



The Planning Inspectorate

An Executive Agency in the Department of the Environment and the Welsh Office

Room 1404
Tollgate House
Houlton Street
Bristol BS2 9DJ

Direct Line	0117-987 8927
Switchboard	0117-987 8000
Fax No	0117-987 8769
GTN	1374

Mr P J Shergold
1 Fairlight Chalets
Salterns Lane
Hayling Island
Hants
PO11 9PJ

Your Ref:

Our Ref:

T/APP/X1735/A/95/257803/P8

Date: 2 FEB 1996

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6 APPLICATION NO: 95/56717/2

1. I have been appointed by the Secretary of State for the Environment to determine your appeal against the decision of the Havant Borough Council to refuse an application for relief from condition 7 of planning permission HWV2788 to enable all year round occupation of the chalet. I am treating this as an application for planning permission under Section 73 of the Town and Country Planning Act 1990, for the development of land without complying with a condition subject to which a previous planning permission was granted. Planning permission No HWU/2788 was dated 8 February 1954 and was for the erection of 30 holiday chalets at "Fairlight", Salterns Lane, Hayling Island. I have considered the written representations made by you and by the Council. I inspected the site on 18 December 1995; my visit was to have been an accompanied one, but as you were neither present nor represented I carried out my inspection on an unaccompanied basis.

2. Disputed condition No 7 states that these chalets shall only be occupied between the period of 1st March and 31st October of each year.

3. Having considered the representations before me, and having seen your chalet and its surroundings, the main issues before me in considering your appeal seem to me to be (1) whether your chalet, and others in the Fairlight group, are unsuitable for permanent residential occupation; (2) whether the access leading to Fairlight Chalets is unacceptably inadequate to serve such a use; and (3) whether permanent residential occupation of the chalet would be unacceptably in breach of the Local Planning Authority's tourism policy.

4. The chalets are very small, even when, like yours, they have been extended; they are close together, with little private amenity space. The pleasing open space in the middle of the development would be largely taken up by parking spaces if the Council's parking standards for permanent dwelling houses were complied with. I agree with the Local

Planning Authority that, although adequate for short-term holiday occupation, they are too cramped in accordance with modern standards to be lived in permanently.

5. So far as the access is concerned, it is of only single car width and visibility from it along Salterns Lane is very poor. While it has been used over a period of many years by occupants of Fairlight Chalets, and while no doubt the heaviest use of it during the summer months is by occupants of the chalets in genuine holiday use, I accept the Local Planning Authority's point that the pattern of usage by permanent occupants is likely to be different from that of holiday makers; it is more likely to conflict with peak traffic flows along Salterns Lane. The access is clearly sub-standard in the light of modern guidance as to what is required in the interests of traffic safety, and it would in my view be wrong to permit the more intense use of it which could be expected to flow from permanent occupation of your chalet or of other chalets in the group.

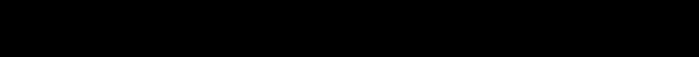
6. The Havant Borough Local Plan was adopted in June 1994 and thus forms part of the development plan for the Borough. Section 54A of the Town and Country Planning Act 1990 requires me to determine your appeal in accordance with the development plan unless material considerations indicate otherwise. While the wording of Local Plan Policy TO4 - Loss of Holiday Accommodation - applies specifically to the loss of existing hotel or guest house accommodation, rather than to the loss of self-catering holiday chalets, the explanatory memorandum (paragraph 6.7) makes it clear that the Council also has it in mind to prevent the loss of the latter type of holiday accommodation, and I take the change of use of your chalet from holiday accommodation to permanent residential use to be contrary to the clear aims of the policy. This constitutes a further reason for not allowing this appeal.

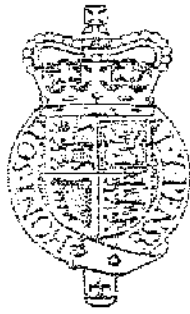
7. You suggest that it is inequitable for you to be denied permission for permanent residential occupation of your chalet when some neighbouring chalets are already so occupied. It is apparent from the planning history of Fairlight Chalets, however, that only 3 chalets out of 36 are legally in permanent residential use. No 31a was erected under a planning permission granted nearly 30 years ago; no occupancy condition was imposed, for reasons no longer known to the Local Planning Authority. No 31 is occupied permanently, not with planning permission, but under the benefit of a Lawful Development Certificate. No 27 is occupied on a permanent basis by the site manager. All other chalets are subject to the same occupancy condition that applies to No 1. It is clear from the representations before me that it is the Council's policy that this state of affairs should continue, and I accept that this policy has been consistently applied for many years. I do not regard the permanent occupation of the three chalets to which I have been referred as being a persuasive precedent for the occupancy condition to be removed in respect of the other chalets.

8. I have considered all the other matters raised in the representations before me, but these do not outweigh the considerations that have led me to my decision.

