A1910/A/88/94227  
Reference

Dacorum Borough Council : 4/0410/88  
Reference

File Ref: 9.88/DR/ED/APP.STAT/4/0410/88/PL.2

The local planning authority proposes to put forward the following submissions at the local Inquiry:

1. LOCATION OF APPEAL SITE

The Council will refer to the location of the appeal site in the village of Wigginton and its situation within the core of the village.

2. THE APPLICATION

2.1 The application was received on 4 March 1988 for ten houses on land at Fieldway, Wigginton. The local planning authority will give a description of the proposals.

2.2 The application was considered by the local planning authority's Development Control Committee on 28 April 1988 when, after detailed consideration, it was refused for the following reasons:

1. The site is within the Metropolitan Green Belt on the adopted Dacorum District Plan wherein permission will only be given for use of land, the construction of new buildings, changes of use of existing buildings for agricultural or other essential purposes appropriate to a rural area or small scale facilities for participatory sport or recreation. No such need has been proven and the proposed development is unacceptable in the terms of this policy.

2. The proposal is not supported by evidence of local need sufficient to satisfy Policy 4 of the adopted Dacorum District Plan.

3. PROVISIONS OF THE DEVELOPMENT PLAN

3.1 The Council will refer to the provisions of the replacement Hertfordshire County Structure Plan (1986) and the Secretary of State's approval letter dated 9 May 1988. In particular reference will be made to Policies 1, 2, 47, 48, 49, 50, 51 and 60.

3.2 Reference will be made to the adopted Dacorum District Plan 1984, in particular to Policies 1, 3, 4, 5, 18, 19, 23, 63, 64, 65 and 66.

3.3 Reference may be made to the provisions of the Development Plan prior to 1986.

4. PLANNING HISTORY

The site has been the subject of a series of applications as follows:

- 4.1 Four detached houses and garages. (W/1888/1972). Refused. Appeal Dismissed.
- 4.2 Four detached houses. (W/4516/1972). Refused.
- 4.3 One detached and four semi-detached houses. (4/0416/78). Refused. Appeal Dismissed.
- 4.4 Six one-bedroom and six two-bedroom starter homes. (4/1476/81). Refused. Appeal Dismissed.
- 4.5 One dwelling on part of the site. (4/0701/86). Refused.

5. PLANNING ISSUES

- 5.1 The appeal proposal is contrary to the Policies of the Approved Structure Plan for Hertfordshire and the Adopted Dacorum District Plan relating to development in villages within the Metropolitan Green Belt. Within the designated Green Belt it is the policy severely to restrict the type of development permitted to that which meets the restrictive criteria set out in the Development Plan for the area. The appeal proposal fails to satisfy those criteria.
- 5.2 In terms of housing development in villages within the Green Belt the policy is to restrict development to that required for the needs of agriculture, forestry, leisure and local services in the rural part of the District that cannot practicably be located elsewhere. No such justification has been put forward in the context of the appeal proposal and consequently it is unacceptable to the local planning authority.
- 5.3 Although Policy 5 of the adopted Dacorum District Plan states that planning permission may be granted for small-scale residential development within the main core of Wigginton, this is provided it is also in accordance with Policy 4 and meets the physical criteria for infilling set out in Policy 5. The appeal proposal fails fully to meet these physical criteria, being on a relatively large site and fronting on to the eastern side of Fieldway where there is no other frontage housing of a similar nature.

6. COMMENTS ON THE GROUNDS OF APPEAL

- 6.1 The local planning authority will comment on the appellant's grounds of appeal and will maintain that the proposal is in fact contrary to the Green Belt policies applicable to the area.
- 6.2 The local planning authority will also maintain that there have been no permissions granted for strictly comparable proposals within Wigginton since the last appeal, and indeed that nothing has changed since that time which could justify a different outcome on this occasion.

7. PLANNING CONDITIONS

The local planning authority will suggest conditions to be attached to any planning permission in the event that the appeal be allowed.

8. PLANS AND DOCUMENTS

The plans and documents listed below are available for inspection by appointment during normal office hours at the Civic Centre, Marlowes, Hemel Hempstead, and may be produced in evidence or referred to at the Inquiry.

