

ENFORCEMENT ACTION
(Report by Development Control Manager)

Case Nos: 06/00167/ENURES
07/00146/ENBOC

Description: UNAUTHORISED OCCUPATION OF LODGES/HOUSEBOATS,
NARROWBOATS/BOATS/FLATS AS A SOLE OR MAIN
RESIDENCE

Location(s): HARTFORD MARINA, BANKS END, WYTON, PE28 2AA
AND LAND AT HARTFORD MARINA, BANKS END, WYTON

Owner(s): MR B PERRY

Grid Ref: 526625 272514

1. PURPOSE OF REPORT

1.1 This report is to inform Members of a significant enforcement issue and to ask Members to endorse the general approach proposed to further investigate and address breaches of planning control relating to unauthorised residential occupation.

2. DESCRIPTION OF SITE AND ITS USE

2.1 The site is an area of about 15.4 hectares located to the south side of the A1123 approximately 700 metres south-east of the junction of the A1123 with the A141. It comprises two separate planning units – the main site which is a marina, and an area of 0.4 hectares in the north-east corner which has been sold off and developed into a holiday flat complex.

2.2 The marina was formed in the 1960's under a general planning permission for a boat mooring station. Its primary use is believed to have been for the temporary mooring of transient boats, with an element of boat maintenance, boat sales, and other ancillary uses. The majority of the site forms the marina basin, with narrow strips of land between the water's edge and the site boundaries. The southern boundary fronts onto the River Great Ouse. The site is bounded to the west by vacant agricultural land, to the north by the A1123, and to the east by a touring caravan park and fishing lakes. Facilities on the site now include a family pub/restaurant and a chandlery.

2.3 In the 1990's the site was further developed without planning permission with the introduction of 9 wooden lodges located on the north-west bank of the marina basin and 15 "floating houseboats" attached to a boardwalk located on the west bank. The floating houseboats comprise a mobile home positioned on a concrete pontoon which is attached to, but separate from, the boardwalk by

which it is accessed. Planning permission was granted retrospectively for these lodges and houseboats.

- 2.4 In 2004 planning permission was obtained to develop the north-east corner of the site. The land was subsequently sold off, and the 30 flats were erected in 5 blocks of 6. Around that time, additional floating houseboats started to be positioned along the north-east bank of the marina basin and subsequently a boardwalk was created which now serves a total of 12 floating houseboats. In 2006 a boardwalk attached to the western bank was extended and this now serves a further 12 floating houseboats. No planning permission has been applied for or granted for either of these boardwalks or the floating houseboats, nor for an additional (16th) floating houseboat which was attached in 2007 to the original boardwalk (the subject of planning permission 98/0115). This constitutes a significant increase in the number of units which are permanently moored at the marina, which in turn reduces its provision for visiting craft.

3. PLANNING HISTORY

- 3.1 The relevant planning applications relating to the main site are as follows:

J.30.64 Outline planning permission granted 15.5.64 for the use of land as a boat mooring station and the erection of ancillary buildings (conditions requiring approval of siting and detail of proposed buildings; protection of flood bank and river frontage; landscaping)

J30.64 Planning permission granted 12.11.65 for the use of land as a boat mooring station and the erection of ancillary buildings (conditions requiring detailed plans of all building and engineering works; car parking; landscaping; specification for the new cut; tree planting restrictions)

98/0115 Planning permission granted 9.11.98 for the retention of use of land for 15 houseboats for holiday use (conditions requiring use as holiday accommodation only; no extensions or alterations; pollution control measures; car parking)

Condition 1 states:

“The houseboats hereby approved shall be used only as holiday accommodation and shall not be used as the sole or main residence of any person”

98/0116 Planning permission granted 9.11.98 for the retention of use of land for 9 floating lodges for holiday use (conditions requiring use holiday accommodation only; pollution control measures; no extensions or alterations; car parking)

Condition 1 states:

“The lodges hereby approved shall be used only as holiday accommodation and shall not be used as the sole or main residence of any person”

3.2 The relevant planning application relating to the north-east corner is:

03/02830/FUL Planning permission granted 17.3.04 for the erection of 30 holiday chalets and moorings (various conditions including restriction to holiday accommodation only)

Condition 8 states:

“The accommodation hereby approved shall only be used as holiday accommodation and not as a permanent residence”

4. BREACHES OF PLANNING CONTROL

4.1 Planning Contravention Notices were served in November 2007 on all lodges, floating houseboats, narrow boats, boats, and flats (with the exception of those in an area which the marina owner states is used for boat repairs and sales only) to determine whether or not there are any breaches of planning control.

