

Recommendation: **GRANT PERMISSION**

89/54234 - C/U of 27 for residential use - Permit 14/12/1989 with condition limiting it to a single manager between 1 March and 31 October.

95/52925/3/CLE - for 31 for use of property as a dwellinghouse 11/5/1995. PERM

95/56717/2 - No 1 - Relief of condition 7 of HWU2788 to enable year round occupation. Refused and appeal dismissed 2/2/1996

Reasons:

- Even when extended chalets close together with little private amenity space; central area would be taken up with vehicles and too cramped to be lived in permanently.
- Access - single car width; visibility poor; conflict with peak flow traffic; wrong to permit more intensive use
- Loss of holiday accommodation.

03/54234/001 - No 27 - remove condition restricting use to manager out of season. Refused:

- Year round availability for warden. Whilst size is acceptable for permanent occupation the amenity space is not.
- As warden occupies all year - ;level of traffic would not be significantly different.
- Loss of dwelling related to tourism.

APP/12/00896 - Removal of Condition 7 of Planning Permission HWU2788 and Condition 1 of Planning Permission 13268/3 to allow for permanent occupation of chalet numbers 1-30, 32-35 inclusive.

This was refused and subsequently appealed against. The appeal (REF - APP/X1735/A/13/2194326) was dismissed on 3 key grounds:

- (a) Loss of holiday accommodation;
- (b) Suitability of all units for permanent accommodation in terms of both internal living and external amenity space; and
- (c) More intensive use of a substandard access onto Salterns Lane.

APP/12/01196 - No. 1 - Application for Certificate of Lawfulness relating to permanent occupation of chalet. PERM - 9/1/13

APP/12/01197 - No. 2 - Application for Certificate of Lawfulness relating to permanent occupation of chalet. PERM - 9/1/13

APP/12/01198 - No. 3 - Application for Certificate of Lawfulness relating to permanent occupation of chalet. PERM - 9/1/13

APP/12/01200 - No. 30 - Application for Certificate of Lawfulness relating to permanent occupation of chalet. PERM - 9/1/13

APP/12/01201 - No. 20 - Application for Certificate of Lawfulness relating to permanent occupation of chalet. PERM - 9/1/13

APP/12/01202 - No. 16 - Application for Certificate of Lawfulness relating to permanent occupation of chalet. PERM - 9/1/13

APP/12/01203 - No. 19 - Application for Certificate of Lawfulness relating to permanent occupation of chalet. PERM - 9/1/13

Enforcement History:

Several of the chalets were subject to an enforcement investigation for a breach of condition as they were being occupied on a permanent basis. It transpired that No's 1,2,3,16,19, 20 and 30 had been in permanent occupation for over 4 years and therefore the use was considered to be lawful. The other chalets within the development are still required to adhere to the restricted occupancy as per the original planning permission.

3 Proposal

Removal of Condition 7 of Planning Permission HWU2788 to allow for permanent occupation of chalet No 15.

The case presented by the applicant is that No.15 has significantly more amenity space than other chalets in the development and that the previous appeal decision was in response to a blanket application for change of use, but highlighted No. 15 as not suffering from a lack of amenity space. Since the time of the original permission in 1954, demand for holiday accommodation has changed with more people now travelling abroad and also there are more hotels and holiday camps available since that time. There is also a greater demand for housing on the Island than before. In terms of traffic movement, it is argued that there is likely to be less movements from permanent residents than holiday makers

4 Policy Considerations

National Planning Policy Framework 2012

Havant Borough Local Plan (Core Strategy) March 2011

CS16	(High Quality Design)
CS20	(Transport and Access Strategy)
CS5	(Tourism)
CS9	(Housing)
DM13	(Car and Cycle Parking on Residential Development)

Havant Borough Local Plan (Allocations) July 2014

DM24	(Recreational Disturbance to Special Protected Areas (SPAs) from Residential Development)
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Havant Borough Council Parking SPD July 2016

Havant Borough Council Borough Design Guide SPD December 2011

Listed Building Grade: Not applicable.
Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Environmental Health Manager, Community Group
No adverse comments.

Highways Engineer, Development Engineer
The Highway Authority have no adverse comment on this planning application

Traffic Management, HBC

The traffic team has no adverse comment to make on this application

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 0

Number of site notices: 1

Statutory advertisement: Not applicable.

