
Site Address:	5 Fairlight Chalets, Salterns Lane, Hayling Island, PO11 9LQ		
Proposal:	Variation of Condition 7 of planning permission HWU2788 and Condition 1 of planning permission 13268/3 to allow for permanent occupation of chalet no. 5.		
Application No:	APP/21/00696	Expiry Date:	30/08/2021
Applicant:	Mrs J Neal	Case Officer:	Tina Pickup
Agent:			
Ward:	Hayling East		

Recommendation: **REFUSE PERMISSION**

1 Site Description

- 1.1 The site is a development of 36 chalets off a private drive off Salterns Lane. It is abutted on all sides by residential development. The chalets are arranged in blocks of 2 or 3 and are of brick construction with tiled pitched roofs. The original layout was 1 or 2 bedrooms with sitting room, kitchen and wc. A number of them have been extended to the rear. Each chalet has a small private area to the rear, although where extensions have taken place this is reduced to a very insignificant area. The chalets are maintained to different standards.
- 1.2 Originally the frontage area was all laid to grass with a central drive. Over time this area has changed and been enclosed by the owners to relate to their individual chalet. Some have laid it out formally for parking; some are more amenity area than for parking use and there are others that have made little change and it is still a grass area. In terms of use it is evident that some are used as intended with a mixture of areas chained off, bikes and boats padlocked up and curtains drawn so it can be concluded they are visited for holiday purposes. Others are actively occupied with cars parked outside. The central access does not have a turning head. The site entrance area in front of 31 and 31a has visitor parking. The access drive only has a width for one car and visibility at the access is very limited as a result of an oak tree on each side. There is no footway on Salterns Lane.
- 1.3 Several of the chalets now have permanent occupancy and therefore the development is now a mixed use of both holiday and full time occupancy chalets - see section 7 for more details.
- 1.4 The chalet the subject of this application, No. 5, is an end of terrace chalet located approximately mid way on the western side. It is constructed of white painted brick with tile roof and has white double glazed windows and doors. Its frontage is divided by a low picket fence and gate, with the eastern half left as grass and used for the parking of up to 2 cars, and the western strip closest to the building paved for sitting out. The rear amenity space, which has a maximum depth of about 6m, is hard surfaced with a mix of slabs and gravel and there is a shed sited in the southern corner. Internally the entrance door leads straight into a small living room, with a single sized bedroom and small kitchen directly off to the right, with folding sliding style doors. To the left a door leads to a larger bathroom that also functions as an area for coats etc. This room is a flat roofed extension that projects into the rear garden area.

2 **Planning History - in respect to occupation of chalets:**

HWU 2788 - Erection of 30 chalets. Permit 8/2/54 subject to condition 7 which states 'these chalets shall only be occupied between the period of 1st March and 31st October of each year. PERM 8/2/1954

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

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.

3 Proposal

Variation of Condition 7 of planning permission HWU2788 and Condition 1 of planning permission 13268/3 to allow for permanent occupation of chalet no. 5.

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*	()
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

Environmental Health Manager

None received

Hampshire Highways

As the development is for 5 or less dwellings and onwards there is no required change to the highway, HCC's standing advice should be referred to in the first instance. The Highway Authority will therefore not provide detailed comments on the proposed development

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: 36

Number of site notices: 1

Statutory advertisement: Not applicable.

Number of representations received: 2 letters have been received, one in support, and one objection

Comment	Officer Comment
<u>Support comment:</u> 5 Fairlight Chalets is, as are all the chalets on the Fairlight sight, a freehold and well constructed building quite suited for 12 month occupation. It has off road parking for 2 vehicles if required and enough room for outside living, especially as the rear of the plot was extended some years ago along with several adjoining properties. A very comfortable home in extremely pleasant surroundings. Havant Council often state that Fairlight Chalets are part of their holiday home provision which is long out of date. Very few are now let out as holiday homes, the rest being second homes used only by their owners , families and friends. About half of the sight already have 12 month occupancy. I can see no reason for No 5 not being granted 12 month occupancy to bring it into line with these other chalets. An added advantage would be to the local shops and services, especially at the Christmas period when they need all the help the Council can provide.	See section 7 below for standard of accommodation Noted - see section 7 below Noted
<u>Objection comment:</u> The previous owner of my chalet was refused permission for permanent occupation for various reasons including the fact that it was too small and that holiday accommodation would be lost. There's been no magic extension to the curtilage so unless Havant changes its stance on whether these chalets are big enough for permanent dwelling (which opens the floodgates for everyone to apply. I doubt it will make any difference in any case as people are occupying the chalets all year round.	Noted - see section 7 below

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) 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. Some of the chalets however 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 for the use of only No. 5 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, together with other material considerations, specifically the Council's current position as regards its housing supply.

(ii) Loss of holiday accommodation

- 7.5 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. Policies CS5 and DM3 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 Policies CS5 and DM3 of the Local Plan.
- 7.6 This application proposes that only the use of No. 5 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 Policies CS5 or DM3 above have been satisfied and the loss of the holiday accommodation, even if just one chalet, would still be contrary to Policies CS5 and DM3. Emerging policy C2 continues to protect existing tourist accommodation and similarly notes that the loss of tourist facilities would need to be demonstrated through a realistic marketing exercise for 6 months to show that the premises are no longer viable for their intended use. No such marketing evidence has been submitted.

