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Site Address: 7 Marshall Road, Hayling Island PO11 9NH  
Proposal: Retrospective application for 4no. outbuildings comprising; 1no. garden room and gym with toilet and shower; 1no. garden equipment shed; 1no. tool shed; and 1no. utility shed.  
Application Type: Retrospective Planning Permission  
Application No: APP/22/00490 Expiry Date: 30/08/2022  
Applicant: Mr J Parker  
Agent: Case Officer: Lewis Ford  
Ward: Hayling East

Recommendation: **GRANT PLANNING PERMISSION IN RETROSPECT**

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## **1 Introduction & Site Description**

- 1.1 The application site is No.7 Marshall Road, Hayling Island, PO11 9NH.
- 1.2 The site is located on the eastern side of Marshall Road and comprises a detached chalet-style bungalow of red brick and grey tile construction. The dwelling includes UPVC windows, two dormers on the front roof slope, and two velux windows on the rear roof slope. The front curtilage of the site can accommodate 3no. vehicular parking spaces, and includes an existing dropped kerb which serves both:

- The existing chalet bungalow (No.7 Marshall Road); and
- The neighbouring chalet bungalow to the rear (No.7a Marshall Road).

- 1.3 Planning Permission was granted in August 2008, under ref. **08/58188/001**, for the demolition of a 2-bed timber chalet and the construction of 1no. 4-bed chalet bungalow (**No.7 Marshall Road**). The Decision Notice for the above Planning Permission included Planning **Condition No.6** which has been replicated below as follows:

*The use of the outbuildings to the rear of the dwelling hereby permitted shall be incidental to the enjoyment to the dwellinghouse as such and shall not be used for any business, commercial or industrial purposes whatsoever.*

*Reason: In the interests of the amenity of the area and having due regard to policies and proposals D1 and PC1 of the Havant Borough District Wide Local Plan 1996-2011*

- 1.4 The outbuildings referred to in Condition No.6 (above) were later demolished / removed / reduced to facilitate the delivery of, and access to, 1no. 2-bed chalet bungalow (**No.7a Marshall Road**) which was constructed in the rear garden of No.7 Marshall Road under Planning Permission ref. **09/58188/003**. The Decision Notice for the above Planning Permission included Planning **Condition No.9** which has been replicated below as follows:

*Notwithstanding the provisions of any Town and Country Planning General Permitted Development Order, no extension, building, or structure permitted by Part 1, Classes A, E or F of the Town and Country Planning (General Permitted Development) 1995 Order, as amended, shall be erected within the curtilage of the site without the prior written approval of the Local Planning Authority.*

*Reason: In the interests of visual amenity and having due regard to Policy D1 of the Havant Borough District Wide Local Plan 1996-2011, and Planning Policy Statement.*

Breach of Planning Control:

- 1.5 In Autumn 2021, it was reported to the Council's Planning Enforcement Team that a chalet outbuilding in the rear garden of No.7 Marshall Road was being advertised on social media for rent as an independent residential unit. The advert is partially replicated below as follows:
- "Chalet in my garden. Would suit single person as small sitting area with kitchen. Bedroom with ensuite ... side entrance outside small area with table and chair ... suit business person ... really nicely done ... my last tenant was a student studying ... [REDACTED] ... so he put in his own WiFi as his work came from ... [REDACTED] ... Now he has gone to ... [REDACTED]. The rent is £560 per month ... one month deposit as you move in".*
- 1.6 A site visit with the Applicant and the Council's Building Control, Housing and Planning Enforcement Teams was carried out in November 2021. At the time, a Housing Act 2004 Inspection (HHSRS) was carried out and a Prohibition Order was later served making it unlawful to occupy the existing chalet outbuilding from 16 December 2021. In order for the Prohibition Order to be revoked, a Building Regularisation Application needs to be submitted to the Council's Building Control Team (BCT); however, this can only be submitted providing that retrospective planning permission is granted.
- 1.7 The Applicant was not previously forthcoming about when the outbuilding was constructed. It was understood - from reviewing the approved plans under Planning Permission references 08/58188/001 and 09/58188/003 - that the outbuilding would have been constructed in the last 4-10 years. However, the Application Form submitted to support this retrospective application confirms that the outbuilding was constructed between March 2020 and April 2021. Notwithstanding the above, the Housing Officer was of the understanding that the existing outbuildings had been in existence for about 2 years prior to November 2021. As such, the existing outbuilding is not immune from planning enforcement action.
- 1.8 There is some discrepancy / disagreement between the Council and the Applicant as to whether Condition No.9 of Planning Permission ref. 09/58188/003 applies to both Nos 7 and 7a Marshall Road, or just No.7a Marshall Road only. The Officer's Report for the previous Planning Permission noted that both plots had limited capacity for additional development. However, notwithstanding the above, the existing outbuilding and its advertised use are still in breach of planning control as:
- The outbuilding is within 2m of the boundary and is over 2.5m in height which does not accord with Schedule 2, Part 1, Class E of the GPDO.
  - The outbuilding's eaves are over 2.5 in height which does not accord with Schedule 2, Part 1, Class E of the GPDO.
  - The outbuilding includes a sleeping area, bathroom and kitchen which forms primary living accommodation, and are not "incidental" to the main dwellinghouse, which does not accord with Condition No.6 of Planning Permission ref. 08/58188/001 nor Schedule 2, Part 1, Class E of the GPDO

