

Reference:

BA/2017/0424/FUL

Location

Land at Ludham Bridge, Ludham

BA/2017/0424/FUL Ludham Bridge Ludham NR29 5NX



1:20,000

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Application for Determination

Target Date	18 May 2018
Parish:	Ludham Parish Council
Reference:	BA/2017/0424/FUL
Location:	Land north of Bridge Cottage Ludham Bridge Ludham NR29 5NX
Proposal:	Retrospective application for retention of hardstanding, shed, office and shipping container for two years.
Applicant:	Mr Anthony Lumbard
Recommendation:	(i) Refusal of planning permission. (ii) Subject to (i) the Committee's approval for and the service of an Enforcement Notice
Reason for referral to Committee:	Authority sought for service of Enforcement Notice to remedy breach of planning control

1 Background

- 1.1 In 2009 planning permission was granted for flood defence works on land adjacent to the River Bure at Ludham including the provision of a temporary site compound on land adjacent to the A1062 (BA/2009/0202/FUL). The works were to be undertaken by BESL on behalf of the Environment Agency.
- 1.2 Condition 7 of planning permission stated:

'The use of the land for a temporary compound linked to the flood defence works in this compartment shall cease within one month of the completion of

work in this compartment and the land shall be restored to the previous/agreed condition, unless otherwise agreed in writing with the Local Planning Authority'.

- 1.3 The BESL works were undertaken between 2010 and 2015.
- 1.4 In July 2016 a complaint was received that the BESL works had been completed but that the temporary compound site had not been restored in accordance with the above condition. A site visit confirmed this; in addition a workshop for use by a carpenter had been constructed.
- 1.5 In July 2016 BESL confirmed via email that their lease on the land had expired in 2015 and that the land had been returned to the responsibility of the owner. An old office had been retained for the owner's own use.
- 1.6 The LPA contacted the landowner in respect of the planning breach and there has been extensive correspondence between the parties. The LPA have requested that the land be restored to its previous condition, in accordance with condition 7 of planning permission BA/2009/0202/FUL, or for a planning application to be submitted should the owner wish to retain the land in its current unauthorised use.
- 1.7 Since July 2016 the owner has variously stated that either the BESL works have not completed so the requirements of Condition 7 are not triggered and/or that they will clear the site and/or submit a planning application to regularise the development.
- 1.8 In relation to the assertion that BESL works were not complete, replies to PCN notices served in November 2016 produced the following information:
 - From BESL that the land had been handed back to the landowner with hard standing still in place. That they were not currently using the site, but had an informal arrangement that subject to the landowner's further permission that they may utilise the site for maintenance works at Ludham Bridge and might use the site for occasional short-term storage of plant for grass-cutting operations when in the area.
 - From the landowner that supporting documentation showed that he had been asked for the use of his compound for planned works near the bridge.

2 The Current Situation

- 2.1 There are two parts to the breach. Firstly, because the previous temporary buildings have not been removed and the site has not returned to a non-commercial use the compound site has not been returned to its previous condition, as required by condition 7 of planning permission BA/2009/0202/FUL, and therefore there has been a breach of that condition. Secondly, there is the erection of the carpenter's workshop, which has taken

place since BESL vacated the site. This is unauthorised development as planning permission has not been granted.

- 2.2 On November 2017 a planning application was submitted seeking permission to retain the use of the compound and the buildings/structures thereon, including the workshop. The application was incomplete and further information was requested, including a Planning Statement and a Flood Risk Assessment. Initially the Agent argued that he did not need to submit the additional information requested, but eventually the information was submitted and the application was validated on 23rd April 2018.
- 2.3 It is appropriate to consider the application, and the assessment is as follows.

