
Site Address:	62 Eastoke Avenue, Hayling Island, PO11 9QP		
Proposal:	Change of use of land to allow all year round occupancy of caravan on site. (Revised application).		
Application No:	APP/14/00529	Expiry Date:	04/08/2014
Applicant:	Mr H Curtis	Team:	Team 1
Agent:		Case Officer:	Heather Lealan
Ward:	Hayling East		

Recommendation: **REFUSE PERMISSION**

1 Site Description

- 1.1 The application site is located on the south east section of Hayling Island in an area designated as flood zone 3. Development in the surrounding area comprises residential development to the immediate north and west the site and temporary holiday accommodation to the south and further to the east.
- 1.2 The site consists of a single large caravan 4m in width and 11 metres in length. A detached garage was constructed without planning permission to the rear of the site over four years ago and it is believed that this structure may be lawful, although this has not been formally established. The site is fully laid to hard standing and has gates and railings to the front northern boundary.

2 Planning History

- 2.1 APP/13/01198 - Change of use of land to allow all year round occupancy of caravan on site - Refused 23rd January 2014 for 4 reasons: 1. flood zone 3; 2. standard of accommodation not suitable for permanent unit; 3. loss of holiday unit; 4. impact on SPA/Ramsar & SSSI.
- 2.2 Prior to this recent application, there is no clear direct planning history in relation to the use of No.62 for the siting of a caravan. There is a planning permission in 1956 for the siting of a lavatory block on the site and a permission in 1967 for the siting of three caravans on the adjacent site No.60. However the redline for this permission is no longer on planning record.
- 2.3 There is however a caravan licence for the site, No.215 dated 27 June 2006, (which originally dates back to the 1960's, exact year is unclear from the copy), which issues a license for 3 Caravans to be sited at No.62 Eastoke Avenue. The license is subject to 18 conditions. Condition No.5 requires that, "No caravan shall be used on the site for human habitation except between 1st March and 31st October in any year." ie 8 month occupancy.

3 Proposal

- 3.1 Change of use of land to allow all year round occupancy of caravan on site. This current application only differs from the recent previous refusal (APP/13/01198) in that a little more flood risk information has been provided; otherwise it is the same, they are still seeking a full 12 month occupancy.

- 3.2 Although the lawful use has not been clearly established through planning permission, the caravan licence for the site establishes a use of the land for 3 caravans for a period of 8 months a year, March to October. The current occupier of the site purchased the caravan in June 2009 and has stated that he has used the caravan since that date as his permanent residence. However, such a use is not lawful until it has been permanently maintained, without break, for a period of 10 years. Planning case law has found that caravans are not buildings and so they are subject to the 10 year rule not the 4 year rule which is applied when buildings are converted to dwellings.
- 3.3 Although it is recognised that the caravan has a degree of permanency due to it being chained down and connected to mains services; it is not considered that there have been any works which would have changed the caravan's nature to that of a building. Such works would have to have been substantial. These conclusions are supported by the following case law;
Wyre Forest DC v SoS
Derbyshire Dales v SoS
Barvis and Elitstone v SoS

4 Policy Considerations

National Policies

NPPF

Core Strategies 2011 forming part of the HBLDF

CS1	(Health and Wellbeing)
CS14	(Efficient Use of Resources)
CS15	(Flood and Coastal Erosion)
CS16	(High Quality Design)
CS20	(Transport and Access Strategy)
CS21	(Developer Requirements)
CS5	(Tourism)
CS9	(Housing)
DM13	(Car and Cycle Parking on Residential Development)
DM13	(Car and Cycle Parking on Residential Development)
DM3	(Protection of Existing Employment and Tourism Sites)
DM4	(Static Holiday Caravan Development)

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

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Environment Agency-

We **OBJECT** to this application because the proposed development falls into a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. We recommend that the application should be refused planning permission on this basis.

Reasons:

Within Table 2: *Flood Risk Vulnerability Classification* (Planning Practice Guidance, Paragraph: 066 Reference ID: 7-066-20140306) it classifies development types according to their vulnerability to flood risk and gives guidance on which developments are appropriate in each Flood Zone. In this case the application site lies within tidal Flood Zone 3, defined by the Planning Practice Guidance as having a high probability of flooding.