- 1.9 In light of the above, it was discussed with the Applicant during a follow up site visit in June 2022 that either the outbuilding would need to be demolished, or a retrospective application for Planning Permission would need to be submitted to the Council for further consideration. The latter has been selected and is the subject of this report.

## **2 Planning History**

**19588** – PERM in Sep 1968 for porch, bay windows, lean to, and double garage at 7 Marshall Road, Hayling Island.

**93/58188/CLE** – CLE in July 1993 for mixed use as a dwellinghouse together with (within the curtilage of that dwellinghouse) a free-standing caravan used as an independent unit of residential accommodation.

**08/58188/001** – PERM in August 2008 at 7 Marshall Road for demolition of existing 2-bed timber chalet; and erection of new 4-bed brick and blockwork chalet bungalow, incorporating roof space with 2no. dormer windows at front elevation and 2no. velux windows in rear elevation with solar panels between, plus new FFL to be 640mm above GL existing.

**08/58188/002** – REFUSAL in March 2009 for demolition of existing 2-bed timber chalet and construction of new 1no. 2-bed brick and blockwork chalet bungalow with altered access to Marshall Road.

**09/58188/003** – PERM in May 2009 at 7 Marshall Road for demolition of existing 1no. 2-bed timber chalet and construction of 1no. 2-bed brick and blockwork bungalow to rear with detached garage, utilising existing access to Marshall Road.

## **3 Proposal**

Retrospective application for 4no. outbuildings comprising; 1no. garden room and gym with toilet and shower; 1no. garden equipment shed; 1no. tool shed; and 1no. utility shed.

## **4 Policy Considerations**

National Planning Policy Framework  
Havant Borough Council Borough Design Guide SPD December 2011  
Havant Borough Council Parking SPD July 2016

### Havant Borough Local Plan (Core Strategy) March 2011

CS16 (High Quality Design)  
CS17 (Concentration and Distribution of Development within the Urban Areas)

### Havant Borough Local Plan (Allocations) July 2014

AL1 (Presumption in Favour of Sustainable Development)  
AL2 (Urban Area Boundaries and Undeveloped Gaps between Settlements)

### Emsworth Neighbourhood Plan Post Examination Version 2020

Not applicable.

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

## **5 Statutory and Non Statutory Consultations**

### **Councillor L Turner - Hayling East**

No comments received.

### **Councillor M Wilson - Hayling East**

No comments received.

### **Councillor R Raines - Hayling East**

No comments received

## **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: 9

Number of site notices: Not applicable.

Statutory advertisement: Not applicable.

Number of representations received: 1

| <b>Comment</b>                                                                                                                                                                                                                                                                                                                                                             | <b>Officer Comment</b>                                                                                                                                                                                                                                      |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| I would like to make an objection to the Planning Application notification I have just received for the above residential property.                                                                                                                                                                                                                                        | The use of the existing rear outbuildings as a separate unit of accommodation was reported to the Council in August 2021, and the Planning Enforcement Team has been investigating this breach of planning control.                                         |
| The householder already uses the premises as a small hotel and the parking for the guests' cars are already proving to be a problem. They are parked in the Street as there is no off-road parking and the Street is quite narrow. This parking gives me little or no space to turn into my driveway, which I think is frustrating and unfair on myself and my neighbours. | The existing outbuildings are considered acceptable for incidental use only (see Section 7 below), and, therefore, Planning Condition No.2 has been included to ensure that the outbuildings are not used to accommodate "guests" or tenants in the future. |
| The outbuildings being proposed could be used for more guest accommodation which would also increase the cars blocking the Street.                                                                                                                                                                                                                                         | As for the statement about the existing dwelling being used as a "small hotel", this has been passed onto the Planning                                                                                                                                      |

|                                                                                                             |                                             |
|-------------------------------------------------------------------------------------------------------------|---------------------------------------------|
| I am not sure that the householder has the permitted permission to run a small hotel in a residential area. | Enforcement Team for further investigation. |
| Please submit my very strong objection.                                                                     |                                             |

The planning application was consulted on between 06 and 28 July 2022. After further discussion with the Applicant, a further 3no. smaller outbuildings were included to the application, and so a re-consultation took place on the amended plans and description between 21 September and 12 October 2022. During the re-consultation, the above objection letter was received.

