

## **Application for Determination**

<b>Parish</b>	Reedham		
<b>Reference</b>	BA/2015/0176/FUL	<b>Target date</b>	10 September 2015
<b>Location</b>	Berney Arms Inn, The Marshes, Reedham, NR30 1SB		
<b>Proposal</b>	Change of use of the Pub Building to a single dwelling		
<b>Applicant</b>	Mr Raymond Hollocks		
<b>Recommendation</b>	Refusal		
<b>Reason for referral to Committee</b>	Director's discretion due to wider public interest		

### **1 Description of Site and Proposals**

- 1.1 The Berney Arms Inn is a public house fronting onto the north bank of the River Yare on a section known as Berney Arms Reach, approximately 200m east of where the River Yare meets the River Waveney, a short distance to the southwest of Breydon Water. The public house sits within a plot of land covering a site area of 5.84 hectares.
- 1.2 The Berney Arms is accessible only from the river, by train, or by foot following the Weaver's Way and Wherryman's Way from Great Yarmouth. It is believed to be the only public house in England with public access via train but not via road. Whilst there is a road which serves the site, this is in private ownership, although the current pub owner asserts that access is allowed for the publican and for deliveries.
- 1.3 The site incorporates the public house, a shop which has ceased trading, a pair of chalets which have ceased to be used, a pair of static caravans only one of which is in use currently, and various outbuildings or storage areas which are mostly in a rundown state. There are 40m of moorings along the river frontage which are available for use by customers.
- 1.4 The site is located within the Berney Marshes, part of the Halvergate Marshes SSSI. This area and the majority of the surrounding marsh area are nationally designated, EU designated, and Internationally designated, along with being an RSPB nature reserve. It is also within a Conservation Area.
- 1.5 The application site itself comprises the public house and two small outbuildings, along with a small area of surrounding open land. This same

area also comprised the curtilage of the site which has been offered for sale through TW Gaze.

- 1.6 It is proposed to convert the public house (Use Class A4) to a single family dwellinghouse (Use Class C3). There is no proposal to alter the building externally or extend it in any way.

## **2 Site History**

There have been no previous planning applications at the site.

## **3 Consultation**

Reedham Parish Council – Objection. The majority of the Parish Council objected to the change of use. It was felt that every endeavour to keep it open should be pursued as it is an iconic building.

Halvergate Parish Council – Objection. The Parish Council would like to express their concern at the loss of this pub, being that it is such an iconic pub in the area and is well loved. Its isolated position and uniqueness are what attracts people to it. Boaters in the Summer months use it well, as do walkers and people using the request stop at the train station. It would be a great shame to see it become a dwelling and the points that CAMRA raise in their objections are also felt strongly by many on the Parish Council. We would urge that this is considered with great care before a decision is reached.

Broads Hire Boat Federation – Objection. Whilst we would regard closure of the public house an unfortunate further reduction in the level of services and facilities available on the Southern Broads, we accept that planning regulations cannot compel the applicant to keep it open if it is not financially viable. Furthermore, refusal of this application to change the use to a dwelling could result in the building becoming neglected or even derelict when what is really required is some dialogue to find a way that the site can be maintained and continue to provide facilities serving walkers, visitors to the RSPB reserve and boaters.

It is, however, the future of the extensive moorings at Berney Arms that concern us most as they are not only generally popular but vital to safe navigation on the system, providing the last location on the River Yare for boaters to wait for a favourable time or weather conditions to cross Breydon and proceed through Gt. Yarmouth on the River Bure. There appears to be nothing in the application papers providing detail on what is proposed for the moorings should the change of use be authorised. We believe that this should be clarified before the application is determined by the Planning Committee.

At the same time can we urge that the Broads Authority be prepared to discuss with the applicant the possibility of leasing the moorings as part of an overall plan for the site which, it should be remembered includes the famous and historically important mill.

We therefore object to the application as currently proposed.

Broads Tourism – Objection. The current planning application for a change of use for Berney Arms Inn, from a public house to a private dwelling, raises several questions.

This pub (albeit currently closed) sits at the western end of Breydon Water and has been, for many years, an important mooring facility for craft waiting for time and tide to cross Breydon safely. Does this application have any implication for these moorings in the future?

More importantly, and directly linked to this application, Berney Arms Inn sits on two long distance footpaths, the Wherryman's way and the Weavers' Way. The iconic and atmospheric inn has always been a welcome refuge to walkers both for food and drink and for toilets too. Without this facility it is very probable that fewer people will make use of these paths. Equally, the Berney Arms railway halt is the smallest station in England and a draw to a number of visitors to the Broads; hopefully this would not be threatened by the removal of the public house?