3 The Planning Application

Description of Site and Proposals

- 3.1 The application site is a field which sits to the south east of Norwich Road, at Ludham Bridge, which crosses the River Ant at Ludham. Ludham village centre sits approximately 2.3km to the north east of Ludham Bridge. The site is situated between a residential property, Bridge Cottage and a marina and associated Boatyard, which sit approximately 100m to the south west. A camping and caravan park sits approximately 50m to the north east. Another residential property sits on the road opposite approximately 60m away, as well as a convenience store (approximately 100m away), a gallery (approximately 90m away) and a public toilets block operated by North Norfolk District Council (approximately 30m away). Although there is a small section of linear development along the road, the surrounding land is predominantly undeveloped, rural in character and in agricultural use. Marshland lines the bank of the River Ant.
- 3.2 The application is for the retention of the hardstanding, shed, office and shipping container for a temporary period of two years. These are the structures which have not been removed from the site and have been the subject of the enforcement negotiations outlined above. The hardstanding is approximately 20m long by 11m wide and consists of loose gravel and concrete paths and ramps providing access to the buildings. The hardstanding is used as a carpark. There are three buildings on the site as follows:
- The shed is constructed in timber with a metal profile sheet roof, is approximately 6.2m x 3.7m and 2.8m to the ridge. The shed is used as a workshop.
 - The portacabin is constructed in timber, is approximately 6.6m x 2.7m and 2.7m to the ridge. The portacabin is used as an office.
 - The shipping container is metal in construction, is approximately 5.6m x 2.1m and 2.6m to the ridge. The shipping container is used for storage.

4 **Consultations**

4.1 Consultations received

Ludham Parish Council- supports the application

District Member- to be reported orally

Environment Agency- to be reported orally

Highways Authority- to be reported orally

4.2 Representations received

None

5 **Planning 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

[Core Strategy Adopted September 2007 pdf](#)

CS1- Landscape Protection and Enhancement

Development Management Policies DPD

[Development-Management-DPD2011](#)

DP1- Natural Environment

DP2- Landscape and Trees

DP4- Design

DP11- Access on Land

DP29- Development on Sites with a High Probability of Flooding

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.

Development Management Policies DPD

DP28- Amenity

6 Assessment

- 6.1 The main issues to consider in the determination of this application are the principle of the development, impact on landscape, flood risk, ecology, and highways.

Principle of the Development

- 6.2 The site is situated within open countryside as described by the Development Management Policies DPD as it sits away from any defined development boundary. In addition, the site does not relate to the curtilage of any other building. The use which is being undertaken is a mixed commercial and domestic-type use, in that the workshop is let to a carpenter and the other buildings are being used by the landowner as supplementary to the storage at his domestic property located approximately 100m to the south west.
- 6.3 It is noted that the original temporary permission for the carpark, site office and shipping container was granted due to the need for a works compound and support facilities in connection with the flood defence works being undertaken locally by BESL. The development was considered acceptable in connection with these works, which they facilitated; it should also be noted that the flood defence works themselves represented a considerable visual disturbance to the local landscape for their duration and the temporary compound was seen in this context. As noted above these works were completed in 2016, the lease of the land to the Environment Agency has expired and compliance with the condition is overdue.
- 6.4 The landowner has advised that he would like to continue to use the site for another 2 years. No explanation or details of the need or justification for the continuing use of the site has been submitted.
- 6.5 In previous enforcement discussions the landowner advised that the Environment Agency, BESL and the IDB still use the land for both parking and storage of materials and equipment. He advises that they use the site on an ad-hoc basis when working locally. This is confirmed by BESL who state that whilst not strictly necessary, it is convenient for them so they do use it when they are working in the area. The owner has also advised that he has let the workshop to a carpenter, who uses it when working on his property, although the carpenter does also use it for his general business. The current use of the site office and storage container is not clear.
- 6.6 No clear information or justified evidence has been provided in support of the proposed continued use of the hardstanding, as a carpark, or the buildings, nor is there any explanation of why these uses cannot be undertaken elsewhere, for example, at the landowner's residential property where there is ample curtilage. On this basis, it is not considered that the use has been justified, nor have any other material planning considerations been submitted. The development is therefore considered unacceptable in principle.

Impact on Landscape

- 6.7 The site was previously an open field/marsh which offered a visual break in development. As the site was within open countryside there are strong concerns regarding the impact on landscape especially where there is no longer a justification for the use, in accordance with Policy CS1 of the Core Strategy and DP2 of the Development Management Policies DPD. It is considered that use of the site and the nature of the buildings have a significant adverse impact on the landscape by virtue of the scale and design. It is considered that the site should be restored, including the removal of the buildings, to drained marsh as there is no longer a justification for its use as a compound. The application for its retention is therefore considered detrimental to the landscape and against policies CS1 of the Core Strategy and DP2 of the Development Management Policies DPD.

