

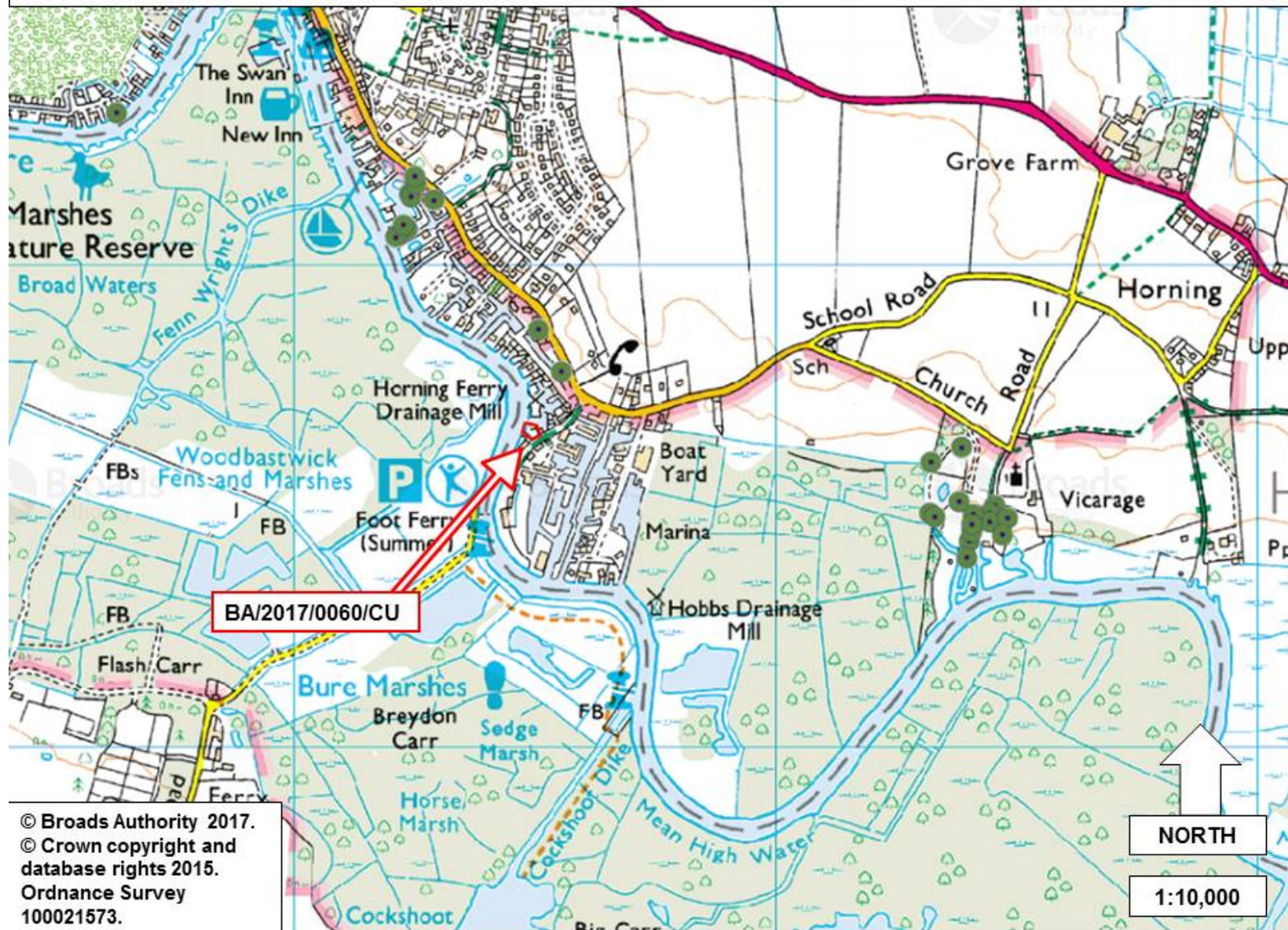
Reference:

BA/2017/0060/CU

Location

Eagle's Nest, Ferry Road, Horning

BA/2017/0060/CU - Eagles Nest, Ferry Road, Horning.



