

Recommendation: **GRANT PERMISSION**

13268/3 - Erection of 5 chalets (subsequently numbered 31, 32, 33, 34 & 35) Permitted 28/3/1962 Condition 1 states "The chalets shall be occupied only between the 1st March and the 31st October in any year"

13268/4 - Erection of an additional chalet at Fairlight Holiday Camp (subsequently numbered 31A) Permitted 21/3/1967 with no restriction

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. Refused 12/11/2012; **Subsequent appeal (REF - APP/X1735/A/13/2194326) was dismissed on 24/10/2013 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

APP/17/00318 - No 15 - Variation of condition 7 of Planning Permission HWU2788 to allow for permanent occupation of chalet No 15. Perm 7/7/17

APP/17/00804 - No 6 - Application for Lawful Development Certificate relating to use of dwelling for 12 months occupancy. - REFUSED 20/10/2017 - as a Breach of Condition Notice had previously been served in 2014 halting any claim for uninterrupted occupancy

APP/17/01326 - No 33 - Variation of condition 7 of Planning Permission HWU2788 to increase occupancy from 8 months to 12 months of chalet 33 Perm 26/3/18

APP/18/00378 - No 14 - Application for Lawful Development Certificate relating to use of dwelling for 12 months occupancy. - REFUSED 20/10/2017 - as a Breach of Condition Notice had previously been served in 2014 halting any claim for uninterrupted occupancy

APP/21/00696 - Variation of Condition 7 of planning permission HWU2788 and condition 1 of planning permission 13268/3 to allow for permanent occupation of chalet 5 - REFUSED 27/08/21 as too small to provide satisfactory permanent accommodation; loss of holiday accommodation; absence of Habitats mitigation

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 following submission of applications for Certificate of Lawfulness (as above) these are now 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.

Planning History - in respect of chalet 8:

92/50049/001 - Front extension to form enclosed porch 1.524 sq.m floor area., PERM,09/12/1992

3 Proposal

3.1 Variation of Condition 7 of Planning Permission HWU 2788 and Condition 1 of Planning Permission 13268/3 to allow for HMRC Registered Self Catering Holiday Let Occupation (maximum continuous stay 30 days per stay) for 12 month period for No. 8 Fairlight Chalets.

3.2 Also of note is another current planning application for the same proposal to allow holiday use for 12 months, at chalet number 34 - see APP/21/00921

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)
CS5 (Tourism)
CS9 (Housing)
DM13 (Car and Cycle Parking on Residential Development)
DM3 (Protection of Existing Employment and Tourism Sites)

Havant Borough Local Plan (Allocations) July 2014

AL1 (Presumption in Favour of Sustainable Development)
DM24 (Recreational Disturbance to Special Protected Areas (SPAs) from Residential Development)

Submission Version Havant Local Plan

E22 (Amenity and pollution)
DR1 (Delivery of Sustainable Development)
E1* (High quality design)
H1* (High quality new homes)
E16 (Solent Special Protection Areas)
C2* (Employment)
EX1 (EX1 | Water Quality impact on the Solent European Sites)

Emsworth Neighbourhood Plan Post Examination Version 2020

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

East Hants District Council

No comment to make

Hampshire Highways

None received

But comments on identical APP/21/00921 noted as follows:

The Highway Authority have no concerns that permanent occupation of the above premises will have a detrimental impact on the wider highway network.

Due to the scale of the proposal and that there is no change to the vehicular access, HCC's standing advice should be referred to in the first instance. As a result, the Highway Authority will not provide detailed comments on this planning application

Natural England

DESIGNATED HABITATS SITES – NO OBJECTION SUBJECT TO SECURING APPROPRIATE MITIGATION

This advice should be taken as Natural England's formal **representation on**

appropriate assessment given under regulation 63(3) of the Conservation of Habitats and Species Regulations 2017 (as amended). You are entitled to have regard to this representation.

With regard to European Sites, Natural England does not object to the granting of this permission subject to the advice given below

Natural England concur with the conclusions of the appropriate assessment.

This advice is provided on the basis that all mitigation measures will be secured as planning conditions or obligations by your authority to ensure their strict and timely implementation for the full duration of the development. Your authority should be assured that proposed financial contribution rates are proportionate to the identified effects of the proposed development, suitably precautionary, and in line with the Retail Price Index, where relevant. Provided that your authority is assured and satisfied that the budget calculations are suitably precautionary and accurately reflect the proposal, then Natural England raise no concerns with regard to the nutrient budget. We recommend a condition that secures the water use of 110 litres per person per day.

Nutrient Team, Planning Policy

I can confirm there is sufficient capacity within the Council's mitigation scheme for planning application APP/21/00920.

