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# Appeal Decision

Site visit made on 22 June 2016

**by R M Pritchard MA PhD MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 6 July 2016**

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**Appeal Ref: APP/L1765/W/16/3147290**

**Flintwall Cottage, Ingoldfield Farm, Ingoldfield Lane, Soberton, Hampshire, SO32 3QA**

- 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 Mr and Mrs R Deans against the decision of Winchester City Council.
  - The application Ref 16/00059/FUL, dated 11 January 2016, was refused by notice dated 2 March 2016.
  - The development proposed is the change of use of agricultural land to a residential garden.
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## Decision

1. The appeal is dismissed.

## Application for costs

2. An application for costs was made by Mr and Mrs R Deans against Winchester City Council. This application is the subject of a separate Decision.

## Main Issue

3. I consider the main issue to be the effect of the proposed change of use on the character and appearance of the adjacent countryside.

## Reasons

4. The appeal site is a flat field just under a third of a hectare in extent that is defined in the adopted development plan as open countryside. It presently resembles rough pasture. A couple of hundred metres to the east, beyond Roy's Lane, is the boundary of the South Downs National Park. The field is owned by the current occupants of Flintwall Cottage, a detached dwelling immediately to the south west. Flintwall Cottage is one of a group of five dwellings that have been created from buildings of the former Ingoldfield Farm complex. Two of these, Ingoldfield House and Old Manor Barn are Grade II listed buildings. Flintwall Cottage is neither locally nor nationally listed. Access to Flintwall Cottage is from Ingoldfield Lane via a short drive that also serves Old Manor Barn, Stable Cottage and Whaysai Barn.
5. Flintwall Cottage was converted to residential use following appeal decisions that arose from enforcement action (PINS Refs APP/L1765/C/98/1010254 and APP/L1765/C/98/1010255). As part of those decisions, the residential curtilage

of Flintwall Cottage was restricted to the access lane and a small rear garden. The great bulk of the appeal site was thereby excluded from the curtilage and, in addition, the permission removed permitted development rights to extend the property. The reason for these decisions appears to have been to limit the chances of any further incursion into the adjacent open countryside.

6. The proposed development would change the use of the appeal field from agricultural land to a domestic garden. The appellants have submitted a landscape plan (Drawing No 0357-16-NJT) indicating their intentions for the proposed garden. New treatments are proposed along the northern, eastern and southern boundaries with 1.2 metre high post and rail fencing enclosing hedging comprised of native species. (The western boundary, to Ingoldfield House, would remain as it is now and is largely comprised of laurel hedging.) Existing hazel trees in the north west corner of the appeal site would be retained, as would the adjacent, solar panel array, but there would be additional tree planting and the creation of a new landscaped pond towards the north east corner of the site. The bulk of the proposed new garden would, however, be laid down to grass. No built structures are proposed. In these circumstances, I agree with the Council that such landscaping work would not require planning permission. I have therefore treated this landscape plan as indicative.
7. It is agreed that there is currently no policy in the adopted development plan, the Local Plan Part 1 and the 'saved' policies of the Winchester District Local Plan Review, which specifically deals with proposals to change the use of agricultural land to private gardens attached to residential dwellings. (The Local Plan Part 2 has not yet been examined and, whilst clearly a material consideration, the weight that can be afforded to its policies must be reduced.)
8. Nevertheless, although the refusal notice quotes a number of policies from both the Local Plan Part 1 and the Local Plan Review, it is clear to me that the Council, as reflected in its letter of 26 May 2016, places the greatest weight on the application of Policy MTRA 4 of the Local Plan Part 1. This policy relates to development in the countryside, which it restricts to those uses that lend themselves to a countryside location, such as agriculture, horticulture and forestry; the re-use of existing buildings; and small-scale tourist accommodation.
9. No mention is made of the conversion of agricultural land to allow the extension of residential gardens but the Council considers that such proposals are outwith the scope of what Policy MTRA 4 would normally allow. It thereby suggests that such proposals should receive bespoke consideration as their individual planning merits will differ. That argument is especially advanced to counter the appellants' reference to a number of similar applications that have been approved either by the Council or on appeal.
10. I agree with the Council that proposals of the kind before me – which, as acknowledged by the appellants, are relatively rare – need to be treated on their own merits within the general framework of protecting the countryside from inappropriate development. I therefore give only limited weight to past decisions in the Council's area to allow such changes of use since each will have involved different local circumstances.
11. So far as the appeal site is concerned, its look and feel at the present is predominantly rural. The lack of firm boundaries to the east and the state of

adjacent land parcels to the north and east create a clear distinction in my mind between the appeal site as part of the open land to the east of the Ingoldfield Farm complex and the domestic environment of the defined curtilage of Flintwall Cottage and the other dwellings. The broad band of open, and predominantly agricultural, land that separates the farm complex from the boundary of the National Park provides an appropriate transition, especially when viewed from Roy's Lane to the east.

12. The appellants have tried to persuade me that the proposed change of use would represent a degree of filling-in of the remaining quarter of the square that is comprised of the five dwellings and their immediate surroundings. I am not persuaded. The historical evidence provided by those local residents opposed to the change of use, the views of the Council's landscape architects and the comments of my colleague when dealing with the appeals in 1999 all convinced me that the historic boundaries of the original farm complex did not include the greater part of the appeal site and that to change its use now would represent an incursion into the open countryside.
13. I have no doubt that changes to the status of the appeal site would lead to changes in its visual impact. Virtually every garden accumulates domestic paraphernalia and such developments would emphasise the degree to which the existing 'development' boundary, to quote the Council's landscape architects, would be extended into the open countryside. To enclose this land as a domestic garden would, in my view, result in a change in the site's character that would not be acceptable.
14. I am aware that although some local residents are strongly opposed to the proposed change of use, others have welcomed it as a means of tidying up an 'eyesore'. I am, however, reluctant to give weight to the latter argument as it could be said to encourage neglect as a means of generating the conditions to justify a change of use.
15. My view in that respect is reinforced by the fact that the appellants could undertake the landscaping work set out in Drawing No 0357-16-NJT without planning permission. In circumstances where a formal change of use is now sought, I find it difficult to avoid the conclusion that the application could presage some intention to seek to undertake additional changes that would require planning permission and which would only be considered as acceptable if the appeal site had changed its status to a residential garden. In this context, I have noted the reference by local residents opposed to the development to a recent Court decision that established that residential gardens outside built-up areas should be regarded as previously developed land with the implication that this would alter the priority afforded to proposals for their development<sup>1</sup>. I have no evidence that this is the appellants' intention, but equally I cannot predict the actions of future owners of the site.
16. Those concerns are reinforced by the Council's argument that the size of the proposed garden would be disproportionate to the accommodation available in Flintwall Cottage. I am well aware that individuals' enthusiasm or otherwise for gardens will vary. However, by the same token, Flintwall Cottage is a small dwelling and I have no arguments for the conversion of the appeal site to a domestic garden other than it would improve the appearance of the land. Given my rejection of that view, I find no specific justification for the proposed

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<sup>1</sup> Dartford BC v SSCLG (CO/4129/2015)

change of use other than it would bring social and environmental benefits to the occupants of Flintwall Cottage. However, those private benefits to the appellants do not, in my view, outweigh the material harm to the character and appearance of the countryside that I have identified.

17. It is therefore my conclusion that the proposed change of use is not supported by Policy MTRA 4 and would be contrary to the battery of adopted development plan policies that seek to protect the countryside.

**Conclusion**

18. For the reasons given above I conclude that the appeal should be dismissed.

*R M Pritchard*

INSPECTOR