4.2 5 potential types of breaches of planning control have been identified as follows:

i) some original lodges and floating houseboats for which planning permission was granted appear to be occupied as a sole or main residence and not as holiday accommodation contrary to a planning condition

ii) the new floating houseboats do not have any planning permission and accordingly appear to be unauthorised development. Some appear to be occupied as a sole or main residence

iii) a number of narrow boats and boats appear to be permanently moored and occupied as a sole or main residence which is contrary to the terms of the planning permission for the marina

iv) some of the new flats appear to be occupied as a sole or main residence and not as holiday accommodation contrary to a planning condition

v) some recipients have failed to respond to the Planning Contravention Notice which is an offence under Section 171D of the Town and Country Planning Act 1990 (as amended)

5. SUMMARY OF ISSUES

5.1 This issue was raised initially as a result of a small number of people from the Marina registering for Council Tax. Initial enquiries suggested that there are people living permanently at the Marina contrary to planning control. This was supported following complaints received from other Marina users.

5.2 The Marina owners were invited to submit an application for planning permission in respect of the unauthorised floating houseboats but no application has been received.

5.3 The creation of a significant number of residential units is tantamount to a new housing development. The Marina falls outside any area identified for residential development and is considered to be in the

countryside for planning purposes. This means that there is a general presumption against housing development and new development will usually only be considered where it is essential for the efficient operation of local agricultural and other specified activities. There is no suggestion that this is the justification for any of the occupiers, and indeed many are retired or in poor health and openly admit to living at the Marina for economic reasons.

5.4 The occupation of a boat is similar in planning terms to the occupation of a caravan, and the rationale for granting planning permission follows the same considerations as for a new dwelling. In this case the main considerations are the principle of the development, the design and impact on the surrounding area, and any implications for highway safety or flood risk. Apart from being non-essential development in the countryside and therefore contrary to Policies H23 and EN17 of the Huntingdonshire Local Plan 1995 and Policy P8 of the Huntingdonshire Interim Planning Policy Statement 2007, the site falls within Flood Zone 3 which means that a Flood Risk Assessment would be required in respect of this development. In design terms the development is of a poor standard with little regard for the amenity of adjoining properties and does not relate well to its surroundings and is accordingly contrary to Policy En25 of the Huntingdonshire Local Plan 1995, P1/3 of the Cambridgeshire & Peterborough Structure Plan 2003, and B1 of the Huntingdonshire Interim Planning Policy Statement 2007. It is unlikely that tourism needs for holiday accommodation in the area could overcome these objections.

5.5 It is acknowledged that some of the narrowboats/boats are legitimately moored at the Marina and comply with the terms of the planning permission. One purpose of serving the Planning Contravention Notices was to enable those to be identified and subsequently excluded from any action the Council make take.

5.6 It is further recognised that some breaches of planning control may be immune from enforcement action due to the passage of time.

6. RECOMMENDATION

6.1 The attached and enclosed plans indicate the current status of each unit within the Marina and the flats complex.

6.2 It is recommended that Members endorse the general approach proposed below to further investigate and address breaches of planning control relating to the unauthorised occupation of various lodges / houseboats / narrowboats / boats / flats as a sole or main residence:

6.3 Original lodges and floating houseboats
To pursue formal enforcement action by way of a Breach of Condition Notice where it appears that it is being occupied as a sole or main residence

6.4 New Floating Houseboats
To pursue formal enforcement action by way of an individual Enforcement Notice where it appears that it is being occupied as a sole or main residence

- 6.5 Narrowboats/Boats
To pursue formal enforcement action by way of an individual Enforcement Notice where it appears that it is being occupied as a sole or main residence
- 6.6 Flats
To pursue formal enforcement action by way of a Breach of Condition Notice where it appears that it is being occupied as a sole or main residence
- 6.7 Failure to Reply to a Planning Contravention Notice
To liaise with the Council's Solicitor regarding the most appropriate method of obtaining the desired information, and to bring a prosecution where that information is not forthcoming but is necessary in order to determine whether enforcement action should be taken
- 6.8 All the above actions will be taken against the most appropriate person(s) who could include landowners and/or agents. Each action will be considered on an individual basis, so periods for compliance will vary. In all cases formal action will be preceded by an opportunity for voluntary compliance

BACKGROUND PAPERS

Enforcement files reference 06/00167/ENURES and 07/00146/ENBOC

CONTACT OFFICER: - Enquiries about this report to Sandy Kinnersley – Planning Enforcement Team Leader ☎ **01480 388461**