## **7 Planning Considerations**

7.1 The 4no. existing outbuildings are currently in breach of Planning Condition Nos 6 and 9 of Planning Permission ref. 08/58188/001 and 09/58188/003. In particular, the main outbuilding (i.e., the chalet outbuilding which is now being proposed as a garden room and gym with toilet and shower) was – according to the submitted Application Form – completed in April 2021 without the benefit of formal planning permission. This application seeks the retrospective approval of the Council for the continued siting and use of the 4no. outbuildings.

7.2 The completion of the development is not a material planning consideration. Instead, it is considered that the main issues arising from this application, whilst having due regard to the relevant policies in the development plan, are:

- (i) Principle of Development
- (ii) Impact on Character of the Area & Appropriateness of Design
- (iii) Impact on Neighbouring Properties
- (iv) Flood Issues

It is also necessary to determine the application on the basis of the proposals *as applied for*; rather than the prior uses which have been the subject of a planning enforcement investigation and in respect of which action could be resumed in the event of any ongoing breaches.

- (i) Principle of Development

7.3 The application site is located within the defined urban area as set out in Policies CS17 and AL2. As such, development is considered acceptable in principle subject to; (1) development management criteria; and (2) compliance with previous planning conditions as appropriate.

(ii) Impact on Character of the Area & Appropriateness of Design

7.4 The rear garden of No.7 Marshall Road currently includes 4no. outbuildings (see Drg No: B.P.0073 REV A – Site Plan) which, as part of this retrospective planning application, comprise the following uses:

- 1) 1no. garden room, gym, toilet, and shower;
- 2) 1no. tool shed;
- 3) 1no. utility shed; and
- 4) 1no. garden equipment shed.

7.5 Outbuilding No.1 is located in the south-east corner of the plot and is the largest of the 4no. existing outbuildings. It comprises a depth, width, and height of approximately 5.5m, 3.3m, and 2.6m respectively. The outbuilding includes white shiplap 125mm shiplap walls, on 12.5mm plywood, on polymer D.P.M, on 75mm x 50mm insulated studding, with 30mm insulated plasterboard inside. The outbuilding has 3no. rooms (see table below); the uses of these rooms have changed to support this retrospective application. Room No.3 includes a sink and fridge; however, its use as a kitchen is limited given that it does not have adequate cooking facilities (other than a microwave) nor a washing machine. Although, that said, it is acknowledged that any previous occupant may have used the existing utility shed for the latter need. The previous and proposed uses of the 3no. rooms in Outbuilding No.1 is as follows:

| Room No.       | Previous Use           | Proposed Use      |
|----------------|------------------------|-------------------|
| 1 (Rear Left)  | Sleeping accommodation | Gym               |
| 2 (Rear Right) | Shower and toilet      | Shower and toilet |
| 3 (Front)      | Kitchen                | Day room          |

Table 1: Existing and Proposed Uses for Outbuilding No.1.

7.6 Outbuilding Nos 2 to 4 have depths, widths, and heights ranging between approximately 2.3m to 2.4m, 1.75m to 1.85m, and 2m to 2.3m respectively. The utility and tool sheds are “standard garden sheds” from “Wickes”, and include rubberoid flat roofs and white UPVC soffit board cladding. The two sheds have water and electricity supplied to them from the main house. In comparison, the garden equipment shed is located on a concrete base and includes a translucent pitched roof with charcoal grey steel walls and doors.

7.7 Taken together, the design and mass of the 4no. outbuildings is considered to be acceptable in the context of the application site, and so would not be contrary to Policy CS16 in the Havant Borough Local Plan (Core Strategy) 2011. However, notwithstanding the above, it is noted that the previous case officer included Planning Condition No.9 as part of Planning Permission ref. 09/58188/003 due to the limited capacity for additional development at Nos 7 and 7a Marshall Road. The Planning Team visited the site in June 2022. Although it was considered that the existing outbuildings do not appear overbearing within or outside of the plot, it is acknowledged that further additional development may constitute overdevelopment of the plot, and so, for the avoidance of doubt, Planning Condition No.9 of Planning Permission ref. 09/58188/003 should be updated and replicated in the event that permission is granted – see Planning Condition No.3.