- 8.1 Location plan showing appeal site
- 8.2 Plan showing the 'main core' of Wigginton defined for the purposes of Policy 5
- 8.3 Hertfordshire County Structure Plan (1986) and the Secretary of State's approval letter dated 9 May 1988
- 8.4 Dacorum District Plan (1984)
- 8.5 Planning history of the appeal site
- 8.6 Previous decisions relating to Policies 4 and 5 of the District Plan:
- (a) 21 Osborne Way, Wigginton - Appeal dismissed 21.3.84 (4/1397/82)
  - (b) George Street, Markyate - Appeal dismissed 19.11.84 (4/0339/84)
  - (c) Chapel Road, Flamstead - Appeals dismissed 26.1.88 (4/0409/87) and 21.9.84 (4/1284/83)
  - (d) Highfield/Fox Road, Wigginton - Appeal allowed 29.10.84 (4/0893/85)



- (e) r/o 38 Rambling Way, Potten End - Appeal dismissed 17.3.87 (4/1532/85)
  - (f) 15-17 Pickford Road, Markyate - Appeal dismissed 18.2.85 (4/0239/84)
  - (g) Coalyard, Wick Road, Wigginton - Application allowed 12.11.87 (4/1403/87)
- 8.7 DoE Circulars 42/55, 50/57, 22/80, 14/84, 15/84 and 14/85
- 8.8 DoE Planning Policy Guidance Notes PPG1, PPG2, PPG3 and PPG7, also DCPN 4
- 8.9 Committee report relating to the planning application



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Department of the Environment

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13. I conclude that the departure from policies 4 and 5 is justified in this instance, and would not harm their objectives. I am aware that the Inspector in 1983 appeared to reach a different view. But it appears that his primary objection was to the unsatisfactory design and layout of that proposal, and that but for

those, he might not have found the lack of conformity with policies 4 and 5 to be a sufficient reason for refusal by itself. Be that as it may, that is the view which I take.

14. I have taken account of all the other matters raised. You and the Council both referred to other appeal decisions and decisions by the Council in Wigginton and other villages. I have considered these, but see nothing in them to justify my doing other than consider this proposal in its own merits. Some of the local residents feel understandable regret at the loss of a "green" outlook onto this site. But the proposed houses would be reasonably designed and laid out - the Council raises no objection on this score - and some of the existing trees and hedges would be retained, supplemented by additional planting. I attach particular importance to the proposed laurels which would screen the garages from view from houses in The Bit. Residents would therefore retain a reasonably pleasant outlook, and the site put to good use in meeting housing needs.

15. I therefore propose to allow this appeal and have examined the conditions requested by the Council. Condition 1 refers to access details, and since these have not been provided in the application, I think this may most expediently be dealt with by reserving them for the Council's approval. Conditions 2 and 3 refer to landscaping, and condition 4 to the provision of parking and garaging, and I agree that they are appropriate. The Council suggested an additional condition restricting the occupancy of the dwellings. You objected to this on behalf of your clients, and in my opinion it would be both unenforceable, and for the reasons given above, unnecessary.

16. For the above reasons, and in exercise of the powers transferred to me, I hereby allow this appeal and grant planning permission for 10 two bed cottages on land at Fieldway, Wigginton in accordance with the terms of the application No 4/0410/88 dated 3 March 1988 and the plans submitted therewith, subject to the following conditions:

1. The development hereby permitted shall be begun not later than 5 years from the date of this letter.

2. Development shall not begin until details of the junction between the proposed service road and the highway have been approved by the local planning authority, and the dwellings shall not be occupied until that junction has been constructed in accordance with the approved details.

3. That part of the existing hedge on the western boundary of the site shown to be retained on drawing BB102A shall be protected during the period of construction and such part or parts of the hedge as become damaged shall be replaced within the planting season following completion of development.

4. All planting seeding or turfing comprised in the details of landscaping shown on drawing BB102A shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

5. The development shall not be occupied until the arrangements for vehicle parking and garaging shown on drawing BB102A have been provided, and they shall not be used thereafter other than for the purposes approved.

17. Attention is drawn to the fact that 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 approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

18. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 23 of the Town and Country Planning Act 1971.

I am Gentlemen  
Your obedient Servant

*Andrew S. Newman*

A S NEWMAN BA MA DipTP MRTPI  
Inspector

## TOWN &amp; COUNTRY PLANNING ACTS, 1971 and 1972



## DACORUM BOROUGH COUNCIL

To Alath Construction Ltd  
24 Lincoln Court  
Berkhamsted  
Herts

A E King  
Dovecot Barn  
Alder Park Meadows  
Long Marston  
Tring, Herts

Ten houses
Land at Fieldway, Wigginton
at

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 3 March 1988 and received with sufficient particulars on 4 March 1988 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 site is within the Metropolitan Green Belt on the adopted Dacorum District Plan wherein permission will only be given for use of land, the construction of new buildings, changes of use of existing buildings for agricultural or other essential purposes appropriate to a rural area or small scale facilities for participatory sport or recreation. No such need has been proven and the proposed development is unacceptable in the terms of this policy.
2. The proposal is not supported by evidence of local need sufficient to satisfy Policy 4 of the adopted Dacorum District Plan.

Dated 28 day of April 19 88

Signed *Wm Barnard*

### NOTE

1. 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 s.36 of the Town and Country Planning Act 1971, within six months of receipt of this notice. (Appeals must be made on a form 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.
2. 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 Borough 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.
3. 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 s.169 of the Town and Country Planning Act 1971.