Application for Determination

Parish	Horning Parish Council
Reference	BA/2017/0060/CU Target date 20 April 2017
Location	Eagle's Nest, Ferry Road, Horning, NR12 8PS
Proposal	Change of use of first floor of boathouse to residential manager's accommodation (Class C3) associated with the adjacent King Line Cottages.
Applicant	Mr Robert King MBE
Recommendation	Refuse
Reason for referral to Committee	Director discretion

1 Description of Site and Proposals

- 1.1 The application site is located between Ferry Road and the River Bure within the village of Horning and comprises a detached wet boathouse sited adjacent to Eagle Cottage, a dwelling operated as a holiday-let along with 6 of the properties downstream. The boathouse is sited within a mooring basin and provides mooring and storage for a number of electric boats and equipment associated with the holiday-let properties. These properties – King Line Cottages – are situated south west of the application site and are in the ownership of the applicant. The 6 King Line Cottages properties are promoted as 'accessible self-catering accommodation for the disabled' and are marketed primarily towards persons of limited mobility.
- 1.2 The application site lies outside of the Horning Conservation Area and Defined Development Boundary. The site lies in the Environment Agency Flood Risk Zone 3b (functional floodplain).
- 1.3 The proposal seeks retrospective consent for the change of use of the first floor of the boathouse (known as Eagle's Nest) to residential accommodation (Class C3) associated with the adjacent King Line Cottages enterprise.
- 1.4 The existing boathouse replaces an earlier, much smaller, structure and originally gained consent in March 2010 (BA/2010/0012/FUL) with Condition 6 limiting the use of the boathouse solely for the mooring of boats and storage of equipment required for a purpose incidental to the use of the boathouse for mooring boats. Following the refusal of two previous applications for a larger

replacement boathouse, the application BA/2010/0012/FUL was granted on the basis that the proposed replacement was the minimum size and height required for its intended use housing three electric boats and equipment.

- 1.5 In 2015 the Broads Authority was made aware that the storage area above the boatshed had been converted and was being let for holiday accommodation.
- 1.6 In 2016 an application for a Lawful Development Certificate was submitted, arguing that the conversion and use was exempt from planning control as it had taken place for more than 4 years. The application was refused because the evidence presented did not demonstrate that the flat had been used as a manager's dwelling, including occasional holiday accommodation, for the requisite period.
- 1.7 On the 19 January 2017 the Broads Authority issued a Breach of Condition Notice relating to the breach of condition 6 of permission BA/2010/0012/FUL. The Notice requires compliance with the stated condition by requiring removal of all fittings facilitating the residential use of the first floor and cessation of residential use of the first floor. The compliance date is 19 April 2017.

2 Site History

BA/2009/0126/FUL	Replacement boathouse	REFUSED
BA/2009/0197/FUL Replacement Boathouse	Resubmission of PP BA/2009/0126/FUL for a	REFUSED
BA/2010/0012/FUL WITH CONDITIONS	Replacement boathouse	APPROVED
BA/2016/0261/CLEUD	Application for a Lawful Development Certificate for 4 years continuous use as a Manager's flat including Occasional Holiday Accommodation.	REFUSED
BA/2016/0445/CLEUD	Exterior cladding	ISSUED
BA/2016/0451/COND	Removal of Condition 3: materials and colours of permission BA/2010/0012/FUL	WITHDRAWN

3 Consultation

Parish Council – No comments

North Norfolk Environmental Health Officer - We would strongly advise against granting permission for the application site due to the contents of the recently renewed Joint Position Statement.

Environment Agency response on Flood Risk 21.03.2017 – We object to this application in principle because the proposed development falls into a flood

risk vulnerability category that is inappropriate to the flood zone in which the site is located.

Environment Agency response on Joint Position Statement 31.03.2017 - The application, although not fully clear indicates that connection will be to the mains sewer, what is not recorded is whether the current boat house already has a mains sewer connection. If it does then it is unlikely that the proposed development would increase flow to an amount that would impact significantly on the WRC at Horning Knackers Wood.

4 Representations

Ninety-six letters of representation supporting the provision of manager's accommodation have been 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 Core Strategy Adopted September 2007 pdf](#)

CS24 – Residential Development and the Local Community

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

DP1 – Natural Environment

DP3 – Water Quality and Resources

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.

[Core Strategy](#)

CS7 – Environmental Protection

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

DP21 – Conversion of Buildings in the Countryside

DP22 – Residential Development within Defined Development Boundaries

DP26 – Permanent and Temporary Dwellings for Agricultural, Forestry and Other Workers

- 5.3 Other Material Considerations

6 Assessment

- 6.1 The main issues to consider in the determination of this application are the principle of the development, flood risk and water quality.