This site is hugely important to tourism in the Broads for walkers, naturalists, sailors and rail enthusiasts to name just a few. Is it too late to have constructive dialogue with the Inn's owner to see if there is any way forward to ensure this site's viability and vitality is protected for future generations? This application is so much more than just a straightforward change of use – the ramifications are huge for the Broads as a whole.

NSBA – Objection. The NSBA would regard closure of the Berney Arms public house as a highly regrettable further reduction in the facilities available on the Southern Rivers. It is for this reason that the NSBA considers that the case of economic unviability for the purposes of Policy DP 27 must be proved up to the hilt. The applicant says that the Berney Arms public house is closed and that he has been unable to sell the premises as a business because the business is not viable. In fact, the Berney Arms public house is currently open as a business. The NSBA understands that the person operating it hopes to buy it and operate it as a public house. Quite apart from this, the NSBA does not consider that it has yet been sufficiently demonstrated that the use of the premises as a public house is economically unviable. In this context, the NSBA has noticed a number of inaccuracies in the case put forward by the applicant. For example:

- There is a statement that Hoseasons only have 321 boats (ie cruisers) in their brochure – this is irrelevant as there are many other boats from yards that do not use Hoseasons as their letting agent. There are currently in excess of 800 boats in the hire fleets on the Broads.
- There is a statement that the majority of the hire fleet on the Northern Broads are too large to come through the bridges in Great Yarmouth. All but two boats in the Broads hire fleets (North and South) can pass through these bridges.

In addition, in the NSBA's view, if ultimately economic unviability of the public house is proved, there must be a dialogue involving relevant parties, bodies and stakeholders with a view to finding a solution whereby the building and associated land can continue to provide facilities serving boaters, walkers and visitors to the RSPB reserve.

Associated with the public house is a significant length of public moorings which are of great importance not just for those visiting the public house or the local area but also for the safety of navigation. The adjacent Breydon Water is the most daunting part of the Broads system. It is essential that there are moorings at which boaters can wait for the correct state of the tide, or favourable weather conditions, to cross Breydon and proceed to/past the Great Yarmouth Yacht Station. If the public house moorings became unavailable there would only be the very limited Broads Authority 24-hour moorings at Berney Arms Reach (38 metres in length: nb the Authority seems to work on the basis for mooring purposes of an overall mooring space of 10m per boat). These Broads Authority moorings could not cope with demands during the summer season. The nearest Broads Authority moorings upstream on the Yare from Berney Arms is two-and-a-half miles away at Polkeys Mill (only 72 metres in length) and there are no safe moorings in between. The NSBA considers that satisfactory arrangements must be made to continue the availability of the public house moorings in the event of a change of use of the public house to a single dwelling. To grant permission for a change of use without such arrangements would be inconsistent with policy CS 3 and with the statement about the Authority's policy about protecting existing moorings set out in para 4.27 of the text associated with DP 16.

Environment Agency – Objection. In the absence of a satisfactory flood risk assessment (FRA), we object to this application and recommend refusal of planning permission until a satisfactory FRA has been submitted.

18 responses were received from members of the public citing the following:

- Unreasonable sale price
- Unreasonable rental price
- Unacceptable loss of another riverside pub
- Represents an important waiting place for safe passage across Breydon Water
- Provides respite having crossed Breydon Water
- Loss of unique landmark
- Loss of historic pub
- Important to overall economy of the Broads area
- An important place for boat hires, boat owners, people who work on the water, walkers, bird-spotters and more.
- May cause railway halt to close.
- The pub is currently open and is being used, an indication that this location is well liked and supported by all river users.
- Many Broads pubs can and do survive largely on trade during the summer season.

- Other proposals for the site should be considered sympathetically by the Broads Authority.
- Work should be done to find ways of maintaining the summer food & drinks license and allowing part conversion into 365 day holiday letting for walkers limited to 14 nights continuous stay.
- It hasn't been able to attract visitors in great numbers in recent years due to the lack of maintenance and general run-down air of the place.
- With the right management/owners, this can be a great asset, as it has been in the past.
- It is essential to retain the public moorings.
- The pub should be given protected status.
- The misunderstandings and errors in the application concerning boat numbers, access under bridges and proclivity of both hire and private boat owners from using riverside pub facilities indicate why the current ownership is failing to make the location viable as a pub.
- The lack of continuity and satisfactory levels of service quality, combined with unrealistic expectations of property/lease values have been its downfall hitherto.
- A historic riverside pub with only boat, rail and walking access; a RSPB reserve in a wonderful marshland setting; one of England's tallest windmills and a railway halt, also without road access, with the shortest platform in the country. Where else can you find such a unique combination of settings?
- This locality is part of a National Park and to quote from the Broads Authority's own website "The Broads Authority keeps it special for visitors and its community". Can the Authority really say that they are doing that if the opportunity to save this property as a public house is lost and they resign it to a fate of blandness?
- It may help the sale if the freeholder was to offer the entire plot for sale, rather than holding back parcels for a possible future development.