Number of representations received: 0

7 Planning Considerations

7.1 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

- (i) Principle of development
- (ii) Loss of holiday accommodation
- (iii) Suitability for permanent occupation
- (iv) Highway safety
- (v) Housing demand
- (vi) Ecology implications

(i) Principle of development

The intention of the original permission HWU2788 was to provide a site of holiday chalets. The way the conditions are worded is to allow occupation of the chalets for 8 months of the year. Some of the chalets however benefit from permanent occupancy, those being 31, 31a and 27 and No.s 1,2,3,16,19,20 and 30 which have been granted a certificate of lawful development for permanent occupancy. The site therefore now constitutes a mixed use development of holiday and permanent occupancy homes. A previous decision was made (APP/12/00896) to refuse a proposal to allow all the chalets to have permanent occupation - the subsequent appeal focussing on three key issues:

- (a) Loss of holiday accommodation;
- (b) Suitability of all units for permanent accommodation in terms of both internal living and external amenity space; and
- (c) More intensive use of a substandard access onto Salterns Lane.

The current proposal for the use of only No. 15 for permanent accommodation therefore needs to consider the loss of one unit of holiday accommodation as opposed to all, and whether this unit is suitable for permanent occupation, and the extent to which highway safety will be compromised by its year round use. These considerations are discussed below. It is also necessary to consider all other material

considerations applicable to the proposed development which may have changed since the Inspector's decision - specifically, the Council's position as regards its housing supply; and the implications of the change of use on ecology issues as set out in Policy DM24 of the Allocations Plan.

(ii) Loss of holiday accommodation

Planning application APP/12/00896 which proposed all the chalets to be used for permanent occupancy was refused and dismissed at appeal, in common with previous decisions taken on individual plots. The Planning Inspector (PI), in his appeal decision (Ref: APP/X1735/A/13/2194326) stated that the original permission was to provide holiday accommodation. Policy CS5 of the Local Plan seeks to safeguard tourist facilities unless it can be demonstrated that they are not fit for purpose or financially unviable. In the appeal case, neither of these tests had been satisfied and the PI concluded that as there is still demand for the chalets and that they are clearly suitable for holiday accommodation, they should be retained for holiday accommodation purposes. Their loss would be contrary to Policy CS5 of the Local Plan.

This application proposes that only the use of No. 15 should be changed to permanent occupancy. In terms of the principle of the change of use, there is nothing to justify that the two tests set out in Policy CS5 above have been satisfied and the loss of the holiday accommodation, even if just one chalet, would still be contrary to Policy CS5. However, there are further considerations to be made as to whether this chalet should benefit from permanent occupation, which are discussed below.

(iii) Suitability for permanent occupation

No. 15, like the other chalets, is of brick construction with a tiled pitched roof. The layout comprises two small bedrooms, a sitting room, kitchen and WC/shower room and a decent size rear garden. In the recent appeal decision, the PI recognised that whilst the living accommodation was acceptable for permanent residential accommodation, the buildings would be unduly constrained as permanent residences due to the lack of external amenity space, particularly where the buildings have been extended.

The PI concluded that as a result of these factors, it has not been demonstrated that the appeal '*as a whole, could accommodation adequate amounts of both internal living and external amenity space*'. However, the PI stated that this was with the exception of the two units at the site's corners (no.s 15 and 18), which benefit from significantly more generous plot sizes with amenity space available to both the side and rear of the property. Therefore it is clear that No. 15 has significant differences from the majority of the Fairlight Chalets site as a whole in that it has the scope for extension without compromising the amounts of internal and external amenity space available to it, thus providing firm justification that it is suitable for permanent accommodation, not being contrary to Policy CS16 of the Local Plan.

(iv) Highway safety

The current access into the site from Salterns Lane is a single car's width with no passing places and there is limited visibility at the junction. In the recent appeal decision, the PI highlighted that it would be wrong to permit a more intensive use on a presently sub standard access - this view being consistent with previous appeal decisions.

This proposal is for the use of only one chalet to be used for permanent occupation which, in itself, would not place a significant increase in movements along the access road and junction - although even single chalets have seen their proposed year round occupation refused on this ground in previous appeals. The applicant argues that based on her knowledge of the site, in practice holiday makers generate more vehicular movements than permanent residents (of which there are now 10 across the site as a whole, which did not exist at the time of the earlier appeal decisions on individual plots) - this first hand evidence must be taken into account in considering this matter. On balance it could also be argued that the use of the junction by a permanent resident who has knowledge of the limitations of the junction, is safer than a visitor / holiday maker who has limited use and knowledge of it.

