

**Enforcement of Planning Control
Mooring of a Caravan on Floating Pontoon**
Report by Planning Officer (Compliance and Implementation)

Summary: Mooring of caravan on floating pontoon.

Recommendation: That authorisation is granted for the issuing of an Enforcement Notice and for prosecution (in consultation with the Solicitor) in the event that the Enforcement Notice is not complied with.

Location: Plot 9/9A, Martham

1 Background

- 1.1 The site is located along the southern side of the River Thurne upstream of Potter Heigham. The subject plot, known as Plot 9a, has been combined with adjacent Plot 10 and comprises of a waterside bungalow and a flat afloat on Plot 10 and the caravan which is the subject of this report on Plot 9a. The caravan is sited on a floating pontoon and is currently moored on Plot 9A which is a leisure plot and cannot be used for the use of mooring vessels or the mooring of structures which are used for residential purposes. Plot 9A is owned by Environment Agency.
- 1.2 In October 2014 the Authority first became aware of a caravan which had been installed on a floating pontoon on Plot 9a. Officers visited the site and found that the caravan was permanently stationed within the mooring cut and was connected to domestic services and was being used for accommodation. It was concluded that the stationing of the caravan for residential use was in breach of planning and the landowner was therefore required to remove the caravan by 1 April 2015.
- 1.3 In March 2015 the owner registered the caravan for tolls claiming it to be a vessel and arguing that therefore no planning approval was required.
- 1.4 In June 2015 officers visited the site again to find the caravan on floating pontoons still in situ. Legal advice was sought and the Authority was advised that there had been a change of use on the land.
- 1.5 To clarify the use of the caravan, a Planning Contravention Notice was sent to the owner in October 2015 to gain more information on the use. In his response the owner claimed that it was solely being used for when family visited and was only connected to domestic services when in use. A follow up meeting confirmed that it was not being navigated and only being used for family and not rented out; the owner considered it to be ancillary

accommodation to his residential use of the bungalow Reflections, located on Plot 10. Subsequent to this, it is understood that in the summer of 2015 the landowner in fact rented out the bungalow Reflection on Plot 10 for holiday use and occupied the caravan on Plot 9a himself.

- 1.6 In November 2015 it was requested that the caravan be removed by 18 January 2016 as there was a breach in planning as the standing and use of the caravan for residential use was a change of use of the mooring plot.
- 1.7 The landowner failed to remove the caravan, so a further meeting was arranged in order to try to resolve the outstanding issue. The owner maintained that it was a vessel, however admitted that he did not want to go down the route of further action and was in favour of selling the caravan. It was agreed that the Authority would allow him until the end of August 2016 to sell it and have the caravan removed.
- 1.8 It was noted in September 2016 that the vessel was still in situ, having not been sold. The owner again questioned the need for removal of the caravan as he still considers that it is a vessel, partly on the basis of it is having been tolled.

2 The Planning Breaches

- 2.1 Historically Plot 9a has been used as a leisure plot or mooring plot only, which does not include the residential use of a caravan. The subsequent installation of the caravan on floating pontoons and its use for accommodation constitutes a change of use to residential.
- 2.2 The caravan is not navigable and cannot be classed as a vessel for planning purposes. It is noted that the owner has acknowledged that it is not navigable and has no way of being moved under its own power. It is also noted that section 7 of the Broads Authority Act 2009 sets out the definition of a "vessel" as including:

"any raft, pontoon or similar floating or submersible structure capable of being moved under its own power or under tow but does not include any craft or pontoon which is permanently fixed."

This reinforces the conclusion that there has been a change of use of the land (covered by water) to a use for the stationing of a caravan for residential use on a floating pontoon.

- 2.3 In order to mitigate the appearance of the caravan it has been screened with reeds. However, this does not complement or enhance the character of the local area and is contrary to a number of adopted planning policies.
- 2.4 It is the case that an unauthorised change of use of the land has occurred and therefore there is a breach in planning control.

3 Proposed Next Steps

- 3.1 The Broads Authority has recently prepared a Local Enforcement Plan, which sets out its approach to planning enforcement. It outlines the four main principles it will be guided by when looking at unauthorised development: expediency, proportionality, consistency and negotiation. These will be used when deciding whether or not to take any action in respect of a planning breach. It should be noted that enforcement action is not mandatory, but is at the discretion of the Local Planning Authority (LPA) and the LPA must decide whether or not it is expedient to take such action, having regard to the provisions of the development plan and to any other material considerations. In determining expediency, an LPA needs to be mindful of the harm that is being caused by the breach and the acceptability in planning terms of what is being undertaken.
- 3.2 The change of use of a leisure or mooring plot to a use for the standing and occupation of a static caravan for residential purposes is contrary to adopted Development Management policy DP22, which seeks to locate new residential development within development boundaries, and DP25 which allows residential moorings only in specified circumstances which do not apply here. Furthermore, policy DP17 allows only mooring uses to take place on mooring plots (and this does not include a residential use), so the development conflicts with this provision. Finally, it is also contrary to policy DP2 which allows development only where it will not have a detrimental impact on the landscape importance and policy DP4 which requires a high standard of design. The unauthorised development is in clear conflict with each of these policies.
- 3.3 Given the above, the change of use of the plot would be unlikely to be granted planning permission, was an application to be submitted.
- 3.4 Given that the change of use is unacceptable in policy terms, it is appropriate to pursue a remedy which requires the cessation of the residential use and the removal of the caravan on a floating pontoon. There has been a clear and deliberate breach of planning control and it is proposed to serve an Enforcement Notice in respect of the change of use, requiring the removal of the structure.

4 Financial implications

- 4.1 There will be financial implications resulting from the legal input required.

5 Recommendation

- 5.1 It is recommended that an Enforcement Notice be served requiring the cessation of the residential use and the removal of the caravan on floating pontoons known as "Broad minded". It is recommended that a period of 3 months be allowed for compliance.

Background papers: Planning File BA/2014/0041/UNUAP2

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Appendices: APPENDIX 1 - Site plan

APPENDIX 1