#### **4 Representations**

None received.

#### **5 Policies**

- 5.1 The following Policies have been assessed for consistency with the National Planning Policy Framework (NPPF) and have been found to be consistent and can therefore be afforded full weight in the consideration and determination of this application. [NPPF](#)

[Core Strategy \(2007\)](#)

[Core Strategy Adopted September 2007 pdf](#)

CS1 - Protection of Environmental and Cultural Assets

CS3 - The Navigation

CS5 - Protection of key buildings contributing to Broads character and distinctiveness

CS9 - Supporting tourism base

CS14 - Provision of moorings  
CS23 - Maintaining a Network of Waterside Sites and Services

Development Management Plan DPD (2011)  
[DEVELOPMENTPLANDOCUMENT](#)

DP6 - Re-use of Historic Buildings  
DP11 - Access on Land  
DP27 - Visitor and Community Facilities and Services  
DP29 - Development on Sites with a High Probability of Flooding

Site Specific Policies Local Plan (2014)  
[Site-Specific-Policies-Local-Plan-11-July-2014](#)

XNS6 – Waterside Pubs Network

- 5.2 The following Policies have been assessed for consistency with the NPPF and have found to lack full consistency with the NPPF and therefore those aspects of the NPPF may need to be given some weight in the consideration and determination of this application.

Core Strategy (2007)

CS18 - Sustainable development  
CS20 - Development within the Environment Agency's flood risk zones

Development Management Plan DPD (2011)

DP18 - Protecting General Employment  
DP21 - Conversion of Buildings in the Countryside

## **6 Assessment**

- 6.1 The proposal is for the change of use of the public house to a dwellinghouse. The applicant advises in support of the application that the pub as a business has become unviable economically.
- 6.2 The main issues in the determination of this application are the principle of the development, viability and flood risk and the suitability of the site for a residential use.

Principle

- 6.3 Adopted development plan policies seek to protect facilities which contribute to the social infrastructure of the Broads. Public Houses, particularly, contribute significantly to the economy and cultural heritage of the Broads, offering a good facility for visiting tourists and an important social meeting place for residents in the surrounding area and help create a sense of identity for locals. Such a position is reflected in planning policy XNS6 'Waterside Pubs Network' which seeks to protect such sites due to their importance as key parts of a

network of facilities. XNS6 specifically identifies pubs which will be protected in their public house use and the Berney Arms is included within that list. The policy does not set out criteria against which any application for a change of use would be assessed, so there is a strong intrinsic presumption against any such development. In order for any proposal for a change of use to be acceptable, therefore, strong exceptional circumstances would need to be demonstrated such as to justify a departure from adopted policy.

- 6.4 The history of the Berney Arms is an interesting one, with the railway halt only existing at the insistence of the landowner Thomas Trench Berney when he sold the land for railway development. The history of the Berney Arms Inn is less clear, but the fact that the railway halt, nearby 'windmill', and the local area including the name of the reach of the River Yare at this section are named after the public house strongly emphasise the importance of the pub and the central nature of its existence to this area of the Broads. Indeed the history is such that the public house must be considered as a non-designated heritage asset, and significance under the National Planning Policy Framework (NPPF) is afforded to such a status, whereby any loss of or harm to such a heritage asset must be considered in relation to the scale of harm. It is also the case that the Conservation Area is a designated heritage asset and the strong functional linkages between this and the public house reinforce the need to consider the impact of the proposed change carefully.
- 6.5 Paragraph 132 of the NPPF effectively sets a two stage test in respect of development which will affect a heritage asset. Firstly, it requires an assessment to be made of whether the proposal would have an impact on the heritage asset as a whole and then, if it does, an assessment must be made of whether the harm to the significance of the heritage asset is substantial or less than substantial. If the harm is substantial the LPA should refuse consent unless (a) it can be demonstrated that the substantial harm is necessary to achieve substantial public benefits that outweigh that harm or loss, or (b) if the nature of the asset is such that its use or conservation is not reasonably possible; if the harm is less than substantial it must be outweighed by public benefits in order for the development to be acceptable.
- 6.6 In this case, it is considered that the proposed change would have an impact on both the significance of the public house as a non-designated heritage asset and the Conservation Area as a designated heritage asset. In respect of the former, the change of use to a residential dwelling would result in the historical use, character and importance of the pub being lost permanently. The loss of the pub would therefore adversely impact on the character of the Conservation Area – key features in the immediate area are named after the Berney Arms.
- 6.7 Having concluded then that there would be an impact, it is necessary to consider whether the level of harm – ie is it substantial or less than substantial. It is noted that the unique location of the pub allows for it to provide an essential service to a range of users. Breydon Water is subject to sizeable tidal surges and at times hazardous to navigate, at such times should Breydon Water prove impassable the pub is appropriately located and provides facilities