The advice of the NPPF must also be taken into account, which is a further change from the policy position in respect of earlier individual plot appeals (albeit not the case in 2012 under APP/12/00896). Here the NPPF states: *Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*

Overall it is considered that the increase of potentially one or two cars per day during the additional 4 months of the year, would not warrant a 'severe cumulative impact' and therefore a refusal of the application on highway grounds is not justified having regard to the evidence put forward. It is noted that there were no objections from the Highways Engineer or Traffic Management Team.

(v) Housing demand .

Contrary to the position in 2012 at the time of the last appeal, the Council does not currently have a 5 year housing supply, is not yet in a position to meet its Objectively Assessed Need for housing through the Local Plan, and there is a high demand for housing within the Borough. The proposal would contribute to the housing stock within the borough and more specifically, Hayling Island. The NPPF advises that, in circumstances such as those that the Council finds itself in currently in terms of housing policy, there is a presumption in favour of sustainable development whereby development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. In this case, given the specific site characteristics of No. 15 which make it almost unique within the overall development, the proposal for permanent occupancy would result in a form of sustainable development contributing to the housing stock on a brownfield site. This benefit of the scheme must be weighed against the conflict with Policy CS5 highlighted at (ii) above.

(vi) Ecology implications

Given the proximity of the application site to sites designated for their nature conservation interest the application has been assessed under Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended) (The Habitats Regulations). The proposal would lead to a net increase in dwellings, which would be likely to lead to a significant effect (as described in Regulation 61(1)(a) of the Habitats Regulations) on the Chichester and Langstone Harbours Special Protection Areas (SPA). Furthermore the development is not necessary for the management of the SPA. As a result a mitigation package is required, which can be secured through a financial contribution to the Solent Recreation Mitigation Project at a scale of £181 per dwelling (net) (plus monitoring and administration fees). Subject to this mitigation package being secured, the level of mitigation provided is considered sufficient to

remove the significant effect on the SPA which would otherwise have been likely to occur. As such, an appropriate assessment under Regulation 61 of the Habitats Regulations is not necessary. The relevant fee has been paid and the paperwork signed and returned. The proposal therefore accords with Policy DM24 of the Local Plan.

8 Conclusion

In weighing the planning balance in relation to this application, it must be recognised that a succession of previous applications and appeals have concluded that individually or in combination, the holiday accommodation at the Fairlight Chalets site was not suitable for permanent residential accommodation for a variety of reasons. The fact that the site at No.15 is far larger than those typically found at Fairlight Chalets as a whole, and the arguments advanced in relation to highway safety when taken in combination with NPPF guidance means that concerns regarding the suitability of the chalet site itself for permanent residential accommodation and highway safety issues can be set aside for this particular unit.

This leaves the key issue remaining being that of the conflict with Policy CS5, in that the proposal will result in the loss of a unit intended for holiday accommodation without a clear justification or evidence that it is no longer viable to fulfil this role. Set against this, however, is the benefit that will derive from the provision of a housing unit in the urban area on a previously developed site. Having regard to the Council's current position on housing supply, the benefits of seeking to retain the unit in holiday use - when in reality it is owned by the same applicant who intends to occupy it permanently - are not considered to outweigh the housing supply arguments as the loss of a single unit of holiday accommodation in this location on a mixed occupation site is not considered to significantly and demonstrably outweigh the benefits of housing supply, which is a fundamental issue in the NPPF, the Council's current planning policies and the recent Government White Paper.

It is therefore considered that, on balance, the proposal is acceptable and it is accordingly recommended for permission.

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/17/00318 subject to the following conditions:

- 1 The development must be begun not later than three years beginning with the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

P1 - Site Plan
6no. photos of the site

Reason: - To ensure provision of a satisfactory development.

- 3 With the exception of Nos 1, 2, 3, 15, 16, 19, 20 and 30, none of the chalets authorised by Planning Permission HWU 2788 shall be occupied other than between the period of 1st March and 31st October in any year.

Reason: To prevent the loss of holiday accommodation; to prevent the creation of permanent dwelling houses which do not provide suitable standards of living accommodation; and to prevent an overintensive use of a substandard access onto Salterns Lane; and having due regard to policies CS5, CS9, CS16 and CS20 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.