9. For the above reasons, and in exercise of the powers transferred to me, I hereby dismiss this appeal.

Yours faithfully


A N Marshall MA (Oxon) Solicitor
Inspector



Appeal Decision

Site visit made on 29 June 2004

by **Cliff Lane** BSc (Hons) DipEP MRTPI

an Inspector appointed by the First Secretary of State

The Planning Inspectorate
403 Kite Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@planning-inspectorate.gov.uk

Date

22 JUL 2004

Appeal Ref: APP/X1735/A/04/1140701

27 Fairlight Chalets, Salterns Lane, Hayling Island, Hants PO11 9PJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
- The appeal is made by Mr John Hills against the decision of Havant Borough Council.
- The application (Ref. 03/54234/001), dated 17 September 2003, was refused by the Council by notice dated 3 December 2003.
- The application sought the removal of a condition attached to a planning permission (Ref. 89/54234), dated 14 December 1989, for change of use of chalet from use between 1 March & 31 October in any year to use as residential accommodation at all times.
- The condition in dispute is No 2 which states that: At no time before 1 March or after 31 October in any year shall the chalet be occupied otherwise than by 1 person responsible for the management of the site currently known as Fairlight Chalets
- The reason given for the condition was: To safeguard the local stock of holiday accommodation and because the chalets are not considered suitable for normal all year residential occupation.

Summary of Decision: The appeal is dismissed.

Main Issues

1. I consider the main issues to be:
 - (i) the implications for occupiers' living conditions, with particular reference to the chalet's size and standard;
 - (ii) whether the proposed development would result in an unacceptable loss of holiday accommodation;
 - (iii) the implications for highway safety; and
 - (iv) whether the proposed development would create an undesirable precedent.

Planning Policy

2. The development plan for the area includes the Hampshire County Structure Plan 1996-2011 (Review) (SP) and the Havant Borough Local Plan (1994) (LP). I consider the most relevant policies are those set out below.
3. The Council has also produced the Revised Deposit Havant Borough District-Wide Local Plan 1996 - 2011 (emerging LP). The Inspector's report was due in spring 2004 following a public inquiry. However, I have not been provided with up to date information regarding the current status of the policies. I can not therefore attribute substantial weight to them, except where they reflect policies of the development plan or national planning guidance.

4. Policy UB3 of the SP states that all development permitted in accordance with other policies of the Plan should be appropriate in design, scale, layout and density to its surroundings and contribute to the quality of the built environment. Policy T6 indicates that in considering access development should not adversely affect the function and character of the non-strategic road network.
5. Policy GDD1 of the LP indicates that permission for proposals consistent with the other policies in the Plan will normally be granted if, amongst other things, they a) would be sympathetic and appropriate in terms of scale, design, layout, siting, materials and density, both in themselves and in relation to adjacent buildings, features, spaces and views; and d) would provide for private open space in the form of communal space and/or gardens appropriate to the needs of the likely occupants; and n) would provide for vehicular access to acceptable standards of highway safety and convenience to vehicle users. Policy HO6 states that within built up areas permission for housing development involving change of use to residential will normally be granted providing that it would not seriously erode the environmental quality of an area and does not conflict with other policies of the Plan. Policy H3 of the emerging LP carries this forward.
6. Policy T1 (Part 2) of the LP indicates that provided an application is acceptable in all other respects planning permission will normally be granted providing the highway access is in accordance with adopted highway standards. Policy T14 of the emerging LP reflects this policy. Policy TO4 of the LP states that proposals for the conversion or re-development of existing hotel and guest houses to other uses, particularly on Hayling Island, will normally be refused. Policy TO3 of the emerging LP seeks to prevent the unwarranted loss of tourist accommodation.
7. Planning Policy Guidance Note 3: Housing (PPG3) and Planning Policy Guidance Note 21: Tourism (PPG 21) are also relevant and I consider them later.

Reasons

8. The chalet the subject of this appeal is one of a terrace of three situated on modest sized site with other similar chalets. The chalets have limited amenity space at the front with a significant number using front garden areas for the parking of a car. The appeal property has a well laid out front garden with flagstones positioned to allow such parking. The majority of chalets also only have small rear amenity areas.

(i) The implications for occupiers' living conditions, with particular reference to the chalet's size and standard.
9. Currently within the original chalet the accommodation comprises of two bedrooms - a larger one containing a double bed and a smaller one with bunk beds, a small kitchen and a shower room with wc. At the rear, a conservatory, with a depth of some 3.1m, has been added and is used as a reasonably sized living room. With this extension, to my mind, the size of the accommodation is acceptable for permanent accommodation.
10. In extending in this way, however, the majority of the rear amenity space has been lost. Between the conservatory and the rear boundary only some 1.5m now remains. With the majority of the rear space now taken up with the conservatory and the front area likely to be used for the parking of a car, in my opinion, the level of amenity space provision would be unacceptable for all year living. This is particularly so in view of the fact that the accommodation available could be used by a family with children. I note that the condition the subject of this appeal was imposed partly to prevent all year occupation. Such conditions are

considered reasonable in Annex C to PPG 21 with it being noted that lesser standards of amenity space may be unacceptable for permanent residential accommodation whereas holidaymakers may countenance reduced provision.