to the adjacent for waiting moorings and performs an important safety function in this regard. The comments of Broads Tourism are useful, in that they note that 'the iconic and atmospheric inn has always been a welcome refuge to walkers both for food and drink and for toilets too'. It is clear therefore that the pub is important to a number of visitor groups and the impact of its loss as part of a network of facilities across the Broads would be very significant.

- 6.8 Overall it is considered that the harm to the significance of both of the non-designated heritage asset - the Pub, and the designated heritage asset - the conservation area assets would be substantial and, indeed, fundamentally alter the relationship of the pub to the historic and cultural landscape. It is not considered that there would be any public benefits accruing from the change of use and, conversely, there would be a loss of an important facility. Any benefits would be private, accruing to the landowner. It is therefore concluded that the proposal is contrary to paragraph 132 of the NPPF.
- 6.9 It should also be noted that Policy DP6 of the Development Management Policies DPD justifies the retention of non-designated heritage assets which make a significant contribution to the special character of an area, recognising that the most effective way of protecting and preserving these buildings will be to retain them in their original use.

#### Viability

- 6.10 Notwithstanding the strong policy presumption against any change of use set out in XNS6, it is necessary to consider the arguments submitted with the application in order to consider whether there is any justification here for a departure from policy XNS6.
- 6.11 It is noted that Policy DP27 of the Development Management Policies DPD stipulates that applications for the change of use of an existing community, visitor or recreational facility or service that meets a local need or contributes to the network of facilities through the river valleys will only be permitted where it can be demonstrated through a viability assessment that the current use is economically unviable. The justification for this stance is tied to Policy CS9 of the Core Strategy which seeks to support, widen and strengthen this tourism base by encouraging a network of tourism and recreational facilities, protecting against the loss of existing services, describing facilities such as public houses as essential services. It further states that development proposals that would result in the loss of existing visitor facilities will be expected to robustly demonstrate that the business is no longer economically viable through the submission of relevant financial information.
- 6.12 The applicant has submitted a financial report which seeks to demonstrate that the business has become unviable. This is based on the premise, firstly that there has been a significant decline in the numbers of hire boats; secondly that the pub trade has declined significantly. The applicant has also sought to sell the freehold to the property since September 2014 through TW Gaze and on the Pub Trader website. The submitted financial report has been independently appraised

- 6.13 Before considering the financial report, attention must be paid to the foundation upon which the report is based, namely the declining trade and boat numbers. The first element is the declining numbers of hire boats. Within the submitted report the applicant asserts that the number of hire cruisers has declined to between 500 and 1000 hire boats. This may be correct if one looks only at hired motor cruisers, however the total hire fleet on the Broads amounts to around 1,500 vessels, when all forms of hire craft are counted. The statements made in support of the application have been directly contradicted in a number of consultee responses, citing for example 'the misunderstandings and errors in the application concerning boat numbers, access under bridges and proclivity of both hire and private boat owners from using riverside pub facilities'. Of particular value is the response from the Broads Authority Tourism Promotion Officer who states the following:
- 6.14 There are a number of figures included in the owner's statement of reasons for the change of use that are not supported by information held elsewhere by the Broads Authority. In particular his assertion that the number of hire cruisers fell as low as 500, is not wholly accurate. Whilst there certainly had been a steady decline since the 1980's, this bottomed out at the start of the new millennium. The lowest number recorded was 813 and indeed there has been a modest increase since then, with 862 motor cruisers available for hire in 2014. It is also true that the quality of the fleet has greatly improved and many boats today are very well-equipped. These craft appeal to a market sector, with more disposable income and stopping off at riverside pubs is a key attractions of a Broads boating holiday. It should also be noted that besides the 862 motor cruisers in 2014, there were also 47 auxiliary yachts and 110 sailing vessels available for hire that year.
- 6.15 Information held by the Broads Authority indicates that the total number of hire boats has remained at around 1,500 for the last ten years, covering the majority of the time that the applicant has been the owner of the application site. The fact that the number of hire boats has remained at the level stated directly contradicts the statement made by the applicant in this respect, it is noted that the applicant has not submitted any document to corroborate the numbers stated. It is therefore contended that this element of the applicant's assessment is not based on a realistic assessment of the actual situation with regard to hire boat numbers.
- 6.16 It is also the case that the applicant has provided no comment with regard to the number of private boats, but it is worth pointing out that the number of private motor cruisers has risen by 648 in the last ten years and there are 1,413 more than in 1997. In 2014, the total stood at 5,059, with the total number of private boats being 10,818. Together with hire boats, the total number of boats on the system has remained above 12,000 for the last ten years.
- 6.17 Considering the direction of river traffic, the owner's asserts that the majority of the hire fleet in the Northern Broads is too large to exit Great Yarmouth for the Southern Broads. This is not wholly accurate and one of the strategic

