
Appeal Decision

Site visit made on 15 October 2013

by Michael J Hetherington BSc(Hons) MA MRTPI MCIEEM

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 October 2013

Appeal Ref: APP/X1735/A/13/2194326

1-30, 32-35 Fairlight Chalets, Salterns Lane, Hayling Island, Hampshire, PO11 9LQ

- The appeals are made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which previous planning permissions were granted.
 - The appeals are made by Mr Peter Mason - Fairlight Chalet Owners Association against the decision of Havant Borough Council.
 - The application ref. APP/12/00896, dated 24 August 2012, was refused by notice dated 12 November 2012.
 - The application (as amended) sought planning permission for the erection of holiday chalets without complying with condition no. 7 attached to planning permission ref. HWU2788, dated 8 February 1954, and condition no. 1 attached to planning permission ref. 13268/3, dated 28 March 1962.
 - The conditions in dispute state that:
Condition no. 7: These chalets shall only be occupied between the period of 1st March and 31st October of each year.
Condition no. 1: The chalets shall be occupied only between the 1st March and the 31st October in any year.
 - Neither planning permission attaches reasons specifically to the disputed conditions.
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Decision

1. Both appeals are dismissed.

Preliminary Matters

2. The planning application form seeks the removal of condition no. 12 from planning permission ref. 2705 dated 25 January 1954. However, following correspondence between the appellant and the Council, and with the appellant's agreement, it was clarified that the relevant conditions are set out in two planning permissions (dating from 1954 and 1962) as worded above. As such, two appeals have been made and my decision is framed accordingly.
3. The appeals do not relate to chalet nos. 31 and 31A, which are excluded from the site boundary. Certificates of Lawful Use or Development (CLUDs) for use as a single dwellinghouse, use class C3(a), have been issued in respect of seven of the chalets within the appeal site (nos. 1, 2, 3, 16, 19, 20 and 30). Given that some of the chalets on the site have been occupied outside the time period set out in the disputed conditions, I have treated both appeals as having been made under section 73A(2)(c) of the Act.

4. It is noted that the present application was submitted in order to avoid the need for chalet owners to apply for individual CLUDs. My determination of these appeals, which is based upon their planning merits, does not affect the issuing of determinations under sections 191/192 of the above Act.

Main Issues

5. The Council has clarified that, following the approval of its Community Infrastructure Levy Charging Schedule, it wishes to withdraw its 6th and 7th refusal reasons. I have no reason to take a different view. Accordingly, the main issues in both appeals are:
 - (a) whether the removal of the disputed conditions would result in an unacceptable loss of holiday accommodation;
 - (b) whether the chalets concerned are suitable for permanent residential occupation; and
 - (c) the effect of the removal of the disputed conditions on highway safety.

Reasons

Loss of Holiday Accommodation

6. It is clear from the terms of the above-noted planning permissions that the intention was to provide holiday accommodation. Policy CS5 of the Havant Borough Core Strategy 2011 (CS) seeks to safeguard existing tourist facilities, hotels, holiday centres and caravan parks, while 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.
7. In the present case, neither of these tests has been satisfied. Many of the chalets on the site remain in seasonal occupation along the lines that is provided for by the above-noted planning permissions. Demand for this use appears to remain and, while some upgrading has taken place over the years, the chalets are clearly suitable for holiday accommodation purposes. Occupancy levels appear to be high. Evidence that the use is unviable has not been provided. The site is well-related to local beaches and other facilities.
8. Removal of the disputed conditions would offer the potential for all of the chalets to be permanently occupied. This would be likely to reduce the number available for seasonal occupation. Taking these factors together I conclude that an unacceptable loss of holiday accommodation would be likely to result, contrary to CS policies CS5 and DM3. Although I have determined the present appeals on their own merits, this conclusion is consistent with the findings of two previous Inspectors who considered appeals at this site in 1996 and 2004 (appeal refs. T/APP/X1735/A/95/257803/P8 and APP/X1735/A/04/1140701).

Suitability for Permanent Residential Occupation

9. The chalets, which are of brick construction with tiled pitched roofs, are arranged in blocks of two or more. Some have been (or are being) improved. Their original layout appears to have comprised two small bedrooms, a sitting room, kitchen and WC/shower room. However, a number have now been extended to the rear. In the 2004 appeal (which related to chalet 27 with a rear conservatory extension) the Inspector considered that the size of the

building was acceptable for permanent residential accommodation. I have no reason to doubt that assessment, which to my mind also applies to other extended chalets within the appeal site. However, those chalets that have not been extended have significantly more limited internal space and facilities. Although acceptable for holiday purposes, I consider that these buildings would be unduly constrained as permanent residences. It is noted in this context that chalet 27, which is occupied all year round by a warden (following the grant of a separate planning permission), has been extended as described above.