The development type in the proposed application is classified as highly vulnerable in accordance with Table 2. Tables 1 and 3 of the Planning Practice Guidance make clear that this type of development is not compatible with this Flood Zone and should not therefore be permitted.

Overcoming our Objection

The National Planning Policy Framework (NPPF) clearly defines permanently occupied caravans, mobile and park homes as highly vulnerable development. This type of development is not appropriate for this area given its Flood Zone classification (tidal Flood Zone 3 - high probability).

The Environment Agency will resist any move to permanent occupancy of a caravan or mobile home at this site. The structures' instability places their occupants at special risk, they are likely to be occupied during periods when flood risk may be higher, and permanent occupancy can lead to a progression to permanent housing. However, an extension of the occupancy period, providing it is less than 12 months and therefore classified as more vulnerable as opposed to highly vulnerable, might be possible subject to the Local Planning Authority's (LPA) interpretation of the risk outlined below.

The current 1 in 200 year tide level (Flood Zone 3 extent) is given as 3.4m AOD and this rises to 4.5m AOD by the year 2115, when the impacts of climate change and sea level rise are considered. Environment Agency data indicates that ground levels at the site are between 2.4 and 2.8m AOD.

Coastal defences are likely to defend the site against the current 1 in 200 year tide level (3.4mAOD), but future flooding of the site will become increasingly likely as sea levels are predicted to rise with climate change.

Advice to the Local Planning Authority / Applicant

We have previously advised the applicant with respect to the suitability of a shorter extension, such as a 48 week occupancy, which would classify the development as 'more vulnerable'. This would (in accordance with the NPPF) not change the vulnerability classification from the existing site, although it may increase the risks on site due to the units being occupied for longer periods of time. This will need to be considered by the LPA when making any decision.

Whilst the Flood Risk Assessment (FRA) provided is inadequate, when reviewed in conjunction with Environment Agency data, it is possible to determine the risk to the proposed development.

Information provided by the applicant suggests that finished floor levels on the site range between 2.9 and 3.3mAOD. The current 1 in 200 year tide level (Flood Zone 3 extent) is given as 3.4mAOD and this rises to 4.5mAOD by the year 2115, when the impacts of climate change and sea level rise are considered, demonstrating that the property is at risk of internal flooding in its lifetime. However, the site is located in an

area benefiting from defences. These defences were designed to a 1 in 200 standard of protection in 2004 and so should protect the property from flooding. There is a residual risk of flooding should the defences breach or wave overtopping occur. The LPA will need to consider if this risk is acceptable.

We note that a personal flood plan has been submitted and that the applicant has signed up to the Environment Agency's flood warning service. The LPA will need to consider if this information and the mitigation measures it demonstrates are appropriate given the residual flood risk to the site. Please be aware that the Environment Agency does not normally comment on or approve the adequacy of flood emergency response and evacuation procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users. Within Paragraph 057 of the Planning Practice Guidance ('Making development safe from flood risk'), it places responsibilities on LPAs to consult their emergency planning staff with regard to specific emergency planning issues relating to new development. In all circumstances where warning and evacuation are significant measures in contributing to managing flood risk, we will expect LPAs to formally consider the emergency planning and rescue implications of new development in making their decisions.

Environmental Health Manager -

I would like to object to this application due to the requirements that would fall on the site in relation to Housing Health and Safety Rating System.

In short, currently they are exempt from those regulations to some extent since they are only opened part of the year and therefore does not constitute a dwelling, however if they were opened 12 months a year, they would then be included as a dwelling.

This would mean that all the current standards would need to apply prior to the change. Some of the deficiencies would rest with thermal insulation where all caravan/mobile home etc.. would fail this hazard and be Cat I, which would need to be addressed. One of the possible actions from HBC would be to, in effect, not allow occupation until such time as the dwelling has sufficient and adequate thermal insulation. This is one example however, they would fall short on other hazard categories.