objectives of the Broads Tourism Strategy 2011, is to increase tourism performance across the whole of the Broads – and particularly in the Southern Broads. Broads Authority officers work closely with the boatyards and with the wider tourism industry, to encourage and assist them in giving out the correct information concerning the crossing of Breydon Water – the key point being that is straightforward, safe and – in particular – an excellent thing to do.

- 6.18 Once again this highlights a number of assertions made by the applicant which are not evidenced and have been underlined as incorrect. The number of boats on the Broads and rivers is considered to be not in decline, and there is no demonstrable constraint on boats accessing the Southern Broads.
- 6.19 The second element cited by the applicant in considering the decline in trade is the overall decline in the pub trade. Whilst it has been highlighted in the media that a number of pubs are closing it is clear that there is no demonstrable pattern to this. Some pubs are being forced to close whilst some are thriving, and there are numerous examples of pubs in the Broads area which are prospering. The applicant has provided no data to evidence the stated claims, citing only the rise in competition with larger chains. Given the remote location and unique access it is a questionable assertion that a large pub chain is having a detrimental impact on the trade at the application site, and again there is no evidence provided to support this assertion.
- 6.20 Taking into consideration the points made in paragraphs above, it is considered that the applicant has failed to demonstrate that there has been a significant decline in the numbers of hire boats, or that the pub trade has declined significantly in such a way as to directly affect the trading of the Berney Arms.
- 6.21 As the applicant has sought to sell the freehold to the property, or lease the property, since September 2014, the assertion is that the property is not considered a viable option as no buyer or lessee have come forward. The Broads Authority understands that there have been interested parties and that issues such as property value and property curtilage, as well as concern over the owners intentions for the remainder of the site outside the curtilage of the sale property have had an effect on the progress of negotiations. A number of consultees have highlighted the asking price and how realistic this is, and suggested that this in itself is obstructing any potential sale, as well as issues such as the land between the private mooring and the property curtilage being separated by a piece of land outside of the potential buyer's control. This further undermines the case put forward by the applicant.
- 6.22 It is further noted that there are inconsistencies in the data presented by the applicant. For example, in paragraph 5 of the applicant's submitted report on the reasons for the change of use, the 2013 sales revenue is stated as £120K. In the financial report, paragraph 5, the 2013 sales revenue is stated as £100K. This represents an obvious difference in revenue. The applicant states that £10K is a modest profit, so the figure of £20K must be considered as a significant amount for this business. Such inconsistencies undermine the reliability of the data, given that Policy DP27 of the Development Management

Policies DPD requires robust demonstration that the business is no longer economically viable. Finally, the report also sets out the turnover figures for the pub as following:

Year	Turnover (£)
1999	130,000
2000	140,000
2001	150,000
2002	150,000
2003	150,000
2004	14,000
2005	140,000
2006	140,000
2007	130,000
2008	120,000
2009	110,000
2010	110,000
2011	90,000
2012	80,000
2013	100,000 or 120,000
2014	60,000