10. I also share my colleague's view about the amount of amenity space associated with the chalets. With the exception of two units at the site's southern corners (nos. 15 and 18), these are characteristically located close to the site boundaries. Where chalets have not been extended, the amenity space to the rear of the building is generally of a small size that is suitable for sitting out and limited informal recreation. However, where rear extensions have been added, such as in chalet 27, the rear space is reduced to a narrow strip with little or no amenity space value. Although the site's original layout allowed for garden areas in front of the chalets, most of these now either accommodate parking spaces or are laid to lawn with the potential for use as a parking area.
11. Subject to the acceptability of any such proposal at the relevant time, there may well be some potential for the unimproved chalets to be extended in a similar manner to those described above. However, as also described, this would be likely to seriously reduce the amount of amenity space that would be available to the property concerned. Any added or expanded parking areas would reduce this level still further.
12. As a result of these factors, it has not been demonstrated that the appeal site as a whole could accommodate adequate amounts of *both* internal living *and* external amenity space. An unduly cramped arrangement would result. For these reasons, I conclude that the chalets concerned are not suitable for permanent residential occupation. Removal of the disputed conditions would conflict with CS policy CS16, which among other matters supports development of a high standard.

Highway Safety

13. The chalets are arranged around a cul-de-sac with no formal turning facilities at its southern end. However, there is space to turn next to a small parking area within the site, while vehicles can also reverse into parking spaces where these have been created in front of the chalets. Although somewhat constrained, adequate turning within the site can therefore be achieved.
14. However, the appeal site's access drive, which runs between properties on Salterns Lane, is only a single car's width with no passing places. Visibility at its junction with Salterns Lane in both directions is very limited and well below the relevant standard. To my mind, it represents an unsafe arrangement. Opportunities do not exist for visibility to be improved or the access drive to be widened. Although the site's access was deemed acceptable when the original planning permissions were granted, it is necessary to take account of present day road conditions and up-to-date highway safety advice.
15. The appellant considers that it is possible that the permanent occupation of some properties would result in a reduction in traffic generation, with fewer families using the site for holidays. Nevertheless, it seems to me that year-

round occupation of the chalets would be likely to lead to a greater number of vehicular movements – most notably during the period during which occupancy is currently restricted. I accept that there may be lower levels of passing traffic on Salterns Lane outside the main holiday period. However, I share the view of the 1996 appeal Inspector that it would be wrong to permit a more intense use of a presently sub-standard access. I therefore conclude that removal of the disputed conditions would unacceptably harm highway safety, contrary to relevant CS policies, notably policy CS20. While the Inspector in the 2004 appeal did not conclude that highway safety would be harmed, his considerations related to chalet 27 which, as noted above, was already being permanently occupied by a warden.

Other Matters

16. CS policy CS9 states that planning permission will be granted for housing proposals that will, among other matters, deliver on average 30-40% affordable housing on sites of 15 dwellings (gross) or more. In the Council's view, this policy is applicable to the present case. As the chalets are already in place, the Council requires a contribution to be made towards off-site provision.
17. Such a contribution has not been offered by the appellant, who states that the removal of the disputed conditions would allow a number of 'affordable houses' to enter the market. However, these dwellings would not meet the specific definition of affordable housing that is set out in the National Planning Policy Framework. As such, they would not amount to affordable housing in the sense that is required by policy CS9.
18. I agree with the Council that the addition of residential units with unrestricted occupancy to the existing housing stock would amount to a 'housing proposal' in the terms of policy CS9. Had the removal of the disputed conditions have been otherwise acceptable, appropriate provision for affordable housing would therefore have been required. However, this matter does not affect my conclusions above.
19. The appellant refers to a 2011 appeal decision relating to a chalet at Warsash (ref. APP/A1720/C/10/2131380). However, in that case it was accepted that the chalet concerned (which benefitted from a condition allowing additional occupancy on weekends and public holidays through the winter months) was suitable for full-time occupation. Highway safety did not appear to have been at issue. These factors represent material differences from the present case.
20. For the reasons given above and having regard to all other matters raised, I conclude that the appeals should not succeed.

M J Hetherington

INSPECTOR