Flood Risk

- 6.8 The site sits entirely within Flood Risk Zone 3, an area of high risk of flooding, and where new development is generally resisted. The Flood Risk Assessment submitted with the application only makes reference to the carpark and does not include the workshop, office or storage container and, in doing so, seeks to present the development as one which is 'less vulnerable' to flooding and therefore an appropriate form of development in Flood Risk Zone 3. However, the site is not just a carpark and the existence of the other uses such as the workshop and office have not been addressed.
- 6.9 Additionally, the Flood Risk Assessment does not indicate whether the site is within Flood Risk Zone 3a or 3b, which is important. If the site is within 3a a 'less vulnerable' use maybe considered appropriate in flood risk terms, however, this would not be the case if the site is within 3b as a 'less vulnerable' use would only be considered acceptable if the LPA considers the Exceptions Test could be passed. For the Exceptions Test to be passed the applicant would need to demonstrate that the development offered wider sustainability benefits to the community that outweigh the impact on flood risk. No such benefits have been presented and given the absence of justification for the continued use of the site it is considered unlikely that the Exceptions Test could be met. In conclusion, it is considered that there is not enough information submitted in order to satisfy the LPA that the proposed development is acceptable in flood risk terms. The development as it stands is therefore considered contrary to the National Planning Policy Framework and policy DP29 of the Development Management Policies DPD. The Environment Agency's comments are awaited and members will be updated verbally.

Ecology

- 6.10 Whilst the site is small in ecological terms, its retention in its current use delays its restoration to marshland and the consequent ecological improvement, as this latter use would have a higher biodiversity value. There would therefore be an adverse impact on ecology should the works compound

remain, contrary to Policy DP1 of the Development Management Policies DPD.

Highways

- 6.11 If the site were to be retained in its current use there remains an increase in use of the access. It is unclear if the use is detrimental to the highway network. The Highways Authority's comments are awaited and members will be updated verbally on Highway impacts.

Amenity

- 6.12 Whilst it is not considered that there is a detrimental impact on neighbouring amenity whilst the commercial site exists, due to the quiet nature of the use, it is considered that there would be a significant visual and a less significant audio improvement if the land is returned to its authorised use of a drained marshland, in accordance with Policy DP28 of the Development Management Policies DPD.

7 Conclusion to planning assessment

- 7.1 The site is situated within open countryside, away from any development boundary and in an area where a commercial use would not normally be permitted. There are no additional benefits, or other material planning considerations, which would justify a departure from policy and an approval of planning permission. The development is therefore considered unacceptable in principle, even on a temporary basis. The retention of the works compound and buildings is considered to have a detrimental impact on the landscape and be contrary to policies CS1 of the Core Strategy and DP2 of the Development Management Policies DPD.
- 7.2 Furthermore, it is considered that there is not enough information submitted in order to determine whether the proposal is acceptable in flood risk terms. The proposal is therefore considered contrary to the National Planning Policy Framework and policy DP29 of the Development Management Policies DPD.

8 The Planning Breach

- 8.1 Should Members agree with the recommendation in respect of the planning application and resolve to refuse planning permission, it will consequently be necessary to address the planning breach.
- 8.2 The adopted Enforcement Plan advises that where unauthorised development is not acceptable and cannot be made acceptable by modification or planning conditions, enforcement action should be taken where expedient. In this case, enforcement action is considered expedient due to the impact the development is having on the character and appearance of the local landscape and the biodiversity value of the area. Authority is therefore sought for the serving of an Enforcement Notice relating to the removal of the

unauthorised structures and restoration of the land in accordance with condition 7 of planning permission BA/2009/0202/FUL.

9 Financial Implications

9.1 There are no financial implications resulting from the actions in this report.

10 Recommendation

10.1 That planning permission be refused and authority be given to serve an Enforcement Notice with a compliance period of 3 months.

Background papers: BA/2017/0424/FUL, BA/2009/0202/FUL and BA/2016/0024/BOCP4
Broads Authority Local Enforcement Plan (2016)
Development Management Policies (2011)
National Planning Policy Framework (2012)

Author: Kayleigh Judson

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Appendices: Appendix A - Site plan