(iii) Suitability for permanent occupation

- 7.7 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.
- 7.8 Since this appeal case the Government has introduced its Technical Housing Standards - Nationally Described Space Standards, 2015, and emerging policy H1 seeks to ensure all residential development meets these standards to achieve an appropriate standard of accommodation. This sets out that a 1 bedroomed property should have an internal area of at least 37 sqm if designed for 1 person with a shower room, and 50 sqm if designed for 2.
- 7.9 The internal space of No. 5 is small and cramped, with concertina style sliding doors to save space. No formal plans of the chalet have been submitted, but it is estimated that the internal space is about 28 sqm, well below the Nationally Described minimum for a permanent dwelling. It is considered that the internal space is unduly restricted and not suitable for permanent occupation. Conversely it does benefit from a reasonable garden space, still below the recommended 10m depth for new dwellings set out in the Borough Design Guide SPD, but commensurate with the size of the chalet. But as noted by the PI, should the chalet be extended then the outside amenity would be reduced and impacted. It would not be possible to improve the internal space whilst retaining sufficient amenity space.

- 7.10 It is considered that the small size of No. 5 could not provide adequate amounts of both internal living space and external amenity space to support permanent residency. The small internal size falls below the Nationally Described standards and would not comprise a high quality home providing a good standard of living or amenity for future occupiers. The proposal is therefore considered contrary to Policy CS16 and emerging policy H1, and the NPPF.

(iv) Highway safety

- 7.11 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. It is acknowledged that by virtue of the 2 parking spaces No 5 can provide adequate on site parking and could turn, enabling vehicles to leave the site in a forward gear.
- 7.12 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 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. 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 It is considered that the increased use of the access by the occupiers and visitors to 1 chalet for 4 months of the year would not cause residual cumulative impacts that are severe. Therefore a refusal of the application on highway grounds is not justified and the proposal is considered to be compliant with Policies CS20 and DM13; emerging policy IN3 and the NPPF.

(v) Housing demand

- 7.14 It is noted that the Council's current Five Year Housing Land Supply Update (July 2021) shows that the Borough has 4.4 years housing land supply with a 20% buffer applied. This is below the five year supply threshold, and as such there is a presumption in favour of sustainable development (para 11d of the NPPF) and a tilted balance in favour of permission being granted – such that permission should only be refused where the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 7.15 The proposal would result in the provision of a single dwelling which is recognised as making a very small contribution to the Council's housing need and should be afforded weight in the overall planning balance accordingly. However it is considered that the substandard size of the proposed dwelling would not make an appropriate or suitable contribution and for the reasons set out at (iii) above the adverse impacts of the proposed development are considered to significantly and demonstrably outweigh the benefits of provision such that the planning balance is not tilted in favour of the proposal.

(vi) Compliance with Habitats Regulations

- 7.16 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.
- 7.17 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.
- 7.18 The proposed development would increase the occupancy of the chalet from 8 to 12 months resulting in a proportionate increase in both recreational disturbance and increased waste water. Accordingly, if permission had been recommended then it would have been necessary to seek the appropriate mitigation for this proportionate increased significant effect on the Chichester and Langstone Harbours SPA. A Habitats Regulations Assessment (HRA), including Appropriate Assessment (AA), of the proposed development under Regulation 63 of The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 would have been required.
- 7.19 Since the proposal is being recommended for refusal for other reasons, this matter has not been pursued. Nevertheless the non-provision of the avoidance and mitigation package for recreational disturbance and impact on water quality is a reason for refusal.

8 Conclusion

- 8.1 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. There are now a total of 13 chalets at the site that are occupied on a permanent basis, many of which are by virtue of Certificate of Lawfulness following evidence of 4 years continuous breach of the occupancy condition. The only 2 chalets that have been granted planning permission for permanent occupancy are numbers 15 and 33 which both benefit from being larger units sited on larger corner plots and therefore able to provide a standard of both internal and external accommodation appropriate for permanent occupation.

- 8.2 The application chalet, number 5, is currently very small and the internal accommodation it offers very cramped and limited and below the Nationally Described standards. It is not considered suitable for permanent all year round occupation which would be contrary to policy CS16 and emerging policy H1. Furthermore it would 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, contrary to policies CS5 and DM13. Since the contribution to the housing stock that this one substandard unit would make does not outweigh these adverse impacts, then the proposal is recommended for refusal.
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9 RECOMMENDATION:

That the Head of Planning be authorised to **REFUSE PERMISSION** for application APP/21/00696 for the following reasons:

- 1 The chalet is considered too small to adequately provide a satisfactory standard of accommodation for permanent residency. The internal size falls below the Nationally Described Standards and fails to provide a good standard of living or amenity for future occupiers. The proposal is therefore considered contrary to Policy CS16 of the Havant Borough Core Strategy, 2011; and emerging policy H1 of the Submission Havant Borough Local Plan, and the National Planning Policy Framework.
- 2 The removal of these conditions would result in the loss of holiday accommodation units which would be detrimental to the tourist offer available in the borough for which no justification has been offered. The proposal is therefore contrary to policies CS5 and DM3 of the Havant Borough Core Strategy, 2011; emerging policy C2 of the Submission Havant Borough Local Plan and the National Planning Policy Framework.
- 3 In the absence of a suitable agreement to secure appropriate proportionate mitigation measures, the development would be likely to result in increased recreational pressures and impact on the water environment from increased occupancy, and as such it is contrary to Policy DM24 of the Havant Borough Local Plan (Allocations Plan) 2014, policies CS11 and CS21 of the Havant Borough Local Plan (Core Strategy) 2011, emerging Policy E16 and EX1 of the Submission Havant Borough Local Plan, The Conservation of Habitats and Species Regulations 2017 (as amended) and the National Planning Policy Framework.