(iii) Impact on Neighbouring Properties

- 7.8 The 4no. outbuildings are sited adjacent, or within proximity, to the boundaries with Nos 5 and 7a Marshall Road to the north and west respectively. The rear garden is surrounded by 1.8m high boundary treatments comprising both wooden fencing and brick walls supplemented with wooden trellis. The outbuildings are 0.2m to 0.6m higher than the existing boundary treatments; however, given the limited increase in height compared to the boundary treatments – and that the existing doors and window face towards one another and/or the existing house – it is considered that the outbuildings would not significantly increase the potential for overshadowing, loss of light, overlooking and/or loss of light.
- 7.9 The outbuildings are now (together) proposed for use as a garden room, gym, toilet, shower, utility room, and tool / garden equipment storage. The majority of uses are “incidental” to the enjoyment of the main dwellinghouse. In terms of the proposed shower and toilet, case law suggests that such uses can be a common, acceptable, and supplementary addition to an incidental use. The above uses are, therefore, considered acceptable. However, in light of the recent enforcement investigation and objection letter (see Sections 1 and 6 above respectively), this history is such that – when considered in conjunction with proximity to neighbouring properties, limited parking on site, and the size of the existing outbuildings and plot - it is considered necessary and reasonable to include a planning condition to prevent the outbuildings from being used in the future for any non-incidental uses (i.e., business, commercial or industrial purposes) or as a separate unit of residential accommodation – see Planning Condition No.2.
- 7.10 Consequently, it is considered that the 4no. outbuildings would only have an acceptable impact on neighbouring properties – and, therefore, not be contrary to Policy CS16 in the Havant Borough Local Plan (Core Strategy) 2011 – if the uses remain incidental to the enjoyment of the existing dwellinghouse – i.e., No.7 Marshall Road.

(iv) Flood Issues

- 7.11 The site is not in Flood Zones 2 and/or 3; however, climate change modelling has predicted that the site will be in a future flood zone. Nevertheless, despite the above, it is considered that as the existing outbuildings will be incidental to the main dwellinghouse, the outbuildings would not put occupiers or employees of the emergency services at any additional risk in the event of a flood. As such, the proposed development is not considered to be contrary to Policy CS15 in the Havant Borough Local Plan (Core Strategy) 2011.

**8 Conclusion**

- 8.1 The design, scale, siting, and use of the existing 4no. outbuildings as applied for would have a limited and an acceptable impact on the character of the area, and neighbouring properties, provided that they are used for incidental uses only. As such, the outbuildings are only considered to be appropriate, and recommended for approval, subject to the inclusion of Planning Conditions 2 and 3 (see Section 9 below).
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## 9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT PLANNING PERMISSION IN RETROSPECT** for application APP/22/00490 subject to the following conditions:

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

Location Plan

(Received 27 June 2022)

Block Plan

(Received 27 June 2022)

Drg No: B.P.007/2 – Garden Room & Gym – Sections Through Plan

(Received 27 June 2022; Published 22 August 2022)

Drg No: B.P.007/3 REV A – Site Plan

(Received 27 June 2022; Published 22 August 2022)

Drg No: B.P.007/4 REV A – Garden Room & Gym – Finished Elevations

(Received 27 June 2022; Published 22 August 2022)

Drg No: B.P.007/4 REV B – Garden Room & Gym – Floor Plans

(Published 22 August 2022)

Drg No: B.P.007/5 – Garden Equipment Shed – Elevations & Plans

(Published 20 September 2022)

Drg No: B.P.007/6 – Utility & Tool Sheds – Elevations & Plans

(Published 20 September 2022)

**Reason:** To ensure provision of a satisfactory development.

- 2 The outbuildings hereby approved shall be used only for purposes incidental to the occupation and enjoyment of the existing dwellinghouse. They shall not be used for any business, commercial, or industrial purposes whatsoever, and they shall not be used as a unit of residential accommodation.

**Reason:** In the interests of the amenity of the area and having due regard to Policies CS16, CS19, DM10 and DM13 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 3 Notwithstanding the provisions of any Town and Country Planning General Permitted Development Order, no extension, building, or structure permitted by Part 1, Classes A, E or F of the Town and Country Planning (General Permitted Development) 1995 Order, as amended, shall be erected within the curtilage of the site without the prior written approval of the Local Planning Authority.

**Reason:** In the interests of visual amenity and having due regard to Policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework (NPPF).