Principle

- 6.2 As the site is not within a Defined Development Boundary, the proposal for a new dwelling here is contrary to Development Management Policy DP22. There are exceptional circumstances when new dwellings might be permitted outside of the development boundary and these circumstances are identified in Policies DP21 (conversion), DP23 (affordable housing), DP24 (replacement dwellings) and DP26 (rural workers dwellings). DP26 allows residential development outside a development boundary where it is essentially needed in order to support an employment use and this is the only policy which could potentially allow for the dwelling proposed here. In order to meet the requirements of DP26 criteria (a) to (f) would need to be satisfied. This report will consider each of these criteria.

- 6.3 Criterion (a) requires that:

a) *There is a demonstrable existing need for full time worker(s) to be available at all times for the enterprise to function properly*

The application states that given the nature of the business there is a need for an on-site manager, in order to respond quickly during unsociable hours to any requirements of customers, and by living on-site this would allow a satisfactory work/life balance to any manager. The applicant, Mr King, resides approximately 1km from the site and for the last 46 years has employed staff to assist with the running of the cottages. Mr King would be available in the case of an emergency or should tenants need assistance and in recent years a local man was employed between 2001 - summer 2014 to manage the cottages alongside Mr King. The current need, which has precipitated this application, arises as the applicant and owner of the enterprise, Mr King, plans to retire and therefore he will no longer be available to assist with such matters.

- 6.4 Given that the business has been operating without an on-site manager for 46 years and that the level of customer service required for such a business has

been provided by either the owner or employees living locally, the argument of need on the basis of a satisfactory work/life balance is considered insufficient justification to satisfy criterion (a). It should be noted that the requirement of the policy relates to a clear functional need based on economics of the business, not the convenience or personal preferences of the owner and/or his staff. It is not considered that evidence has been provided to demonstrate that there is a need for a full time worker to be available at all times for the enterprise to function properly and criteria (a) has not been met.

6.5 Criteria (b) and (c) require that:

b) *The need is arising from a worker employed full-time or one employed primarily in the Broads in agriculture, forestry or a rural business; and*

c) *Evidence is submitted that demonstrates that the business has been established for at least three years, has been profitable for at least one of them, is currently financially sound and has a clear prospect of remaining so;*

King Line Cottages is a well-established rural business having been operating for over 40 years and it is acknowledged that a full-time manager is required to run the 6 holiday cottages. Criteria (b) and (c) have been met.

6.6 Criteria (d) requires that:

d) *The functional need cannot be met by an existing dwelling on the site or in the locality and there has been no sale on the open market of another dwelling on the site that could have met the needs of the worker in the past three years;*

The site is located within the rural village of Horning with a wide variety of dwellings. The current owner lives within 1 km of the site and has managed the business from this distance for many years, and it is noted that on the 7th April 2017 there were 7 dwellings for sale within 1km of the site, varying from 2 bedroom apartments to 4 bedroom detached dwellings. As the site has previously successfully been operated from an off-site location, it is considered that the functional need can be met by an existing dwelling in the locality and therefore the proposed development does not satisfy criterion (d).

6.7 Criteria (e) requires that:

e) *The dwelling would be commensurate in size and scale with the needs of the enterprise; and*

Assessing criterion (e), whilst the proposed dwelling is considered to be commensurate in size and scale to the needs of the enterprise, it is noted that following two previous unsuccessful applications for a larger replacement boathouse, the existing boatshed was granted planning permission on the basis that the proposed replacement (ie the existing building) was the minimum size and height required for its intended use housing three electric boats and equipment. This application therefore goes against the justification

for the original consent, as the scale is such that the boathouse can accommodate residential accommodation in addition to the three electric boats and equipment. There is also a concern that were part of it to be lost permanently to a residential use, a further application for storage facilities might come forward.

6.8 Criteria (f) requires that the development:

f) *It would not adversely affect protected species or habitats.*

The proposed development is not considered to result in significant adverse effects on protected species or habitats and therefore is in accordance with Criterion (f).

6.9 In summary, the principle of the development cannot be considered acceptable as it is not in accordance with Policies which only allows for such dwellings in exceptional circumstances where all criteria are satisfied.

6.10 It should be noted that, on making this planning application, the applicant notified the existing customers of the application and requested their support for the application. As a result of this request, 96 letters of representation that support on-site manager's accommodation have been received. Whilst the support is acknowledged, it remains the case that the provision of an on-site manager is not considered to be essential to the operation of the business (as required by DP26), but represents an additional level of service offered above and beyond what would be considered essential to the running of the enterprise. That this is appreciated is clear, however this does not justify the establishment of a residential unit contrary to adopted planning policy.