- 6.23 It is noted that there is no obvious correlation with the alleged change in hire boat numbers, but what is clear is that for years such as 2014 and 2012 when the pub was either closed for part of the season or under sporadic management the turnover was affected; for the remaining years the turnover was broadly stable.
- 6.24 The viability report which was submitted in support of the application has been independently reviewed. This review notes at the outset that a fully reasoned case has not been submitted, rather a selection of assorted documents plus an indicative business plan identifying the 'break even' point. On the basis of the evidence that has been submitted, and taking into account the particular locational issues here (which have both advantages and disadvantages), the reviewer concludes that it is unlikely that a long term viable and sustainable pub/restaurant business could be operated without additional support. In coming to this conclusion, however, he does accept that the pub might be able to be run as a 'lifestyle business' and that part of the difficulty is around the historic lack of maintenance and repair, which means that substantial expenditure is required imminently and will delay any profitability. He also notes that "the restricted curtilage with dilapidated buildings adjoining in third party control [ie not included within the sale] limits the potential of the property to trade successfully". Thus, whilst the overall prospect of viability based on the existing operation or the unit as currently available for sale is poor, there are factors which contribute to this outlook.
- 6.25 In conclusion, whilst the independent assessment of the submitted viability assessment is a strong material consideration, there are other factors to be

mindful of when deciding how to balance this against the requirements of DP27 for a robust demonstration of non-viability and the policy presumption in XNS6. On balance, it is concluded the other factors are significant and that there is no justification at this point for a departure from policy.

### Flood risk

- 6.26 The third issue to consider is flood risk and the suitability of the site for a residential dwelling. In relation to flood risk the following is considered. The pub building is sited less than 20 metres from the northern bank of the River Yare and as an optimistic appraisal based upon site observations has a ground floor level at roughly the same height as the mean water level. The site is located within flood zone 3. The standing advice from the Environment Agency (EA) is that a change of use application would require a Flood Risk Assessment (FRA). The applicant did not submit an FRA as part of the application, the EA response was as follows:
- 6.27 The application site lies within Flood Zone 3 defined by the Environment Agency Flood Map as having a high probability of flooding. Paragraph 103, footnote 20 of the National Planning Policy Framework (NPPF) requires applicants for planning permission to submit an FRA when development is proposed in such locations, including changes of use. An FRA is vital if the local planning authority is to make informed planning decisions. In the absence of an FRA, the flood risk resulting from the proposed development are unknown. The absence of an FRA is therefore sufficient reason in itself for a refusal of planning permission.
- 6.28 The comments from the EA were passed to the applicant who was encouraged to submit an FRA and in response produced his own report. The EA subsequently commented that the report was not actually a FRA, it contained for example no demonstration of site levels and no topographic survey, as such the initial comments made by the EA were still accurate and relevant. The proposed change of use is therefore considered to be contrary to Policy CS20 of the Core Strategy, Policy DP29 of the Development Plan Document, and the NPPF.

### Other material considerations

- 6.29 In relation to the applicant's submitted report on the reasons for the change of use, specifically paragraphs 17 and 18 relating to options to make the business viable, a number of points require attention. The applicant states in paragraph 17 that there is no right of way to the only access road and there remains the risk that access could be denied at any time. It logically follows that access for residents cannot be assured and therefore cannot be considered to comprise part of the application proposal. A residential premises in this location would be expected to provide a reasonable level of accessibility which it is not able to provide currently. It is further noted that the existing parking area would appear to be outside of the development site and as such would not be within the ownership or control of future residents. The

proposed development is therefore contrary to Policy CS18 of the Core Strategy and DP21 of the Development Plan Document.

- 6.30 Considering paragraph 18 of the applicant's submitted report, the applicant states that they have explored 'all possible options' to retain the property as a public house by suggesting numerous options at the site for commercial enterprises to run alongside the pub. These have been the subject of pre-application advice. It is the case many of these were unrealistic – for example, the development of holiday lodges, or the establishment of a water sports centre - whilst other suggestions (typically the more low key ideas, although including the conversion of the former shop) could be cautiously supported. It is the case that there has been a long term and sustained lack of investment in the pub and its surroundings and whilst this has had an impact on the pub's trading recently, it is not considered that all options for reversing the pub's recent fortunes have been rigorously explored.
- 6.31 In relation to the numerous consultation responses which have highlighted concerns over the loss of moorings on the northern bank of the River Yare in this location. The moorings and the access to these moorings are outside of the development site and would not be affected by any decision on this planning application. The section of footpath which crosses the southern part of the development site is a public right of way and would not be affected by any decision on this planning application.

## **7 Conclusion**

- 7.1 The proposed change of use of the public house to a dwellinghouse would fail to protect a locally important facility and would be contrary to Policy XNS6 of the adopted Site Specifics Local Plan (2014)
- 7.2 The proposed change of use of the public house to a dwellinghouse would result in the loss of a non-designated heritage asset, resulting in significant harm to the special character of the area, as well as being detrimental to the character and identity of the locale, contrary to Policy DP6 of the Development Plan Document and the NPPF.
- 7.3 The proposed change of use of the public house to a dwellinghouse would result in the substantial harm to the Conservation Area as well as being detrimental to the character and identity of the locale, contrary to Policy DP6 of the Development Plan Document and the NPPF.
- 7.4 The proposed change of use of the public house to a dwellinghouse would result in the loss of a vital visitor and community facility which provides an essential asset to the local area, tourists, boats coming to and from Breydon Water, and walkers along the Weaver's Way and Wherryman's Way. The applicant has failed to demonstrate that business is no longer economically viable and is therefore contrary to Policy CS9 of the Core Strategy and Policy DP27 of the Development Plan Document.