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: 37

Number of site notices: 1

Statutory advertisement: Not applicable.

Number of representations received: 3

Comment	Officer Comment
<u>Object:</u> 1. Being purchased with 8 month licence then being resold with 12 month licence for profit 2. purchased my property with 12 month licence for more money and was told no more 12 month licences would be given; otherwise would have bought one with 8 month licence cheaper and applied for 12 months 3. many properties no let out for profit to holiday makers but properties not fit for purpose having little concern for safety/fire regs etc 4. sign at entrance says 'private', but how can it be if rented out to all and	 see section 7 - site originally intended for holiday use private means privately maintained, rather than adopted and maintained by

sundry? 5. would only rescind my objection if planning stated to be kept for current owner and not let out 6. not enough parking for cars turning up at all hours (except those who gave up their gardens to achieve parking) 7. suggest you check how many properties pay 8 month licence but live here all year 8. all through Covid have had properties rented out to different people from all over country - do not want any more short term lets affecting our safety and privacy	Council see section 7 noted - for Enforcement Team to monitor if provided with evidence/complaint
'FairLight Chalets were purpose built Holiday Accommodation in 1954'... True, BUT they were regarded as not suitable standard for letting by an agent some years ago (possibly not meeting EU standards at the time?). So some of them became permanent homes, and acquired 12 months residency. Then along came Airbnb. So holiday letting became viable again. BUT no-one checks their standard. HBC has no checks in place that residency/occupancy rules are being adhered to. So there is now a mix of occupancy on Fairlight. Some are 12 month occupancy and validly lived in. Some are only 8 month occupancy and invalidly lived in all-year-round. Some 8 months and used correctly by owners for their own holidays. Some 8 months and used validly for business letting. Some 8 months and rented out long-term all-year-round. Whatever the decision regarding this property, HBC should check that these properties are being used correctly, according to their designated lawful use. Each time an owner submits a similar application to this, invariably it is rejected with the reason of not wanting to lose holiday accommodation. Yet no-one actually checks whether the '8 months' are being used for that. My problem with this application, is that the property	Noted - site is now mixed use - see section 7 Enforcement Team would need to monitor if provided with evidence/complaint Condition specifying short term holiday

could get sold on, at any time, to persons intending to reside full time, yet this intent would normally be rejected; so if approved, this contradicts the usual decisions. I am neutral regarding this particular application. My main concern is the MISUSE of some of the other properties on Fairlight, and if HBC cares so much about holiday accommodation, why not check that occupancy is not being misused? Maybe give amnesty to existing 'unlawful' occupants, and go forward with consistent decisions and actions.	use would prevent permanent residency Noted for Enforcement Team to monitor but they must be contacted with evidence of breach
As an owner of one of these properties, I <u>support</u> this application for the following reasons: To my knowledge the properties were originally built as holiday accommodation which is why they all had a restricted access licence. They were never intended to be permanently inhabited - they are just too small. However, due to the lack of regular inspections, people started to use them as permanent dwellings and did so for so long without checks that they had to be granted residential status. Therefore, this is the only reason that some properties are officially allowed to be permanently occupied. One of the reasons for refusal of previous applications to become a permanent resident is that Havant Borough Council have cited the need to retain holiday accommodation which brings much needed income to the area. Allowing year round holiday rentals would only increase that income. People on holiday spend quite a lot of money on the island. There is increased need for holiday accommodation, further fuelled by the pandemic. I can only see this trend increasing. It is often difficult to book accommodation at any time of the year on the island due to its popularity	Noted as correct Noted as correct Noted

which seems to highlight the need for more.	
This particular property has been refurbished to a high standard and is compliant with regulations. It is booked extensively and receives excellent reviews. When properties such as this are available, people will return to it regardless of the time of year.	Noted

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) Neighbouring amenity considerations
- (v) Highway safety
- (vi) Compliance with Habitats Regulations

(i) Principle of development

7.2 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, between 1st March and 31st October only. Consequently some chalets are occupied by the same person/family for the whole 8 months (which is permitted with the wording of the condition) and some are used as short stay holiday chalets. Some of the chalets also benefit from permanent occupancy, those being 31, 31a, 27 and 15 and Nos 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 was dismissed on 24/10/2013 and focused 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.

7.3 Since this appeal in 2013 the LPA has only actively permitted 2 chalets to have permanent occupancy - numbers 15 and 33, because these 2 chalets are both larger than others and on corner sites with larger plots with increased available amenity space making them able to support permanent residency. All other chalets remain in restricted occupancy and if any are being occupied in breach of the condition then this is a matter for the Enforcement Team to follow up.

