



Appeal Decision

Hearing held on 27 July 2004

Site visit made on 27 July 2004

by **Gareth Isaac LLB Solicitor**

an Inspector appointed by the First Secretary of State

C Land Charges

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Date

19 AUG 2004

Appeal Ref: APP/X1735/A/03/1134227

Land rear of Laburnums, St Peters Road, Hayling Island, PO11 0RT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Wildacre Investments Ltd against the decision of Havant Borough Council.
- The application Ref 03/52498/002, dated 11 February 2003, was refused by notice dated 12 June 2003.
- The development proposed is conversion of the building into a dwelling.

Summary of Decision: The appeal is dismissed.

Main Issues

1. I consider the main issues in this case to be the effect of the proposal:
 - (a) on the character and appearance of the surrounding countryside; and
 - (b) on the living conditions of the occupiers of Laburnums in terms of noise, disturbance and loss of privacy.

Planning Policy

2. The development plan for the area includes the Hampshire County Structure Plan 1996-2011(Review), adopted in 2000, (SP). Of the SP Policies that have been drawn to my attention, C1, C2 and H10 are most relevant to this appeal. SP Policy C1 defines the countryside as the area outside existing and proposed built-up areas delineated in local plans. SP Policy C2 aims to restrict development in the countryside to that which is essential to meet the needs of the rural economy. SP Policy H10 indicates that residential development outside built-up areas may be permitted if it results from the conversion of a building for which there is a no more suitable use and there are no detrimental effects on its fabric, character or setting. The supporting text adds that applications for conversion of rural buildings to housing will be considered having regard to the advice in Planning Policy Guidance Note 7 (PPG 7): *The Countryside – Environmental Quality and Economic and Social Development*.
3. The Havant Borough Local Plan (LP) predates the Structure Plan, having been adopted in 1994. LP Policy C1 seeks to restrain development in the countryside. LP Policy GDD1 indicates that development proposals will normally be granted provided that a number of criteria are met. Criterion (h) requires that proposals should not cause undue loss of amenity by reason of noise, vibration, smell or other emissions. Criterion (j) requires that they should not result in unreasonable loss or invasion of privacy.
4. The emerging Revised Deposit Havant Borough District-Wide Local Plan 1996-2011, has been through many of the stages leading towards adoption, including a public inquiry,

thereby increasing the weight that can be given to it, especially in respect of those policies where there are no unresolved objections or the Local Plan Inspector has recommended no changes. Policy C1 seeks to restrict development in the countryside in a way that the Local Plan Inspector considered would broadly follow the advice in PPG 7. Policy D4 requires development to avoid loss of privacy enjoyed by neighbouring residents.

5. I have also had regard to relevant government advice including that contained in PPG 3: *Housing*, and PPG 7. PPG 7 sets out guidance regarding the re-use and adaptation of existing rural buildings which is of particular relevance to this appeal.

Reasons

Character and appearance of the countryside

6. The appeal site forms part of a field which is located to the rear of Laburnums, the southern most dwelling on the eastern side of St Peters Road in North Hayling. The site is separated from the garden of Laburnums by a fence and wall. It contains a single storey building which is the subject of this proposal. There are open fields to the south and east of the building and residential development lies to its north and west. It has not been disputed that the site is located within an area of countryside.
7. The use of the appeal building was at one time associated with Laburnums and a condition attached to a planning permission granted in 1989 stipulated that it should only be used for purposes incidental to the enjoyment of that dwelling. However, the Council has recently issued a Certificate of Lawful Use (Ref: 03/52498/003), thereby acknowledging that the building has been used for purposes not incidental to the enjoyment of Laburnums, in breach of that condition, for more than 10 years. Whilst I recognise that this could lead to a separate and more intensive use of the building in the future, a further condition, restricting the actual uses which can be carried out within it remains extant.
8. Access to the building was originally obtained over the driveway leading to Laburnums. However, a separate unmade track has since been created in the field which lies adjacent to that dwelling, running parallel to its driveway and it is intended that this track would provide access to the proposed dwelling. At the Hearing, it was confirmed that the Certificate of Lawful Use refers only to the actual building and does not include the track or any other parts of the appeal site.
9. The proposal would involve the conversion of the existing building into a 2 bedroom bungalow. The Council has acknowledged that the building is solid and sound and that it would require only limited external modification. In those respects the proposed conversion would satisfy the criteria for the re-use and adaptation of rural buildings contained in paragraph 3.14 of PPG 7. However, PPG 7 also advises that in the case of residential conversions, it may be necessary to apply similar strict controls to that over new housing in the open countryside, especially if, amongst other things, the creation of a residential curtilage would have a harmful effect on the character of the countryside.
10. I do not consider that the site is visualised as part of the built up area of the village. In my view, despite the presence of nearby dwellings and the appearance of the building, the site still has an open rural character which when viewed from the road, blends into the surrounding countryside. I have taken into account the plans which indicate that part of the appeal site could be restored to the curtilage of Laburnums. Nevertheless, in my judgement,

the proposal would emphasise the creation of an additional new domestic curtilage around the building. Rather than enhance the surroundings, I consider that the landscaping of the site would signify an extension of residential development into an open area that at present contributes to the rural setting. Whether or not there is any other suitable use for the building, I consider that its proposed conversion to a dwelling and the creation of a separate new curtilage would represent an unwarranted intrusion of residential development into the countryside and detract from the setting and rural characteristics of the site.

11. I conclude that the proposal would be harmful to the character and appearance of the surrounding countryside. I further conclude that it would conflict with SP Policies C1, C2 and H10, the advice contained in PPG 7 as well as with Policies C1 of the Local Plan and its emerging replacement.

Living conditions

12. Although the appeal building is sited only some 4m from the boundary with Laburnums, there is a distance of about 23m between the 2 buildings. Some windows would face towards Laburnums, but they would all be at ground floor level and I do not consider that the proposal would result in unreasonable levels of overlooking or loss of privacy for the occupiers of the adjoining dwelling. The main outlook and amenity space would be to the south and east of the building and in my view, the proposal would not lead to undue levels of noise and disturbance for the residents of Laburnums.
13. I conclude that the proposal would not be harmful to the living conditions of the occupiers of Laburnums in terms of noise, disturbance and loss of privacy. I further conclude that the proposal would not conflict with LP Policy GDD1 or Policy D4 of the emerging Local Plan.

Other matters

14. I have considered all of the other matters raised, including the circumstances of another case, in which the conversion of a nearby building was recently permitted. However, that case involved a listed building and it was acknowledged at the Hearing that different considerations applied to it. I have taken into account the advice contained in PPG 3 encouraging the re-use of previously developed land and the conversion of existing buildings to residential use. However, none of these or any of the other matters raised is of such significance as to outweigh the considerations that led to my conclusions on the main issues.

Conclusions

15. Although I have concluded on the second main issue that the proposal would not have an adverse effect on the living conditions of occupiers of nearby property, I consider that on balance, this is insufficient to outweigh my conclusion on the first main issue.
16. For the reasons given above, I conclude that the appeal should be dismissed.

Formal Decision

17. I dismiss the appeal
- [REDACTED]

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

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FOR THE LOCAL PLANNING AUTHORITY:

Mrs S Smith BA(Hons), MRTPI Senior Planner, Havant Borough Council

DOCUMENTS

Document	1	List of persons present at the hearing
Document	2	Letters of notification
Document	3	Letter from the Environment Agency
Document	4	Extract from Local Plan Inspector's Report, submitted by the Council
Document	5	Letter to the Council, dated 29 June 2004, submitted by the Council

PLANS

Plan	A	Application plans (3 plans)
Plan	B	Location plan