- 7.5 The proposed change of use to a dwellinghouse is not supported by a Flood Risk Assessment and is therefore considered to be contrary to Policy CS20 of the Core Strategy, Policy DP29 of the Development Plan Document, and the NPPF.
- 7.6 The road access to the site is outside of the applicant's control and not subject to a legal agreement, the use of the property as a dwellinghouse would be without assured road access and therefore the proposed development is contrary to Policy CS18 of the Core Strategy and DP21 of the Development Plan Document.

## **8 Recommendation**

- 8.1 That planning permission be refused.

## **9 Reason for recommendation**

- 9.1 The proposal is considered to be contrary Policies CS9, CS18, and CS20 of the Core Strategy (2007), Policies DP6, DP21, DP27, and DP29 of the Development Plan Document (2011), Policy XNS6 of the Site Specific Policies Local Plan (2014), and the National Planning Policy Framework (2012) which is a material consideration in the determination of this application.

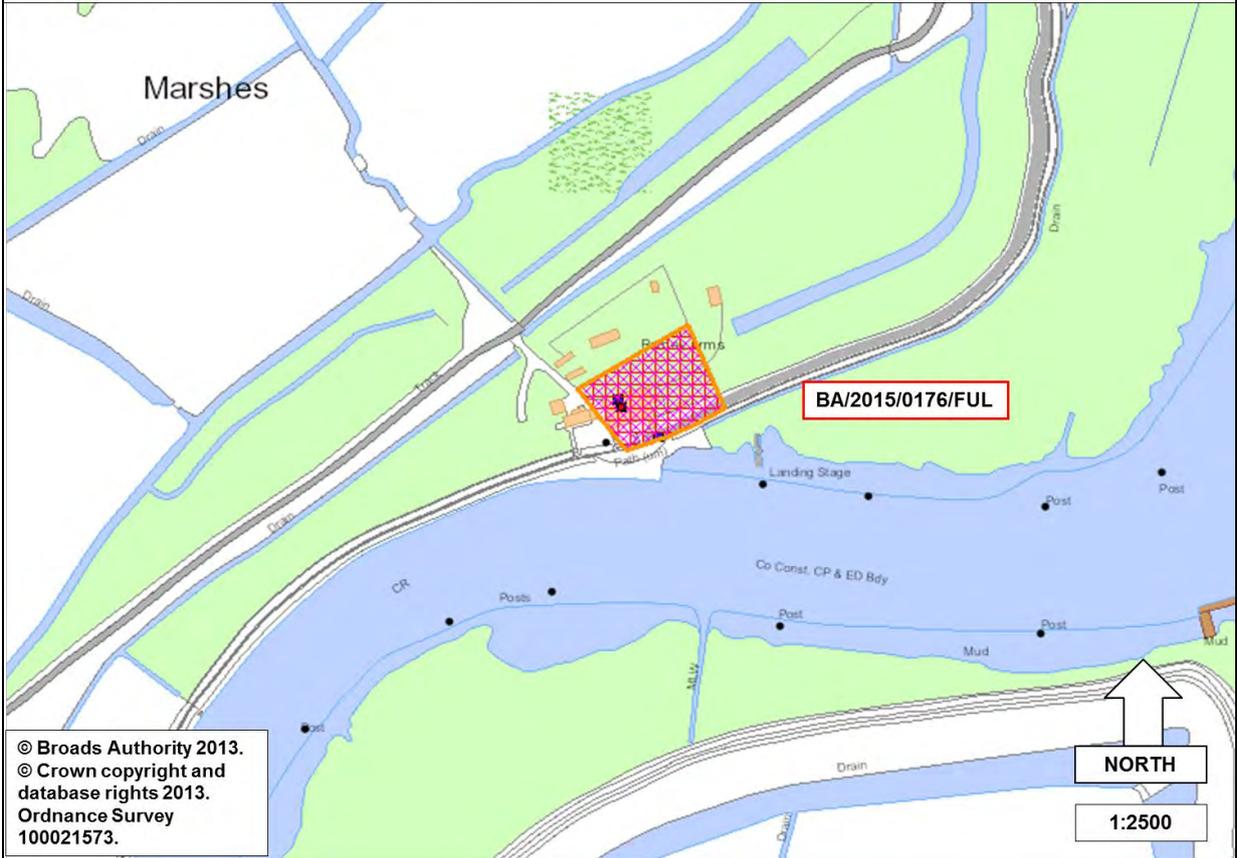
Background papers: Application File BA/2015/0176/FUL