7.4 The current proposal relates to number 8 which is currently used for genuine holiday purposes i.e. it is on Air BnB and rented out for short stay holiday use. Currently the original conditions still apply limiting that holiday use to between March and October only. This application seeks an extension of the holiday use for 12 months of the year

ie enabling it to be let out all year around. How this impacts the key issues identified previously at appeal, together with other material considerations, will be discussed below:

(ii) Retention of holiday accommodation

- 7.5 It is clear that the original permission for 30 chalets in 1954 and the extra 6 chalets permitted in 1962 and 1967 were to provide holiday accommodation on a seasonal basis. Subsequent appeals have protected that stance and policies CS5 and DM3 of the Local Plan seek to safeguard tourist facilities unless it can be demonstrated that they are not fit for purpose or financially unviable. In the past appeal case, neither of these tests had been satisfied and the Inspector 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.
- 7.6 Since the 1950's and 60's holidays out of season have increased. The chalets have been upgraded since then, and lifestyles have changed, such that the demand for holiday accommodation now continues all year round. Therefore the use of the chalet for holiday accommodation all year, through the winter months, would continue to adhere to the original aims of the site and also policy CS5 in that the availability of tourist accommodation in the Borough would be enhanced.
- 7.7 Therefore, provided the definition of "holiday use" is carefully conditioned to ensure it remains in short term holiday use and not abused by permanent occupiers, then the principle of the chalet being available for holiday use 12 months of the year is considered acceptable. It is considered the use should be both limited to a maximum continuous stay of 30 days per stay, and that the chalet does not become anyone's primary residence.

(iii) Suitability for holiday occupation

- 7.8 The PI noted that the chalets that had not been extended had limited internal space and facilities and whilst acceptable for holiday purposes, would be unduly constrained as permanent residences. It was further noted that where chalets had been extended to improve internal standard of accommodation, this reduced the amount of amenity space and resulted in an unduly cramped arrangement. Generally it was noted that chalets cannot not provide adequate levels of both internal space and external amenity space.
- 7.9 However this proposal is not seeking the creation of a permanent dwelling; it is seeking an additional 4 months of holiday use in the winter months. The size of the chalet and the facilities it provides would therefore remain suitable for continued holiday use.

(iv) Neighbouring amenity considerations

- 7.10 Originally, in the 1950's and 60's, the site was intended for, and entirely occupied for holiday purposes. However over time, some of the chalets have become lawfully occupied as permanent dwellings, creating a potential conflict between permanent residents who want to enjoy peace and quiet, and short stay holiday makers. The noise and activity, comings and goings etc, associated with holiday use could be more intense than for permanent dwellings. However regard must be had to the fact that this site was always intended for holiday use.

- 7.11 The chalet the subject of this application is currently used for holiday lets 8 months of the year and the application seeks additional holiday use for the remaining 4 winter months. It is considered the potential additional conflict with existing permanent residents would be minimal as a result of this application. Being winter the use of outdoor spaces with noisy BBQ's etc would be less frequent and many of the chalets are empty during the winter, so the overall site would be quieter. Overall the additional harm to neighbouring amenity on a site always intended for holiday use, is considered minimal and insufficient to warrant a refusal of permission.

(iv) Highway safety

- 7.12 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 2013 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 earlier appeal decisions. However this proposal is for the additional use of one chalet for 4 months, when many of the other chalets are unoccupied. Overall the associated additional traffic movements from short term holiday use for 4 additional months would not place a significant increase in movements along the access road and junction. It is also noteworthy that since the appeal decision the NPPF has introduced a change in the policy position with para 111 of the updated NPPF stating that "*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*"

- 7.13 In terms of on site parking provision the site has dedicated frontage parking for 2 vehicles which is compliant with the Parking SPD and policy DM13.

(v) Compliance with Habitats Regulations

- 7.14 The proposed development is within 5.6km of Chichester & Langstone Harbours SPA/Ramsar. In accordance with advice from Natural England and as detailed in Policy DM24 of the adopted Havant Borough Local Plan (Allocations), Policy E16 of the Submission Havant Borough Local Plan and the Solent Recreation Mitigation Strategy (SRMS), a net increase in housing development within 5.6km of the Solent SPAs is likely to result in impacts to the integrity of those sites through a consequent increase in recreational disturbance.
- 7.15 In addition the proposed development is within the catchment of a wastewater treatment works that would drain into the Chichester and Langstone Harbours SPA. Natural England advises that there is a likely significant effect on the Solent European Sites due to the increase in wastewater from the new housing as a result of the Havant Borough Local Plan. Natural England also advises that any development proposed through any planning application providing increased overnight accommodation which would discharge into the Solent would be likely to cause a significant effect as there is uncertainty as to whether the increase in waste water from new housing in the Solent catchment will have an adverse effect on the Solent's European Sites.
- 7.16 The proposed development would increase the occupancy of the chalet from 8 to 12 months when previously there was no occupancy between November and February. This increase in occupancy and overnight accommodation is considered to be tantamount to a proportionate increase in both recreational disturbance and increased waste water.