Development Engineer-

No highway objection

Coastal Engineering-

Further to your recent email, the Coastal Partnership has no objection to this application for change of use and extension of use for year round occupancy for the existing caravan. Although not identified on the application form, the site is within Flood Zone 3 of the Environment Agency's Flood Maps.

We would recommend that the applicant ensure residual flood risk is managed on this site by compiling an appropriate flood warning and evacuation plan for the property.

Chichester Harbour Conservancy-

No comments

Natural England -

The Conservation of Habitats and Species Regulations 2010 (as amended)

The application site is adjacent to habitats which form part of the Chichester Harbour Site of Special Scientific Interest (SSSI). This SSSI is part of the Chichester and Langstone Harbours Special Protection Area (SPA) and is a Wetland of International Importance under the Ramsar Convention (Ramsar Site). This letter comprises our statutory consultation response under provisions of Article 10 of the Town and Country Planning (General Development Procedure) Order 1995 and Section 28 of the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010 (as amended).

Recreational Disturbance

Following the South East Plan allocation of around 82,000 houses between 2006 and 2026, across the Solent, with many large allocations having been carried forward into adopted Local Authority LDFs, concerns were raised about the potential impact of recreational disturbance on bird populations in the three SPAs that cover the majority of the Solent coast. In response to this, the Solent Forum commissioned Footprint Ecology to undertake the Solent Mitigation and Disturbance Project (SDMP), to assess the current and future levels of recreational activity in the Solent and to model the predicted impacts on bird populations. Natural England is on the project Steering Group for this project and also has a statutory role in advising on the potential effects of development on the conservation of SPAs. In February 2012, Phase 2 of the SDMP, which specifically assessed and modelled bird disturbance and visitor data, was concluded and presented to the Solent Forum and Natural England. In summary, this work concluded the following: There is a high number of current recreational visits to the three SPAs and modelled future increase in visits is also high.

Lower bird densities were observed at sites that have greater recreational disturbance events. The model estimated a high percentage area of intertidal subject to recreational disturbance. There was a significant correlation between visitor numbers and housing numbers near the coast.

In Southampton Water, the model suggested that current levels of disturbance had a depressing effect on the populations of four SPA species and that future housing scenarios would exacerbate this effect for two of these species.

an increase in the number of dwellings (within the 5.6km zone as defined by the SDMP) would be likely to have a significant effect.

Natura 2000 site Likely Significant Effect

It appears that this development would increase the number of dwellings within the 5.6km zone. Only limited information appears to have been put forward by the applicant to assess or guard against there being a significant effect on the SPA(s). Thus our advice at this stage is that it is likely to have a significant effect on the SPA(s).

If your authority accepts this advice, then other than in the exceptional circumstances prescribed by the Habitats Regulations, it is obliged before granting permission to either: undertake an Appropriate Assessment and ascertain that there will not be an Adverse Effect on the Integrity of the aforementioned designated site(s); put in place measures which remove the likelihood of significant effect.

A strategic impact avoidance scheme

Natural England has advised the planning authorities around the Solent that it would

be possible to establish a scheme of access management measures that would prevent an increase in the population close to the SPA from having any significant effect on the SPA. It should be possible to introduce such a scheme in a phased way such that an interim suite of measures could be made certain within a small number of months. We are hopeful that this will provide a streamlined approach by which permissions for development proposals, such as this, can proceed. Advice into account in deciding whether or not to grant permission. If your authority resolves not to follow this advice then it must notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, it has taken our advice into account. You must then allow a further period of 21 days before the development can commence to allow us to consider any further action.

Hampshire Biodiversity Information Centre -

Priority habitat, coastal and floodplain

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: 6

Number of site notices: One

Statutory advertisement: Not applicable.

Number of representations received: None. Although a letter of support from a neighbour was submitted with the application which stated that Mr Curtis had been living in his caravan for 12 months of the year. However, this does not establish a lawful use as Mr Curtis has only owned the caravan since June 2009 (see 3.2 and 3.3).