Author: Nigel Catherall  
Date of Report: 27 August 2015

List of Appendices: APPENDIX 1 - Location Plan  
APPENDIX 2 - Viability Assessment

**APPENDIX 1**

**BA/2015/0176/FUL - Berney Arms Inn, The Marshes, Reedham, Norwich, NR30 1SB - Change of use of the Pub Building to a single dwelling.**



**Nigel Catherall**

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**From:** Stuart Bizley <sb@steeplecourt.co.uk>  
**Sent:** 27 August 2015 13:42  
**To:** Nigel Catherall  
**Subject:** Berney Arms - 15/0176 - Private & Confidential  
**Attachments:** Berney Arms.jpg; Plan - Berney Arms.pdf

Dear Nigel

Further to our site visit I have considered the information submitted in support of the application for change of use of the pub to residential seeking to justify that the business of the pub is not viable.

#### Information Provided

The applicant has not submitted a fully reasoned case and is relying upon a range of information including emails with the Authority, interested parties and the marketing agents which contain some detail of the marketing activity undertaken as well as the views of the estate agents on the sustainability of the business as a pub. In addition copies of marketing particulars have been provided as well as an indicative 'business plan' identifying the breakeven point for a business trading at the premises.

Notwithstanding the presentation by the applicant I have been able to consider the matter and reach a conclusion.

#### The Property

The property is in a remote location on the banks of the River Yare close to Breydon Water. There is no direct access to the public highway and we are advised that vehicular access via a part made and part unmade track crossing two rail lines is 'permissive' only, that is, no formal right of way exists.

The accommodation comprises an extensive trade area with main bar and servery, dining room (30 covers), darts bar and pool room and separate ladies and gents toilets. There is also a catering kitchen with wash up area and two freezer rooms and cellar. On the first floor there is living accommodation comprising 3 bedrooms (2 double and 1 single) lounge/diner with kitchen area and a bathroom. Externally there is patio area, one private mooring and parking.

The overall site is far more extensive but the area that has been marketed and the subject of this application excludes the adjoining outbuildings, former shop and chalet/staff living accommodation all immediately adjacent to the main pub premises as well as the remaining grounds and moorings in the ownership of the applicant. The attached plan shows the whole site edged in red with the area the subject of the application edged in blue.

The property is generally in a poor state of repair with little routine maintenance having been carried out in recent years

#### Viability

The property has been marketed through a reputable agent, T W Gaze, specialising in licensed premises at an asking price of £230,000 for the freehold or available to let at an annual rent of £15,000 per annum.

Whilst the property has generated interest from several parties none have been willing or able to proceed to date.

The agent states in advice to their client (the applicant) that 'with a maximum turnover of c£100-£120,000 pa this is never going to be a self sustaining business. It will need to be operated as a lifestyle business, supplemented by paid employment in the winter or substantial cash/pension resources'

The property is in a remote location relying almost entirely on seasonal trade from river borne clientele and can realistically open for business for around six to seven months a year at most. The property itself requires substantial expenditure both in terms of outstanding maintenance and repair as well as improving the internal fittings and appearance so as to maximise the chances of securing what trade exists. The restricted curtilage with dilapidated buildings adjoining in third party control also limits the potential of the property to trade successfully.

In my opinion the price and rent being sought are in excess of a realistic level that might attract a potential buyer/operator. However, even if more realistic terms were sought I am of the opinion that a long term viable and sustainable licensed pub/restaurant business in this location is very unlikely and in order for the property to continue to trade the any proprietor will have to be prepared to support the business from other resources. I therefore largely agree with the marketing agents advise as set out above

### Conclusion

Whilst the applicant has not made a clear case having inspected the property and considered the information submitted I am of the opinion that it is very unlikely that a long term viable and sustainable pub/restaurant business can be operated from the property without additional support

Kind Regards

Stuart Bizley BSc MRICS  
Director  
SMB Property Consultancy Ltd  
Email: [sbizley@smbproperty.co.uk](mailto:sbizley@smbproperty.co.uk)  
Mobile: 07786 515289  
Address: 16 Chestnut Road Scarning Dereham NR19 2TA  
Company Number: 07779449



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