- 7.17 The Council has conducted a Habitats Regulations Assessment (HRA), including Appropriate Assessment (AA), of the proposed development under Regulation 63 of The Conservation of Habitats and Species Regulations 2017 (as amended). The Council's assessment as competent Authority under those regulations is included in the case file. The screening under Regulation 63(1)(a) found that there was likely to be a significant additional effect on several Solent European Sites (as defined in the applications HRA) due to both the proportionate increase in recreation and the decrease in water quality that would be a result of the proposed additional 4 months use.
- 7.18 The planning application was then subject to Appropriate Assessment under Regulation 63. This included two packages of avoidance and mitigation packages. The first is a package of measures based on the suggested scale of mitigation in the Solent Recreation Mitigation Strategy. The second is a package of measures based on the Position Statement on Nutrient Neutral Development.
- 7.19 With respect to the Solent Recreation Mitigation Strategy the applicant has entered into a Unilateral Undertaken and paid the appropriate sum of £148.09 to address the potential additional recreational harm from the additional 4 months use. Therefore it is considered that this recreational element of the impacts of development have been adequately mitigated against. With respect to the water quality issue and the Council's updated Position Statement, August 2020, the applicant has been able to also enter into the mitigation scheme at Budds Farm to offset the additional nitrogen from the development. A Unilateral Undertaking has been received, together with the appropriate contribution of £358.07 as proportionate nutrient mitigation.
- 7.20 The Appropriate Assessment concluded that this is sufficient to remove the significant effect on the SPAs which would otherwise have been likely to occur. The HRA was subject to consultation with Natural England as the appropriate nature conservation body under Regulation 63(3) who have confirmed that they agree with the findings of the assessment and raise no further objection, but recommend that a condition secures the water use of 110l/p/p/d.
- 7.21 As an existing fitted out small chalet, with only a shower and no bath or dishwasher, a water calculator has also been submitted demonstrating that the water consumption in the chalet is only 98.05 l/p/p/d which is within the target of 110 l/p/p/d. It is necessary to condition that all measures to achieve this water efficiency are maintained in perpetuity.

8 Conclusion

- 8.1 It is recognised that a succession of previous applications and appeals have concluded that individually or in combination, the holiday accommodation at Fairlight Chalets site was not suitable for permanent residential accommodation for a variety of reasons. However this application is not seeking permanent occupation for a single household but is seeking to retain it in short term holiday use, for an additional 4 months of the year between 1st November and end of February each year. This would continue to conform to the original ideology of the site as a holiday site providing holiday accommodation and is supported in principle. In the absence of any other identified harm, provided adequate conditions are imposed ensuring short term holiday use only, then the proposal is therefore recommended for permission.
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9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/21/00920

(A) 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:

1:1250 Site Location Plan

Nitrogen Budget Calculator dated 1st November 2021

Water Efficiency Calculator and Supporting Information on Council's website dated 8 November 2021

Reason: - To ensure provision of a satisfactory development.

- 3 The chalet shall be occupied for short-term holiday accommodation only, with maximum continuous stay of 30 days and no return within 14 days. The property shall not be used for an individual's sole or primary residence. The owner/operator of the chalet shall maintain an up-to-date register of the names of all occupiers of the site, and of their main home address, and shall make this information available at all reasonable times to the Local Planning Authority.

Reason - To ensure the continued holiday use of the chalet to protect the tourist accommodation in the Borough, having regard to policies CS5 and DM3 of the Havant Borough Local Plan (Core Strategy) and the National Planning Policy Framework.

- 4 At all times following occupation of the development hereby approved, all measures necessary to meet the approved water efficiency calculation shall be maintained so as to ensure that no more than 110 litres per person per day shall be consumed in the development in perpetuity.

Reason: There is existing evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some European designated nature conservation sites in the Solent catchment. The PUSH Integrated Water Management Strategy has identified that there is uncertainty as to whether new housing development can be accommodated without having a detrimental impact on the designated sites within the Solent. Further detail regarding this can be found in the appropriate assessment that was carried out regarding this planning application. To ensure that the proposal may proceed as sustainable development, there is a duty upon the local planning authority to ensure that sufficient mitigation is provided against any impacts which might arise upon the designated sites. In coming to this decision, the Council have had regard to Regulation 63 of the Conservation of

Habitats and Species Regulations 2017, Policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011, and Policy E14, EX1 and E12 of the Pre-Submission Havant Borough Local Plan.