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 and impact on tourism
- (ii) Acceptability of caravan for all year round residential use
- (iii) Highway and Parking Implications
- (iv) Flood Implications
- (v) Impact on Protected Habitats

(i) Principle of development and impact on tourism

7.2 The intention of the caravan licence was to provide a site of 3 holiday caravans and the licence conditions restrict the habitation of any caravans within the site to 8 months a year. A permanent all year round occupancy of the sole caravan within the site has been claimed by the current occupier. However, the owner was aware of a time restriction when he purchased the caravan in 2009, albeit he was incorrectly advised

by the estate agent that it was for 10 months and not the 8 months as permitted by the licence conditions.

- 7.3 The planning history of the site is unclear but it appears that the site has been used for solely one caravan for a number of years and this subsequent planning application concerns the use of only one caravan. Therefore, were the planning application permitted and caravan licence extended to allow for the 12 months occupation of the existing caravan, the planning permission and licence agreement should be conditioned such that it was explicit that only a single caravan had a 12 month occupancy. It is considered however that the principle of a single 12 month occupancy caravan within this site is not acceptable as change of use would be contrary to the Core Strategy policies CS5 and DM3 that seek to protect tourism accommodation. CS policy DM3 establishes criteria for assessing proposals for the change of use of premises currently or last used for tourism purposes to non-tourism uses. In particular, it should be demonstrated that the premises are not fit for purpose and financially unviable for any tourism use. In the present case, neither of these tests has been satisfied. Evidence that the use is unviable has not been provided. The site is well-related to local beaches and other facilities. It is considered that this site contributes to the stock of holiday accommodation and adds to the mix of hotels, holiday camps and chalets and other caravan sites in this tourist locality. Removal of the licence occupancy condition would offer the potential for the caravan to be permanently occupied. This would be likely to create an undesirable precedent. Taking these factors together it is concluded that an unacceptable loss of holiday accommodation would be likely to result, contrary to CS policies CS5 and DM3.

(ii) Acceptability of the caravan for all year round residential use

- 7.4 At the moment the site is 'occupied' by a single caravan. Environmental Health have raised objection in regard to the suitability of the caravan for year round occupation. Furthermore the Core Strategy would usually require that any new dwelling unit should meet Level 3 of the Code for Sustainable Homes. It is not thought, however, that this is a reasonable requirement; what is more critical is the actual standard of accommodation which does not meet the Housing Health and Safety Rating System for a permanent dwelling. Therefore, it is considered that the proposal does not meet the requirements of policies CS16 or CS9 of the Havant Borough Core Strategy.

(iii) Highway and parking Implications

- 7.5 There is sufficient parking on site for at least 3 vehicles and so the change of use to 12 month occupancy for the caravan on the site would accord with the requirements of policy DM13 of the Core Strategy. However, were an application to be submitted for the 12 month occupancy of 3 caravans then sufficient on site parking would need to be demonstrated.

(iv) Flood Implications

- 7.6 The application is accompanied by a Flood Risk Assessment. Despite this the Environment Agency have raised objection to the proposal and advised that this type of development (a caravan) is a highly vulnerable form of development which is not compatible with a site in Flood Zone 3. The flood risk vulnerabilities of this unit are further increased with permanent occupation and the NPPF classifies the type of development as highly vulnerable. The compatibility with Flood Zone 3 requires a demonstration that no other sites are reasonably available in Flood Zones 1 or 2. Therefore, given the site's location within flood zone 3 and the proposal to provide one unit of permanent accommodation, it is not

considered that this is determinative of the Sequential Test when the type of development (i.e. a dwelling) could reasonably be located in areas not at this level of risk from flooding. It is therefore concluded that the proposal fails the Sequential Test and there is, as a result, an in-principle objection to the development being proposed in this location.

- 7.9 Notwithstanding this concern it is also necessary to consider the Environment Agency's consultation response to the application. Here they note the caravans instability and any move to permanent occupancy of the caravan at this site places the occupant at special risk; it is likely to be occupied during periods when flood risk may be higher, and permanent occupancy can lead to a progression to permanent housing. Furthermore the ground levels are considered and compared to the 1 in 200 tide level and it is noted that the property is at risk from internal flooding in its lifetime - although it is noted that the site benefits from sea defences but there is nevertheless a residual risk of flooding from breaches of the defences or wave overtopping. Although the applicant has now signed up for a Personal Flood Plan i.e. the EA's flood warning service this does not in any way lessen the risk at the site. As such, refusal is recommended on the basis of flood risk.