6.11 Given that the site is outside a development boundary and the proposed dwelling cannot be considered to be in an acceptable location in accordance with any of the development plan policies which allow for dwellings in such locations in exceptional circumstances, the principle of the proposal is contrary to the development plan and could only be recommended for approval if there were other material considerations which weighed in its favour.

Flood Risk

6.12 The proposed change of use would increase the flood risk vulnerability of the development from a water compatible use (boat storage) to a more vulnerable use (residential dwelling). As the site lies within the Environment Agency Flood Risk Zone 3b (functional floodplain), a more vulnerable development is not an acceptable form of development and should not be permitted according to Table 3 of the NPPG.

6.13 The NPPG and the Flood Risk SPD (adopted in March 2017) state that "Areas which would naturally flood, but which are prevented from doing so by existing defences and infrastructure or solid buildings, will not normally be identified as functional floodplain." In this case the boathouse by its nature is not

considered a solid building as water can flow unrestricted into and out of the wet boathouse. The Flood Risk SPD continues to say that “the functionality of any part will depend on the way in which the water would behave in times of flood. If flood waters which inundate the site in a 1:20 (5%) annual probability event can pass under or through a building or sit on land this will be defined as functional floodplain, but where an existing building or structure acts as a barrier to flood water then its functionality is compromised and it will not be classified as Flood Zone 3b and can be described as Flood Zone 3a.” This confirms that the site is considered to be located on functional floodplain and the proposed development should not be permitted according to Table 3 of the NPPG.

Water Quality

- 6.14 The Environment Agency, Anglian Water, North Norfolk District Council and the Broads Authority have recently agreed a Joint Position Statement on Development in the Horning Water Recycling Centre Catchment. This is in response to existing problems of flooding in Horning, foul water infiltration into the surface water drains and the fact that the Knackers Wood water treatment plant in Horning is operating at capacity. The agreed approach of the Joint Position Statement is that “new developments or changes to existing properties (commercial or domestic) that could increase foul water flows to the Horning WRC will not be looked upon favourably by the EA”.
- 6.15 The Environmental Health Officer raised an objection to the proposed development based on the Joint Position Statement and the conflict with the principle of that document. On this occasion the Environment Agency did not object in relation to the Joint Position Statement as they consider it unlikely that the proposed development would increase flow to such an extent that would impact significantly on the WRC. This approach is noted, and its pragmatism, however it is the case that the Joint Position Statement takes a principle-based rather than risk- based approach.

7 Conclusion

- 7.1 The National Planning Policy Framework, which should be read as a whole, seeks to avoid isolated new dwellings in the countryside unless there are special circumstances. Such policies of rural restraint are necessary to ensure development is sustainably located and the countryside (especially the Broads, which is a nationally protected landscape) is protected from inappropriate development.
- 7.2 This application proposes a new dwelling to support an existing business operating from the site. If the essential need for a worker to live on site had been satisfactorily demonstrated in accordance with Policy DP26, this would be one such special circumstance and the development could be considered acceptable in principle in accordance with the development plan. This need has not been satisfactorily demonstrated.

7.3 Furthermore, the proposed change of use is not considered to be acceptable form of development on the functional floodplain and in flood risk terms is contrary to policies on flood risk.

8 Recommendation

8.1 Refuse.

9 Reason for recommendation

- (i) The application site is outside a development boundary and there are not considered to be exceptional circumstances to justify the siting of a dwelling. The proposal is therefore contrary to Policy CS24 of the adopted Core Strategy (2007), Policy DP22 of the adopted Development Management Policies (2011)
- (ii) There is said to be a need for a worker to live on site in order to provide service to the customers, however it has not been satisfactorily demonstrated that there is an existing need for a full time worker to be available at all times for the enterprise to function properly and the proposal is contrary to criterion (a) of Policy DP26 of the adopted Development Management Policies DPD (2011)
- (iii) Insufficient information has been submitted to satisfactorily demonstrate whether or not the stated need for a worker to live at the site can be met by an existing dwelling in the locality. The proposal is therefore contrary to criterion (d) of Policy DP26 of the adopted Development Management Policies DPD (2011)
- (iv) The proposed development for residential accommodation, classified as more vulnerable development, is not considered an acceptable form of development in Flood Risk Zone 3b (functional floodplain) and is therefore contrary to Policy DP29 of the Development Management Policies (2011), Flood Risk Supplementary Planning Document (2017) and National Planning Policy Guidance.

List of Appendices: Location Map

Background papers: BA/2017/0060/CU

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