11. The appellant points out that year round occupation at the appeal site is already possible for a warden. However, I give limited weight to this because the situation has changed due to the construction of the conservatory, part of the improvements the appellant states has been undertaken in recent years. Furthermore, as the appellant acknowledges that a warden or other 'responsible' person is not needed, then the use would otherwise revert to occupation between March and October which must be visitor related.
12. I conclude on this issue, therefore, that whilst size of accommodation available would be reasonable for permanent occupation, the level of amenity space would not. Consequently, the proposed development would be contrary to policies UB3 of the SP, HO6 and GDD1 of the LP and H3 of the emerging LP.

(ii) Whether the proposed development would result in an unacceptable loss of holiday accommodation.

13. The supporting text to policy TO4 of the LP states that: *There has been increasing pressure for the redevelopment of holiday accommodation on Hayling Island for other uses, primarily residential.....For employment reasons, the Council is concerned to maintain the Island's tourism role and will seek to prevent loss of holiday accommodation.* Although the policy itself refers only to hotels and guest houses, I take it that there is a general objective of protecting holiday accommodation, as is the case in policy TO3 of the emerging LP.
14. In my opinion, the site at Fairlight Chalets is ideally situated for holiday accommodation being within walking distance of beaches and other tourist facilities. I also note that there are many businesses on Hayling Island that cater for, and are dependent on, the tourist trade. The use of the chalet for a site manager, to my mind, is tourism related. Whilst the need for such a use may no longer exist, I do not consider that is justification for a change of use to permanent residential accommodation. I acknowledge that PPG 21 states that the planning system should not be used to attempt to perpetuate outdated forms of tourist activity and accommodation for which there is no longer a demand. However, no evidence is before me that there is no demand for holiday accommodation. Indeed, given the attractive nature of the site and its advantageous location, I consider it highly likely that there would be demand. I conclude, therefore, that to allow this appeal would lead to the loss of a dwelling related to tourism, which would be contrary to the aims of policy TO4 of the LP and policy TO3 of the emerging LP.

(iii) The implications for highway safety

15. The site has a narrow access onto Salterns Lane between two dwellings fronting that road. Only one car can travel along it at any one time and visibility at the junction for emerging traffic is poor. The site is rectangular in shape, with the chalets taking access off the narrow access road that runs north – south along the site. There is potential for further vehicle conflict on this narrow internal road. However, the appeal site has permission to be used for permanent accommodation for a site manager. To my mind, in view of this, the amount of vehicle use of the access road and junction would not be significantly different between the proposed use and that possible under that consent. There is nothing to suggest that problems were experienced when the warden was there. As a result, I conclude that the level of traffic movements would not be significantly different and highway dangers would not increase over that which potentially could occur at present. As such, the proposed development would not be contrary to

policies T6 of the SP, GDD1 and T1 (Part 2) of the LP and T14 of the emerging LP, in this respect.

(iv) Whether the proposed development would create an undesirable precedent

16. This site has a significantly different planning history compared to other chalets on the site; hence precedent is unlikely to be an issue. In any case, precedent is rarely a determining matter and it is long held practice that planning proposals are dealt with on their individual merits. I have done that in this case. Other proposals can be dealt with accordingly. Consequently, I conclude that the proposed development would not create an undesirable precedent and this is not a matter to count against the proposal.

Other Matters

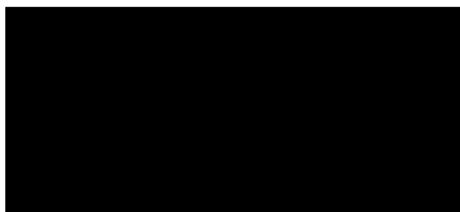
17. The appellant has submitted that the existing condition is badly worded and unenforceable. I acknowledge that this is a material consideration, however, I consider the condition is clear enough in defining that the chalet can only be occupied for defined months of the year other than by one specific worker. As such, I believe that it would be enforceable.
18. I also acknowledge that the appellant maintains that the proposal accords with guidance in PPG3 and there are significant numbers of people on the Council's housing waiting list seeking modest accommodation. I also note a number of letters of support on behalf of the appellant. These submissions and representations do not, however, outweigh the significant harm I have identified above.

Conclusions

19. I acknowledge that the condition the subject of this appeal has outlived its usefulness for the appellant. However, the most important issues in this appeal, to my mind, are whether the chalet is appropriate for permanent occupation and whether it would be contrary to the Council's aims of maintaining holiday accommodation. I have concluded that it would provide unsatisfactory living conditions for all year living and it would lead to the loss of a dwelling related to tourism. I have not found, however, that it would be detrimental to highway safety or cause an undesirable precedent. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Formal Decision

20. I dismiss the appeal.



INSPECTOR