(v) Impact on Protected Habitats

- 7.10 The application site is adjacent to habitats which form part of the Chichester Harbour Site of Special Scientific Interest (SSSI). This SSSI is part of the Chichester and Langstone Harbours Special Protection Area (SPA) and is a Wetland of International Importance under the Ramsar Convention (Ramsar Site).
- 7.11 Natural England state this development would increase the number of dwellings within the 5.6km zone. Only limited information has been put forward by the applicant to assess or guard against there being a significant effect on the SPA. Thus the Natural Englands advice in regard to the current submission is that it is likely to have a significant effect on the SPA. It is further stated that if the LPA is minded to permit the scheme then it is obliged before granting permission to either: undertake an Appropriate Assessment and ascertain that there will not be an Adverse effect on the Integrity of the aforementioned designated site or put in place measures which remove the likelihood of significant effect. As there is an in principle objection to the scheme for the reasons set out above mitigation measures have not been sought from the applicant at this stage
- 7.12 Therefore, in light of the detailed consultation responses as included in section 5 of this report it is considered that it is not possible to conclude that the development would not have a likely significant effect on the SPA and that further information is needed before this conclusion can be reached. In the absence of such information, which cannot be satisfactorily addressed by condition, and in view of the significance of this habitat and the species it supports in national and European terms, the application cannot be supported.

8 Conclusion

- 8.1 It is therefore considered that seeking to occupy this caravan for 12 months a year would result in the change of use of a tourist caravan to a residential dwelling resulting in the loss of tourism accommodation and setting an undesirable precedent. On this basis it has not been established that the standard of the construction of the facility is acceptable for permanent occupation. Furthermore, the site remains at risk from flooding and the proposal would place additional people at undue risk. The site cannot

be successfully accessed in a flood event and therefore people at the site would be isolated. In addition, no mitigation measures have been established to overcome the impact on the adjacent SSSI Spa/Ramsar site, refusal is recommended for these reasons.

9 RECOMMENDATION:

That the Executive Head of Planning and Built Environment be authorised to **REFUSE PERMISSION** for application APP/14/00529

(A) for the following reasons

- 1 The use of the caravan for year round occupancy in the manner proposed at this site, which lies within Flood Zone 3 and which is defined by The National Planning Policy Framework as having a high probability of flooding, would result in an unacceptable risk to life and property from tidal inundation, and it has not been demonstrated that there are no other reasonably available sites for this form of development which are at a lower risk of flooding. In particular:
 - (1) the proposed development does not have a safe means of access and/or egress in the event of flooding. Consequently, there would be an unacceptable risk to the health and safety of the occupants in a flood event; and
 - (2) the site is currently not defended to the appropriate standard, taking into account climate change over the lifetime of the development, and no provision is made in the application to improve the existing defences to the required standard.As such, the proposal would be contrary to the provisions of The National Planning Policy Framework 2012 and Policy CS15 of the Havant Borough Local Plan (Core Strategy) 2011.
- 2 It has not been demonstrated in this application that the caravan is of a suitable standard of accommodation to provide satisfactory living conditions in order to provide for occupation as permanent residential unit. The proposal is therefore contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework, March 2012.
- 3 The permission of this application would result in the loss of holiday accommodation and set an undesirable precedent which would be detrimental to the tourist offer available in the Borough. The proposal is therefore contrary to policies CS5 and DM3 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework, March 2012.
- 4 The Local Planning Authority is not satisfied that the development can be carried out without having a likely significant effect on the Chichester and Langstone Harbours SPA/Ramsar site and impacts on the associated Chichester Harbour SSSI. It is therefore contrary to policies CS11, DM8 and DM9 of the Havant Borough Local Plan (Core Strategy) 2011; policy DM24 of the Havant Borough Local Plan (Allocations) 2014; the Solent Mitigation and

Disturbance Project (SDMP) and the National Planning Policy Framework,
March 2012.